

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

November 9, 2006

The regular meeting of the Des Moines City Council was called to order at 7:34 p.m. by Mayor Pro Tem Thomasson in the City Council Chambers, 21630 11th Avenue South, #B

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Kaplan.

ROLL CALL - Present: Mayor Bob Sheckler (via telephone until 8:55 p.m.), Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Finance Director Paula Henderson, Land Use Planner I Jason Sullivan, Development Services Manager Robert Ruth, Harbormaster Joe Dusenbury, Planning, Building & Public Works Director Grant Fredericks, Transportation Engineer Dan Brewer and City Clerk Denis Staab.

PRESIDING OFFICER

It was noted that Mayor Pro Tem Thomasson will preside over the meeting, however Mayor Sheckler will participate in the meeting via telephone.

CORRESPONDENCE

E-Mail Proposal for Storm/flood Debris

City Manager Piasecki referenced an e-mail received today, that King County Executive Sims has transmitted a motion to the King County Council for consideration to allow the Solid Waste Division to waive disposal fees for storm and flood-related debris at its disposal facilities on November 18th and 19th. Fees would be waived for residents of King County outside the Cities of Seattle and Milton. The motion will be considered on Monday, November 13th. He informed Council that if this approved by the County, that Des Moines will advertise this on the City's cable channel 21 and the City's web site.

COMMENTS FROM THE PUBLIC

Bob Pond, 23116 30th Avenue South

Mr. Pond spoke against the crime free fees as being too expensive, and scams the poor for perceived increasing crime. He stated this is double taxation. He felt all the money lost in the last 10 years in law suits should have been used to balance the City's budget. He stated that once landlords have taken the classes to deter crime, there is no need to repeat them every three years. He requested Council discontinue the program. He noted that the City funds the Mt. Rainier Pool for \$150,000 instead of the Crime Free Program. He felt that the City will lose another law suit, as this is discrimination.

George Minnich, 22701 19th Avenue South

Mr. Minnich distributed photos showing vehicles parked illegally, blocking mail boxes and drive ways in the Mt. Rainier Pool area. He felt that when the Police were called to handle the parking problem they threatened neighbors and stated they "had more important things to do" and told folks "not to point fingers at Police Officers". Mr. Minnich advised Council he will be filling a formal complaint against the three officers with the Chief of Police.

BOARD & COMMITTEE REPORTS

Public Safety and Transportation Committee

Councilmember Kaplan noted the Committee met this evening. In regards to 16th Avenue South Project, he noted they are looking at funding and perhaps borrowing from the Revenue Stabilization and the Equipment Reserve Accounts.

In regards to the recent flooding issues, Councilmember Kaplan advised he wished to publicly commend City employees for their pro-active work in mitigating the damage.

Letter Regarding Pandemic Flu Training

Councilmember Pina noted that recently the entire Council attended a training class on the potential for a pandemic flu. He advised that a recent letter has been received that will offer an update on what has been done recently. He noted that part of this will be regarding public health funding and how to apply. He felt it would be very appropriate for the City Manager to attend and keep the Council advised on updated information.

Annual Suburban Cities Meeting

Councilmember Sherman noted the annual meeting is set for next week. He advised he will be attending as a voting member representing Des Moines. He requested direction from the Council on how to vote on the following issues:

- Increase in dues by 11% - Consensus was to support
- Reinstate a Part-time Policy Analyst - Consensus was to support
- General By-law Amendments (would allow business community members and municipalities not in King County a voice, but no vote) - Consensus was to oppose

Municipal Facilities Committee

Councilmember Sherman reported the Committee met to hear the initial Marina rate study which will be reviewed again in the next week or so before it comes to the Council as a whole. Discussion centered on whether to continue to charge on a linear footage basis versus square footage basis, along with the level the City should charge compared to the market place, and how that relates to the new Marina Master Plan.

Councilmember Sherman reminded Council that the sling launch at the Marina is losing money so it may have to go. However, he noted the Marina does need a travel lift and can use the same platform that is being used by the Boat Yard. He informed Council that the Federal Government is surplusing a Marine Travel Lift and we have been contacted. He noted it is in the local area, easy to obtain and like new.

Harbormaster Dusenbury advised Council the City has the opportunity to purchase the marine travel lift. He noted that if the sling launch is done away with, the Marina needs a way to get Marina equipment and smaller permanent moorage boats in and out of the water. He also noted there is equipment at Redondo that also needs to be moved in and out of the water. He informed Council that several other methods were examined, but the best would be for the Marina to have its own equipment.

MOTION was made by Councilmember White, seconded by Councilmember Scott, to authorize the City Manager to purchase a Marine Travelift from the State of Washington General Services Administration for the sum of \$2,500 plus Washington State sales tax, and further to authorize

the City Manager to arrange for the shipment of the Marine Travelift to the Marina at a cost not to exceed \$30,000 without further authorization from the Council.

Councilmember Scott advised that the Marine Travelift cost the government \$200,000 and is literally brand new. She noted Des Moines was given only 15 days to accept the offer as two other cities want the travelift if we do not.

VOTE ON MOTION: Motion passed 6 to 0 (Mayor Sheckler did not participate in the vote).

COUNCILMEMBER COMMENTS

Farmer's Market

Councilmember Scott noted the last Farmer's Market of the season was in October. She advised that the markets, which were held starting in June on Saturdays, were deemed a great success by the vendors and citizens alike and will be back next year.

Veteran's Day Ceremony

Councilmember Scott reported a celebration will be held this Saturday, at Sunnydale Elementary School. She noted the Des Moines to Seattle brick highway, which was completed in 1916, has become Des Moines Memorial Drive, and was later commemorated to the fallen soldiers of World War I. She advised that the road will be re-commemorated this Saturday at 2:30 p.m. She invited everyone to attend and see the historic exhibits, and learn historic information about the Des Moines area.

Reconsideration of Draft Ordinance No. 06-217 Short Subdivision Thresholds

MOTION was made by Councilmember Scott, seconded by Councilmember Kaplan, to reconsider Draft Ordinance No. 06-217 at the next Council meeting.

Councilmember Scott advised that while she is not in favor of this legislation, she knows the hard work that staff put in to help streamline Des Moines' permitting process. She stated some of our land use rules are out of date, and feels Council needs to keep tight control until the rules are brought up to date.

Councilmember Sherman noted he originally voted against this ordinance as he is not in favor of reducing the notification process and participation by nearby residents who may be effected by a project. He stated he voted in opposition because he did not want to see less Council oversight.

VOTE ON MOTION: Motion passed five to two, with Councilmember Sherman and Mayor Pro Tem Thomasson opposed.

Employee Benefits

Councilmember Kaplan informed Council that he has been approached by a couple of employees regarding the in-equity in terms of benefits available to them and their families.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, to direct staff to draft an ordinance providing domestic partner benefits for City employees involved in same sex relationships.

Councilmember Sherman stated he believes there must be some base line criteria for employees to apply and qualify for such benefits.

City Attorney Marousek informed Council the easiest way to do this is to adopt the program that is authorized by our health insurer which is Association of Washington Cities, who has extensive, detailed guidelines as to what needs to be adopted in the Personnel Policies, which are approved by the City Manager. She proposed that staff bring those Personnel Policies, and a draft ordinance implementing actions under those Policies, for Council's review.

VOTE ON MOTION: Motion passed 5 to 2, with Councilmember Pina and Mayor Pro Tem Thomasson opposed.

Vehicle Parking Issues

Councilmember Pina requested a report on how the City is enforcing parking regulations and how signage is placed, especially near Mt. Rainier High School and Pool.

Des Moines Beach Park Flooding

Councilmember White advised she observed the recent flooding at Des Moines Beach Park and felt it was the worse it has ever been. She thought since this is designated as a Historic District we may qualify for special grants to help with cleanup.

City Manager Piasecki advised he will prepare a report for Council.

Wooten Park Lighting

Councilmember White questioned the status of installation of new lighting at the Park.

City Manager Piasecki advised that the Municipal Facilities Committee has been briefed on a proposal that has been received from Puget Sound Energy to replace the lights. He informed Council that the project is earmarked in the MCI for 2007. If the Council adopts the MIC as presented, staff will place the order for lights, which most likely will be installed in early January.

Flooding

Councilmember Sherman reported a lot of logs and debris may be endangering the removable breakwater at Redondo. He advised that the Harbormaster is keeping a close eye on the situation.

Port of Seattle - Release of Untreated Water

Councilmember Sherman stated he received an e-mail about the Port releasing untreated water into Des Moines Creek. He noted this concerned him that by the release they may have added to the flooding and damage at the Beach Park. He noted he is looking forward to a complete report regarding the flooding by Administration.

Due to this recent flooding event, Councilmember Sherman voiced the opinion that Council should not move forward with any of the Beach Park restoration until we have reduced the potential for this type of damage. He stated this would include all the drainage improvements for the Des Moines Creek Basin projects.

City Manager Ad-Hoc Evaluation Committee

Councilmember Sherman noted the Committee met recently and will be putting a package together to distribute the forms to Councilmembers to be returned to the Committee before the end of the year.

Des Moines Beach Park Flooding

In regards to the Beach Park flooding, Councilmember Scott advised she observed that the gravel in the stream bed is many feet closer to the surface than it used to be. She noted if the City wishes to reduce this amount of gravel we need to be planning so it can be accomplished during the brief 'fish window' which she believes is in July or August. She questioned whether the construction of the Port's 3rd Runway may have been the source of some of that gravel and whether there should be some help from their end on the City's efforts to mitigate the damage.

City Manager Piasecki advised he has requested staff ensure that the creek bed is dredged during the next 'fish window'. He stated we have dredged the stream before and it does fill up pretty quickly, however he will ask Surface Water personnel to check this.

ADMINISTRATION REPORTS

Flooding Issues

Planning, Building and Public Works Director Fredericks noted the recent heavy rains caused a substantial amount of inconvenience and a substantial amount of damage in the Beach Park. He advised staff is still assessing and will provide a detailed account later. He noted that the Auditorium had standing water and there were water marks at least two feet up on the walls, debris built up behind the dining hall which may have caused some racking and perhaps effected the foundation. He advised Council that most of the woody debris has been cleaned out, but there is still lots of gravel clean-up to be accomplished. He noted that the Parks and Recreation Director has temporary closed a number of the facilities and canceled some of the commitments for the Founder's Lodge until an assessment can be completed. He stated a large number of employees did a great job, and he believes if it had not been for their efforts there would have been substantially more damage, as they not only responded to the public infrastructure, but to help citizens throughout the community with local flooding issues and getting storm drains cleared. He further reported that the Kent-Des Moines Road/Marine View Drive Intersection had to be closed, but was reopened the next morning. Other problems were:

- Substantial flooding on 24th Ave. S that will need to be monitored.
- Water over the road on S 272nd in Redondo, still needs monitoring.

Over all the City's systems responded well to what is believed to be a 50 year storm event, as most facilities are designed to handle a 25 year event. He further noted that the culvert at Marine View Drive and Kent-DM Road is designed to accommodate substantial smaller storms. He also commented that the water flowing down the Des Moines Creek Basin was substantially less in volume which is attributed to the effectiveness of the Regional Detention Facility upstream.

Assistant City Engineer Reinhold noted once the by-pass pipe is completed next summer the volume going down the creek will even be less. He felt that if the Regional facility had not been operating we would have seen severe damage to the buildings in the Beach Park and may have even lost them. Upon questioning, he acknowledge the large amount of gravel in the creek bed caused a lot of flooding that could have been reduced if the bed had been dredged. He noted a large portion of the gravel can be attributed to the land slide that occurred in the ravine in 2002.

Planning, Building and Public Works Director Fredericks concluded by advising a minor land slide occurred on the northeast edge of the Marine View Drive Bridge. He estimated the cost to be around \$40,000 and he is hopeful the Federal Highway Administration will substantially cover that cost. He advised that the City Manager did declare an emergency and staff will be bringing a resolution for next week's agenda that will address the issues.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of October 12, and the regular minutes of October 19, 2006.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #106478 through #106658 & electronic fund transfers in the total amount of \$705,742.08

Payroll fund transfers in the total amount of \$288,639.55

- ~~3. Draft Resolution No. 06-226 Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing and directing the City Manager to file a petition with the City of Normandy Park, pursuant to RCW 35.13.340, requesting and agreeing to the relocation of the common boundary between the City of Des Moines and the City of Normandy Park so that all of Des Moines Beach Park and King County Parcel No. 200900-2860-02 will be located within the boundaries of the City of Des Moines.~~

~~MOTION is to approve Draft Resolution No. 06-226. [ED NOTE: Item removed by Councilmember Scott.]~~

4. Motion is to approve Grant Agreement No. G0700069 with the Department of Ecology in the amount of \$22,000 to purchase oil spill response equipment at the Marina and authorize the City Manager to sign the agreement substantially in the form as submitted.
5. Motion is to award the engineering services contract for updating the condition rating on each of the City's roadway segments, and for updating the database inventory in the City's Metropolitan Transportation Commission Pavement Management Program software to Northwest Management Systems in the amount of \$23,020, plus a 10% contingency and to authorize the City Manager to sign the contract substantially in the form as submitted.
6. Motion is to approve the draft letter supporting the annexation of Huntington Park East and Lowe's Terrace No. 8 & Sierra Homes Addition No. 2 by the Southwest Suburban Sewer District.
7. Motion is to extend the CIP budget-funded Temporary, Part Time position in the Planning, Building and Public Works Department to manage construction and construction engineering contract procurement phase of the 16th Avenue S project through 2007.

Councilmember Scott requested Consent Item #3 be removed from the Consent Calendar.

Upon questioning regarding Consent Item #5, Transportation Engineer Brewer advised we will do about 75% of the work this year, and 25% next year, using the funds set-up for an annual programmed approach.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously (7-0), to approve the Consent Calendar as amended.

Removed Consent Item #3 - Draft Resolution No. 06-226

Councilmember Scott noted that in 1988 this issue was brought up with Normandy Park because the City boundary bisected the property of Helen Gillish's home. At that time Normandy Park Council voted against the change. She distributed maps to Council which identified Ms. Gillish's property. She requested this property also be included so it is not split.

City Attorney Marousek advised that in this type of case the property owner herself would have to initiate such action, not the City.

Assistant City Attorney Brown stated the procedure used in 1988 is different from the proposal in front of Council. He advised that since the City is the owner of the adjoining property in this case, we have petitioned for the Council of both cities to agree to a boundary adjustment. He also advised that the private property owner could petition Des Moines, but he felt this should be a separate procedure.

Councilmember Sherman felt this draft resolution is a good example of changing a boundary line between cities that is being done cooperatively. He expressed wishes that the City of Kent would be more amenable to returning the land on the west side of Highway 99 to Des Moines and felt this would be a logical boundary line.

Mayor Sheckler expressed total agreement with Councilmember Sherman's comments.

MOTION was made by Councilmember Sherman, seconded by Councilmember Pina, to approve Draft Resolution No. 06-225.

Councilmember Pina noted he spoke with Kent's Mayor Cooke last night about the boundary issue and her statement was that they have told Des Moines "that if we will give them the section east of Highway 99, north of Kent-Des Moines Road, they will consider our request". In other words, he felt they want to swap land, not give up land.

Mayor Pro Tem Thomasson read the draft resolution by title into the record.

VOTE ON MOTION: Motion passed unanimously.

Agenda Revision

Mayor Pro Tem Thomasson announced that he will take Item #1 under Old Business next on the Agenda.

OLD BUSINESS

Reconsideration of Draft Ordinance No. 06-216 [ASSIGNED ORD. NO. 1388] Relating to SEPA Categorical Exemptions

Mayor Pro Tem Thomasson read the ordinance by title into the record. He noted this agenda item is to reconsider the draft ordinance which failed by a vote of 3 in the affirmative and 2 opposed (requires a vote of 4 in the affirmative per Council's rules) at the meeting of Nov. 2nd.

Upon questioning, City Attorney Marousek noted that a motion to move this item to a second reading was passed at the last meeting, therefore Rule 26(b) has been suspended

MOTION was made by Councilmember Kaplan, seconded by Councilmember Scott, to approve Draft Ordinance No. 06-216 as amended at the last Council meeting, upon reconsideration.

Councilmember Sherman noted he voted against this at the last meeting. He advised that this ordinance will increase the size of construction that will no longer be required to issue SEPA statements which provide an opportunity for citizens to respond early on in a project. Therefore, he is opposed to the ordinance as it reduces the ability of Des Moines' citizens to comment.

Councilmember Kaplan voice the opinion that this draft ordinance will help streamline the permitting process and avoid having developers essentially "jump through two separate sets of environmental hoops", and avoid the time delays and costs that are involved in a hearing before the Council. He felt Council has heard loud and clear from people in town that they want the permitting process streamlined in such a way that we will still protect the environment due to standards currently in the Code, and therefore he strongly supports passage of the draft ordinance.

Councilmember White expressed agreement with Councilmember Kaplan's comments and she felt it is a priority that Council continue to work on streamlining the permitting process.

Councilmember Pina advised that one of his goals in running for Council was to streamline the permitting process, therefore he supports passage of the ordinance.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmember Sherman and Mayor Pro Tem Thomasson opposed.

8:55 p.m. Mayor Pro Tem Thomasson called for a 10 minute break. [ED NOTE: At this point Mayor Sheckler disconnected his telephone participation in the remainder of the meeting.]

PUBLIC HEARING

Draft Ordinance Nos. 06-242-A and 06-242-B Establishing Special and General 2007 Property Taxes - 1st Readings

City Attorney Marousek advised that this is a Public Hearing required by the Revised Code of Washington, and since this is a Legislative Hearing, the Appearance of Fairness rule does not apply.

Mayor Pro Tem Thomasson declared the Hearing open.

Finance Director Henderson informed Council that the special and general property tax levies must be adopted by Ordinance, prior to December 1st. She advised that the property tax levy rate will be at the City's maximum rate of \$1.60 per \$1,000 of assessed value. The total citywide preliminary assessed valuation totals \$2,592,693.583, and she noted the differential would be the lid left that will go to the special fund for Police. She further noted that the special levy is for the Police Building Debt Service and 2007 will be the last year for this debt service. She stated the draft ordinance has a cushion of approximately \$50,000 plus, as we do not have an evaluation for

utilities yet. So noted we can always estimate higher and the County will bring us to our allowable levy, but this way the City will not lose any potential property taxes. She noted the regular levy was calculated the same as prior years at \$1.09, so the differential for the lid lift is .51 per \$1,000 of assessed valuation.

Finance Director Henderson further explained to Council that we are required to provide two ordinances, one is certifying the amount of the property taxes, and the second ordinance provides for the increase from the prior years levy and the percentage increase. She advised that the total City levy rate is \$1.80, due to the special levy.

City Manager Piasecki pointed out that the figures Council is looking at only represents the City's tax. Other taxes including schools, etc. adds about another \$12 to \$13 per \$1,000 assessed valuation.

Upon questioning, Finance Director Henderson noted that since our assessed valuation went up higher than what was originally estimated, that our regular levy rate fell further than anticipated. She confirmed that in effect this will create more money for Police services.

City Manager Piasecki interjected that this did not create less money from the regular levy collections. He reminded Council that the regular levy collections can go up 1% of the total value of the dollars. Since the assessed valuation went up higher than we thought it would, that resulted in a lower levy rate for the regular collection and a higher levy rate for the levy lid lift. Therefore he noted, it did not effect the total dollars we collect for the regular levy, just the rate we charge per \$1,000 of assessed value.

Mayor Pro Tem Thomasson stated he is hearing a different set of mathematics tonight than what he heard when Council put the ballot proposition forward. He thought the ballot proposition was to increase the levy rate to \$1.60, and for the next six years thereafter it will increase by 4% a year, and that because of the multi-year status all of that additional revenue needed to go towards the Police, which he interpreted to mean that the Police Special Fund would get every dollar over and above what was collected this year, except perhaps for new construction. He felt the City does not have the latitude to increase the amount that the General Fund gets for general government purposes by the 1% because of the way we did the multi-year levy, the total increase is committed to Police. It is his understanding that the City cannot take the first percent off and say that is not for Police. He stated it is very important to him that the City stay true to the absolute wordage of the Special Levy Ordinance.

Councilmember Kaplan expressed disagreement with Mayor Pro Tem Thomasson's interpretation. He understood that the 1% is a limitation on total collections on your base property tax rate.

City Manager Piasecki advised that the Levy Lid Lift did propose that future years, after 2007, go up no more than 4%. The entire 4% for those future years has to go for Police Services.

Finance Director Henderson advised her interpretation is that 1% will go to the General Fund as normal.

Mayor Pro Tem Thomasson voice the opinion that the Finance Director's interpretation is contrary to the decisions that the Council made and the arguments that were put forth to not

make it a six year proposition, because every dollar would be committed for Police and not general government.

Finance Director Henderson stated we are not supplanting if we continue the same methodology we have used in prior years for funding the general and street funds with the property taxes.

City Manager Piasecki felt that we should review the agenda items that were given to Council and the ordinance that was passed to put the item on the ballot. He advised what he recalls is that for the first year, 2007, we were simply going to move the rate out to \$1.60, and that we were going to take our regular levy increase of 1%, as we have it. Then everything else was going to be for the Police Department. After that, in future years, the full 4% would go to the Police Department with the only increase to the regular levy being from new construction. However, he noted the Finance Director has a slightly different interpretation and he felt staff needs to go back and review the original documents.

Councilmember Pina noted he was not on the Council when the Levy was on the ballot, but as a voter he interpreted the vote to mean that the citizens were guaranteed that we would add this money to the Police budget so it constantly increased over the six year period and not a penny went elsewhere. He felt he would need to review the wording, but the City should not in anyway violate that commitment to our citizens.

City Manager Piasecki stated what Council is doing tonight is essentially saying the rate is going to be \$1.60, and here is how much additional property tax we are going to collect, and how that is actually disbursed can be figured out at a future meeting. He advised staff will get the previous Council packets, review the minutes and the ordinance, so we know how much money to put into what parts of the budget at the next meeting. [ED Note: Later acknowledged actual amounts are contained in the draft ordinance.]

Councilmember Sherman noted what he remembers is we go up to \$1.60, take our 1% on the regular levy, the difference goes to the Police. Then, that establishes the base rate for the Police Lid Lift Levy. In subsequent years the regular levy still increases by 1% and the portion for the special levy amount increases by 4%.

Mayor Pro Tem Thomasson inquired three times as to whether there was anyone in the audience who wished to address the issue. As there was no response, Mayor Pro Tem Thomasson declared the Public Hearing CLOSED.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to move the draft ordinances to a second reading.

Mayor Pro Tem Thomasson read both draft ordinances by title into the record.

VOTE ON MOTION: Motion passed 6-0.

City Manager Piasecki stated this item will be on next week's agenda to ensure adoption by December 1st.

CONTINUED PUBLIC HEARING

Draft Resolution No. 06-224 Blueberry Lane Planned Unit Development Subdivision

Mayor Pro Tem Thomasson reintroduced the subject, noting rules read at the October 26th meeting are still in effect, requested staff to proceed and declared the hearing re-opened.

Land Use Planner I Sullivan reviewed material contained in Council packets including comments and questions from Council as follows:

- *Is a 20' wide buffer required around the perimeter?* Yes. A graphical representation was displayed to identify different buffers applied to each perimeter line recommended by staff.
- *Does applicant need to request an additional deviation from the side yard setback to allow zero lot setback line since the current deviation only requests a 5 yard setback?* It would be appropriate to specifically approve an additional deviation for the zero lot line between lots 45-50, 47-48 and 45-46.
- *Did applicant provide an appraisal to calculate the park fee?* No, staff used the purchase price of the property. Since the park fee is not due until final plat approval, the Council could request the applicant provide an appraisal at the time of final plat to determine the park fee.

Suggested Modification to Condition #3: "The applicant shall pay the required park in lieu fee in the amount to be determined at the time of the applicant files for final plat approval. The fee will be based on an appraisal submitted by the applicant, approved by the City [ED Note: Added by Councilmember Pina later in the meeting], for the value of land and the square footage development rate at the time of final plat. The fee shall be paid prior to recording of the final plat."

- *Lot 10 has a 5' side yard setback, is that correct since it is adjacent to a sensitive area tract?* No, it requires a 10' building setback from the edge of wetland buffer.

Suggested additional condition of approval: "The approved reduced yard setbacks do not apply to yards adjacent to environmentally sensitive area tracts; in those situations DMMC 18.86.070(4) will control."

- *Do the reduced setbacks provide sufficient driveway depth to ensure vehicles parked in the driveways don't overhang sidewalks or travel lanes?*

Suggested requirement: Given the lay of the plat and cross-sections of the alleys and ROW staff recommends driveways have depth of 16' to 18' as measured from the property line to ensure that driveway is of a sufficient depth to provide appropriate vehicular parking.

- *To ensure that residents of the PUD retain ownership of the commonly owned tracts should the tracts be deeded to the Home Owners Association or to individual property owners?*

Staff recommends: The identification regarding ownership of Tracts B, D, G, H and K be owned by lots 1-67 as undivided common interest tracts. Tract A should be owned by Lots 1-6 and 12-17 as undivided common interest tract. Tract C should be owned by Lots 7-11 as undivided common interest tract. Tract F should be owned by Lots 18-19 as

undivided common interest tract; however, the tract should be encumbered so that at the time Lot 1 & 2 of KCSP 779007 redevelops the tract will be dedicated as public ROW.

- *Should all underground rooftop conveyance systems which are proposed to discharge to the wetland be required to be privately owned, maintained and operated? Yes.*

At this point, Land Use Planner I Sullivan, with the assistance of Assistant Engineer Reinhold and Transportation Engineer Brewer, proceeded to review engineering and surface water management questions and issues as contained within Council's Agenda item packet.

Councilmember Sherman noted correspondence (Attachments 25, 26 & 27 in original Packet) from the Port of Seattle indicates they have noted most of this property is in a "Approach Transition Zone", and in January 2006 they had plans to acquire this property. Then a letter dated March 20, 2006, indicate the property could be affected by aircraft noise and operations of the 3rd runway and again talking about acquisition. A letter in August 2006, states that to date the Port has not received FAA grant funds necessary for acquisition, however it states that due to Highway Project needs, WSDOT will be purchasing some buy outs in this area, and that the Port may implement a new South Approach Transition Zone Acquisition Project sometime in the future. He suggested that anyone who buys a home within this property should be advised that the property is in an approach transition zone to the airport. He questioned whether the City can require that they be notified prior to purchasing a home.

City Attorney Marousek advised that the Council can impose conditions that are consistent with the approval criteria and are supported by the evidence. The evidence in this case is the three letters, and she felt it important that Council pay attention to what the letters say. She pointed out that the first paragraph of the last letter (8/8/06) says specifically 'the Port in consultation with the FAA, has decided it will not proceed with acquiring residential uses is the South ATZ'. That is what the record before Council says.

Councilmember Sherman noted it also says 'it may implement a new South ATZ in the future'.

City Attorney Marousek pointed out that it is for Council to judge as to what the effect of that is. She felt the Council would be within its authority to add a finding concerning this issue, but the finding needs to be supported by all of the evidence in the record, not just one or two lines from a couple of letters. She felt that giving any potential home buyers copies of the Port's letters as Councilmember Sherman requested, may be going too far and interfering with private business, and she felt Council may wish to hear from the applicant's attorney to get his opinion.

William Lynn, Attorney for applicant, informed Council that the Port's official position is they are not acquiring this property. He felt for the City to go beyond that and say the Port 'might' be acquiring the property, in his opinion is to put the City's cloud over the property in a way that the Port has chosen not to do. He advised that in his opinion, this is a somewhat dangerous thing for the City to do. The whole subject of what a seller is obligated to disclose is the subject of civil law. He also added that for the City to add such a condition and it having to be supported by the evidence, he felt it is even more of a fact that the condition has to relate to an impact of the project, which this does not. He acknowledged that the seller has obligations with respect to disclosure.

In regards to the applicant submitting an appraisal to determine the amount of Park In Lieu Fees, Councilmember Pina requested adding the words, as approved by the City.

Mayor Pro Tem Thomasson noted the sewer extending up 197th Street, stops well short of getting to the edge of the property. He felt in order for the neighborhood on up 197th to have access to sewers, that the sewer being extended to the boundary of the plat would be important.

Regarding traffic, Mayor Pro Tem Thomasson noted that the proposal that was shown, shows half-street improvements. He noted staff indicated that the City of SeaTac said that they would require full-width traffic improvements of 44 feet. He questioned what authority SeaTac would have to require that, or are they asking us to make that a condition of Des Moines' approval.

Transportation Engineer Brewer responded that from his perspective the requirement that Des Moines' needs to make, based on the applicant's engineer, is for the installation and construction of a left turn pocket on Des Moines Memorial Drive into the development. He advised anything further than that would be based on City of SeaTac's requirements. He informed Council that SeaTac said the pavement section from the end of the property to the other will be 44' per the corridor study, and will be designed by the applicant's engineer. He stated he does not know what SeaTac's authority is, as far as making the applicant widen both sides of the road.

Mayor Pro Tem Thomasson commented that to do a 44' section you will get curb and gutter on both sides of the street, therefore necessitating that storm drainage also be expanded to drain the other side of the street. He felt that compounds it out of the transportation issue into a storm drainage issue. He stated he was aware that SeaTac had given some SEPA comments and there was some conversation about SeaTac's Transportation Impact Fees, but he did not recall reading anything about a 44' cross-section as part of their commenting in terms of their official statement. He questioned, if we know that is SeaTac's desire and comment, should Council address it as a condition or not.

At 10:27 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Sherman to extend the meeting to 10:45. Motion failed.

~~**MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan, to continue the Hearing to November 16th. Motion passed unanimously. [ED Note: Replacement motion made later.]~~

At 10:30 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Sherman, to extend the meeting until 10:35 p.m. Motion passed 5 to 1 with Councilmember White opposed.

Mayor Pro Tem Thomasson requested Councilmembers get any further questions to staff regarding the Continued Hearing.

Councilmember Kaplan voiced the opinion that if Councilmembers have questions regarding other agenda items such as the continued public hearing they should get their questions to staff and get their answers off line. He expressed extreme frustration that it is now November 9th and Council has failed to review the entire preliminary budget, especially since we are talking about prioritizing what limited funds we have. He noted he has a great deal of respect for the process Council goes through and the review that is given to important topics, but he feels the Budget is

the most important document Council adopts in the course of the year, and Council needs to prioritize its time.

Councilmembers Pina and White voiced support for Councilmember Kaplan's comments.

City Manager Piasecki informed Council that the appropriate staff to cover the Continued Public Hearing on November 16th will not be available. He requested Council move the Hearing to November 30th.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to continue the Public Hearing to November 30th. Motion passed unanimously.

REMAINING AGENDA ITEMS

Mayor Pro Tem Thomasson announced that the remaining agenda items, Draft Res. No. 06-243 Adopting 2007-2012 CIP and the Preliminary 2007 Budget, will be carried to the next meeting.

NEXT MEETING DATE - Regular Meeting November 16, 2006

ADJOURNMENT

At 10:35 p.m. meeting adjourned as time expired.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM 11/9/06 COUNCIL MEETING

- Draft an ordinance providing domestic partner benefits for City employees involved in same sex relationships and Personnel Policies to implement.
- Prepare a report on how the City is enforcing parking regulations and how signage is placed, especially near Mt. Rainier High School and Pool.
- Report on Beach Park Flooding - Damage, Potential Funding Sources