

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

December 6, 2007

The regular study session of the Des Moines City Council was called to order at 7:32 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, 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, Acting City Attorney Susan Mahoney, Finance Director Paula Henderson, Land Use Planner II Jason Sullivan, Police Commander Kevin Tucker and City Clerk Denis Staab.

Highline School District

Matt Pina, Current Highline School Board President, thanked Council for their partnership and support of the School District in the past eight years. He felt that together many successful ventures have benefited both the City and the School District. He pointed out a few of the results:

- School District's Capital Facilities Bonds passage which resulted in a new North Hill Elementary, a new Mt. Rainier High School, current construction of Midway Elementary and the future construction of Parkside Elementary.
- Created an interim location for the Aviation High School
- Preserved the Mt. Rainier Swimming Pool
- Joint use agreement for Zenith Park
- Creation of After School Program at Pacific Middle School
- Established Des Moines Elementary Annual All School Walk and Science Field Trip to the Beach Park
- Provide a School Resource Officer at Mt. Rainier
- Developed a traffic control and parking solution at Olympic School Site

Highline School District Superintendent, John Welsh thanked residents and voters that supported the last couple of School Bond measures and thanked City Manager Piasecki and his staff for their hard work to help the District open the schools on time and on budget. He provided Council with the following information regarding schools located in Des Moines:

- Mt. Rainier High School was recognized this Fall as being in the top 5% of the most improved High Schools in the State of Washington in writing, reading and math
- Pacific Middle School had an 11 point gain in reading, a 13 point gain in math and earned honorable mention in the 2007 State Superintendent's Learning Improvement Award
- Des Moines Elementary School up 22 points in reading, North Hill Elementary up 36 points in reading and an increase in 40 points in math

Mr. Welsh expressed pride in the progress being made in the School District, but recognizes there is much work to be done in the future. He suggested a future joint retreat with Council to explore areas of mutual interest. In closing he informed Council that next week the Board will honor board members that have made an exemplary contribution to the Highline School District to rename the South Classroom at the Educational Resource Administrative Center to the "Pina

Classroom" to honor both Matt Pina and his father Ed Pina, for their combined 20 years of service on the Highline School District Board.

Councilmembers and Mayor Sheckler thanked Mr. Pina and Mr. Welsh for their presentation, noting schools are a critical measurement of the health of a City and expressed interest in enhancing the partnership.

Agenda Revision

Mayor Sheckler announced he will take Discussion Item #1 first and then go to Item #3. At the conclusion of Item #3 he will turn the Presiding Officer's duties over to Mayor Pro Tem Thomasson as he needs to leave early in order to finish packing and catch a few hours sleep before leaving town in the morning.

DISCUSSION ITEMS

Draft Ordinance No. 07-214 [ASSIGNED ORD. NO. 1419] Adopting 2008 Budget - 2nd Reading

Finance Director Henderson noted an added item under City Manager revisions which is the Police Department Office Remodel transferring in from the Police Building Bond Fund the amount of \$18,800.

City Manager Piasecki advised this will create a few offices for police staff that are not part of the restoration of the Levy Lid Lift Fund. He reminded Council he had asked for consideration of adding the Record Services Receptionist Business License Clerk into the budget full time. He stressed the need for this position and has funded the position within the current allocations from all departments using a few dollars here and there.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Scott, to include the Record Services Receptionist Business License Clerk funded out of current proposed allocations.

Upon questioning, City Manager Piasecki noted the funds come from finance bank charges, miscellaneous amounts in plan development, a few thousand from development services professional services and the two big items come out of engineering and police patrol. These are essentially salary savings as we still have not filled the Engineer II position and still need to fill a couple of police officer positions. Next year there are a couple of items in the Police Department budget that are funded as on going things, that will not be on going, such as the relocation expenses for Police Officers and signing bonuses for Police Officers we hire during 2008. While not removing the funding completely, he suggested it be lowered quite a bit and use those savings to fund the position on an ongoing basis.

VOTE ON MOTION: Motion passed 6 to 1 with Mayor Pro Thomasson opposed.

Finance Director Henderson reviewed slides of the beginning and ending fund balances, and all City Funds operating and capital, noting total expenditures will be \$48,200,3985 with revenues at \$47,967,907.

MOTION was made by Councilmember Pina, seconded by Councilmember White, to adopt Draft Ordinance No. 07214 adopting the final budget for the City of Des Moines, Washington, for the fiscal year ending December 31, 2008.

Councilmember Sherman felt this is a balanced budget, but not a sustainable budget. He noted he has said this for the last couple of years. While he acknowledges staff has been inventive in trying to make things work, he is more interested in having a sustainable budget. He noted funding with one time revenues for on going expenditures has increased each year for the last two years. He also cited we will be losing around \$800,000 in permitting fees with the development agreement for Pacific Ridge, these permitting fees will be incurred before any revenues can come in. He stated he cannot support the budget as proposed as he feels it is not a sustainable budget.

Councilmember Kaplan stated he shares some of the same concerns as Councilmember Sherman. He noted he cannot support the budget since we did not get through essentially a different process to evaluate and prioritize the services we provide. He stated we need to finish this process to evaluate the highest priorities and funding service levels.

Councilmember White suggested Council needs to have more faith, while we are not perfect there are good things happening in the City. Council needs to show leadership, and while priorities of government may be a good thing, not completing it is not a good reason to vote against the budget.

Mayor Pro Tem Thomasson agreed with Councilmember Sherman's comments. He also noted sales tax that comes in from the Mt. Rainier High School project should be used for something good in the in the City, not for paying staff's salary. He stated he will not support the budget.

Councilmember Pina felt Council has gone through a process to determine how to fund what we feel are essential services the City should provide to the community. While he acknowledged we have used some one time money, we know there are developments coming up that will increase our recurring funds, but we need to provide support to the developers to get to that point.

Councilmember Scott felt Council has scrutinized every penny and we can finish priorities of Government next year. She does not see how voting against what Council has worked so hard to get to in the budget will help us. To not support the budget is not the answer.

VOTE: Motion passed 4 to 3 with Councilmembers Kaplan and Sherman and Mayor Pro Tem Thomasson opposed.

Draft Ordinance No. 07-223 [ASSIGNED ORDINANCE NO. 1420] Rezone 2nd Reading and Draft Resolution 07-222 [ASSIGNED RES. NO. 1060] Approving PUD - Crestwood Park

Councilmembers Sherman and White reported they reviewed the Council meeting of November 15, 2007, when the Public Hearing was held, and reviewed all previous packet materials, to be able to participate tonight.

Councilmember Scott reported that on 3 separate occasions she walked the property and talked to a couple of people in order to understand the drainage situation on the property.

Acting City Attorney Mahoney questioned Councilmember Scott whether any conversations may have influenced her decision on this request. Councilmember Scott replied in the negative.

Land Use Planner II Sullivan pointed out that at Council's request a current zoning map and the proposed draft zoning map are contained in Council's packet. Additionally, the applicant has furnished Council with some draft site plans for a couple of the lots, 4-pack design and townhomes, so Council can better understand how the lots will be laid out. He also pointed out that a subdivision across the street has minimum lot widths between 45 to 49 feet, therefore it was felt that the applicant's lot width adjacent to 12th Avenue should be 50 feet.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Scott, to approve Draft Ordinance 07-223 amending Exhibit A to Ordinance 1397 the official zoning map of the City of Des Moines designated in DMMC 18.80.010 in order to rezone 24,685 square feet of property from R-SE to RS 7200. Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, to adopt Draft Resolution No. 07-222 approving the preliminary PUD subdivision entitled Crestwood Park subject to the ten conditions of approval included in the November 15, 2007 Administration report.

MOTION was made by Councilmember Scott, seconded by Councilmember Sherman, to amend to add a condition of approval that requires every lot, except for lots 9-12, have a minimum of 15 feet rear setback , and that a total of 400 square feet be provided for private recreational area. ~~to have a minimum of 20 foot by 20 foot private recreational area; provided, that private recreational area is not located in or adjacent to the front yard setback.~~ [Strike out after friendly amendment.]

Councilmember Scott noted that normally lots with 7200 zoning would have enough yard area for people to have a patio, swing set, or whatever, and the setbacks proposed by the applicant would not accommodate that, especially if there is any change in grade. She felt this amendment would provide flexibility for the homeowner to have the area to do outdoor things if they so choose. She believes there needs to be private recreational space on each lot, not just up the street 2 or 3 blocks away.

Councilmember Sherman expressed support for the amendment and questioned what effect this may have on the number of units that could be built on the site.

Land Use Planner II Sullivan responded that it would not effect the total number of units, but may limit the way the homes are separated. He further noted staff takes their direction from Council but has been advised that the developer would prefer a flat 400 square feet.

Councilmember Scott commented should could accept no less than 15 feet, but it would have to be level. She would prefer it stay at 20 feet.

Councilmember Pina expressed concern when Council starts to tell a developer precisely how to developed their land and homes. He felt if they do a bad job they are not going to sell. He noted he prefers a minimum of 15 feet and at least 400 square feet. He stated his opposition to the motion.

Councilmember Kaplan noted we already have set a maximum per lot coverage of 50%, which by definition provides enough room. He felt the motion is too restrictive and will not support it.

MOTION was made to amend the motion by Councilmember Sherman, seconded by Councilmember Pina, that a minimum of 15 feet, and that a total of 400 square feet, be provided for private recreational area. [Accepted as FRIENDLY AMENDMENT.]

Mayor Sheckler questioned the developer as to what effect this would have. Mr. Lawson stated that in terms of the grade this is one of the flattest sites he has worked on, and grading will not be an issue. He confirmed it is a maximum of 50% per lot coverage. He noted about half of the lots are for single family residences that will have back yards. The four pack lots are more for people who do not necessarily want a yard as they do not have the time to maintain a yard. He stated the more restrictions Council places on the development, the less flexibility the developers have.

The maker and seconder of the Original Motion to amend, accepted the substitute motion as a FRIENDLY AMENDMENT.

Mayor Pro Tem Thomasson felt the size of the lot area along the south edge of the subdivision, where it butts up to Redondo Riviera, is the bigger problem as far as yard setback problems. He felt he would rather have a bigger setback there, rather than the motion currently on the table.

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

8:47 p.m. Mayor Sheckler called for a 10 minute break.

MOTION was made by Councilmember Scott to eliminate the parking area in Tract D, terminate the trail connection to South 272nd Street, realign the trail so it forms a loop around the park and combine the area within Tract D into Tract C. Motion DIED for lack of 2nd.

Mayor Pro Tem Thomasson felt the motion is dealing with what to do with the Park, when he felt we were talking about whether there should be a developed Park or not. He noted during the capital budget Council discussed not being able to replace the play ground equipment in the Parks we already have and possibly lessening the number we have throughout the City. So to require them to put in a City park that we have to repair and replace does not seem wise to him. He noted he is in favor of deeding the land to the City as open space, and a trail is okay, but having improvements inside of the Park is not. He also expressed agreement that there should not be parking in Tract D.

MOTION was made by Councilmember Kaplan, seconded by Mayor Pro Tem Thomasson, to amend by eliminating the parking area in Tract D ~~and combine the area within Tract D into Tract C.~~

Councilmember Sherman stated since this is a public park it should be accessible to the public. He noted the Park will serve people who may not be within walking distance. He acknowledged concerns about people being hidden from the residents of the development view, however he noted parks are not necessarily inherently safe places.

Land Use Planner II Sullivan pointed out that by folding Tract D into Tract C, you would be increasing the wetland buffer which would change the limited density transfer calculations by requiring additional buffer, so he suggested leaving it as a separate tract, and just remove the

parking. This was accepted as a FRIENDLY AMENDMENT by the maker and seconder of the motion.

Councilmember Pina felt the parking should stay.

Councilmember Scott advised that when you place a child's playground where there is 150 feet of thick woods and wetland in an area that you cannot see from the homes, there is no control over who might come through there, also it is only a couple of blocks from a major highway where we have some crime problems, she would not be comfortable having her children playing where she knew someone could sneak in from the north. Her whole concern is the parking location and trails going out to the north.

Councilmember Kaplan stated eliminating the parking is to address some of Councilmember Scott's concerns in terms of safety or security. However he feels there needs to be public access from S. 272nd. He also noted S 272nd is a major arterial and as area properties develop it is going to get more difficult for ingress and egress out of these developments, therefore both reasons are why he recommends removal of the parking lot.

VOTE ON MOTION: Motion failed by 4 to 3 with Councilmembers Kaplan and Scott and Mayor Pro Tem Thomasson voting yes.

MOTION was made by Councilmember Scott, seconded by Councilmember Sherman, to add a condition of approval that would require that no park benches or tables be located in Tract J.

Councilmember Scott noted that Tract J is immediately adjacent to the bedroom windows of an existing home.

VOTE ON MOTION: Motion passed 6 to 1 with Councilmember Pina opposed.

MOTION was made by Councilmember Scott to add a condition of approval that would require the developer to limit parking to one side of the street for the private streets within Tracts K - R and memorialize the limitation in the Private Covenants established for the PUD. Motion DIED for lack of a second.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Scott, that the perimeter setback along the southern perimeter line of the PUD be increased to 15 feet from 10 feet, excluding Lot 40.

Councilmember Kaplan noted that because of the boundary adjustment that is being made on the northern edge of the parcel, that is not part of this development, which has a substantial amount of wetland, he feels a 15 foot setback from the existing property is justified.

Mr. Lawson, speaking as the developer, stated they would rather have the 10 feet versus 15 feet, as this limits what they can do. Keeping it at 10 feet allows for modulation of the house. If it is 15 feet the house will be along the entire south property line making it look more like a wall. He stated if this does pass they would ask that Lot 40 be excluded as this is a side yard, as opposed to a rear yard.

The maker and seconder of the motion were agreeable to a FRIENDLY AMENDMENT to exclude Lot 40.

VOTE ON MOTION: Motion passed 6 to 1 with Councilmember White opposed.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, that the intersection between 12th Place South and Road C be changed from a 90 degree intersection to a radius that meets the "L" Type Intersection Standard.

Land Use Planner II Sullivan advised this is a design our Transportation Engineer has been working on and the same type of design that was used in the South Shores Subdivision. He advised one problem would be the western portion of it, as it would require getting additional right-of-way from people that are not part of the Plat.

Mr. Lawson spoke in opposition to the motion, as he felt the design will not work. He explained the existing cul-de-sac is designed to flair with a 25 mph speed limit.

VOTE ON MOTION: Motion failed 4 to 3 with Councilmembers Kaplan and Scott and Mayor Pro Tem Thomasson voting yes.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Scott, to amend that lots fronting 12th Place South have a minimum lot width of 55 feet.

Mayor Pro Tem Thomasson advised that this is due to the lot directly across the street, which is quite large with a single structure and the lots to the south which get into the Redondo Heights neighborhood.

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Pina and Susan and Mayor Sheckler opposed.

Land Use Planner II Sullivan noted by making the lot width here 55 feet it would reduce it to 3 lots versus 4. He reminded Council that the maximum permitted density was 67, so if the developer were to find an area to add back the 67th lot, would that be okay with Council.

Mayor Pro Tem questioned what is Exhibit 2 of draft Resolution No. 07-222.

Land Use Planner II Sullivan stated in the past it is one sheet that shows the lot layout with the lot counts, road width and tract identification.

Councilmember Scott felt if the developer can meet the requirements that Council sets, and can find a 67th lot, then that is okay.

Mr. Lawson showed Council a different version where lots 40 and 41 would be kept at 50 feet, and then turning lots 38 and 39 so they are adjacent to road C, one would be 50 and the one next to road C would be 45 feet. He felt this would blend into the community better.

MOTION was made by Councilmember Sherman, seconded by Mayor Sheckler, to amend that any lots adjacent to 12th be 50 feet minimum width. Motion passed 6 to 1 with Mayor Pro Tem Thomasson opposed.

Mayor Pro Tem Thomasson questioned when Council would see Exhibit 2 with changes made tonight.

Upon questioning as to whether Section 4(2)(b) of the draft resolution may be too restrictive, Land Use Planner II Sullivan noted the developer has planned for this.

City Manager Piasecki advised that staff can prepare Exhibit 2 per Council directions, should Council wish to adopt the resolution tonight. He pointed out 2 member will be absent from the December 13th meeting.

Mayor Pro Tem Thomasson noted he would prefer to continue Draft Resolution 07-222 to the December 13th meeting to allow staff time to amend Exhibit 2.

Councilmember Pina felt Council can trust staff and the City Manager to understand what Council asked for and to make appropriate changes.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Mayor Pro Tem Thomasson opposed.

10:06 p.m. Mayor Sheckler announced that is handing the presiding officer's duties over to Mayor Pro Tem Thomasson. He noted since he will not be in town for the last regularly scheduled meeting of the year, he thanked Council for the honor to serve as presiding officer for the past two years. Mayor Sheckler left the Council Chambers.

Draft Ordinance No. 07-110 [ASSIGNED ORD. NO. 1421] Drug Loitering, Draft Ordinance 07-144 [ASSIGNED ORD. NO. 1422] Stay out of Drug Areas and Draft Ordinance 07-189 [ASSIGNED ORD. NO. 1423] Stay out of Areas of Prostitution - 1st Readings

Acting City Attorney Mahoney informed Council the draft ordinance regarding Drug Loitering is an ordinance previously adopted, but a couple of clarifications such as changing the charge from a gross misdemeanor to a misdemeanor to make it more consistent with other cities and State law, and adds a more definitive definition to the term 'known drug user'. She noted Draft Ord. 07-144 has been reviewed by the Public Safety and Transportation committee and was recommended to be considered by Council as presented. She advised that this will be an effective tool for the Police and the Court to limit problems associated with drug activity.

MOTION was made by Councilmember White, seconded by Councilmember Scott, to suspend Council Rule 26(b) in order to enact draft Ordinance No. 07-110 on first reading. Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to approve Draft Ordinance No. 07-110 to amend DMMC 9.28.100 by reducing the penalty for drug loitering crimes from gross misdemeanor to misdemeanor and amending the term "known drug user, possessor, or seller" to include the suspect's previous ten-year history.

Mayor Pro Tem Thomasson read the ordinance by title into the record.

In regards to Draft Ordinance 07-144, it was noted that Section 2 (1), 4th line down, the word northerly needs to be changed to "southerly" side of S 224th. In Section 2(2) the word a resolution needs to be changed to "an ordinance".

Upon questioning, Acting City Attorney Mahoney stated that Section 2 (6) makes it clear that this is an arrestable offense upon seeing the violator. Secondly, probable cause is still a legal standard that has to be established and they would still have to go through the process of confirming that SODA order once the Police have made the arrest.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan and passed unanimously, to suspend Council Rule 26(b) to enact Draft Ordinance No. 07-114 on first reading.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to enact Draft Ordinance No. 07-114 enacting a new section to Chapter 9.28 to authorizing the issuance of "Stay Out of Drug Area" and providing a penalty for violation and declaring a public emergency requiring that the Draft Ordinance take effect immediately. Also change the wording in Section 2(1) from resolution to "an ordinance".

Mayor Pro Tem Thomason stated that in Section 2(1) we should change northerly to "southerly". This was accepted as a FRIENDLY AMENDMENT by the maker and seconder of the motion. Also accepted as a FRIENDLY AMENDMENT was that on the map that is attached have a line on the west boundary of Highway 99 and the south side of 224th so it is clear that the streets are part of the area.

MOTION was made by Mayor Pro Tem Thomason to amend that the emergency declaration be changed to our standard effective date of 5 days after publication be included. Motion FAILED for lack of second.

City Manager Piasecki pointed out that with the emergency clause this would require a 30 day waiting period due to being subject to referendum.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Mayor Pro Tem Thomason opposed.

10:26 p.m. **MOTION** was made by Councilmember Sherman, seconded by Councilmember Kaplan and passed, to extend the meeting to 10:40 p.m. Motion passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to suspend Council Rule 26(b) in order to enact Draft Ordinance No. 07-189 on a first reading. Motion passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember Pina, to enact Draft Ordinance No. 07-189 to repeal DMMC 9.76.060 and to reenact and recodify DMMC 9.76.060 regarding the designation of a defined area within the City of Des Moines as an anti-prostitution activity emphasis area and authorizing the issuance of "Stay Out of Areas of Prostitution (SOAP) Orders; providing penalties, establishing an effective date, and declaring an emergency.

After some discussion it was consensus to amend item (i) on page 3, to the last sentence by eliminating "and its westerly extension of 16th Avenue South". This was accepted by the maker and seconder of the motion as a FRIENDLY AMENDMENT.

Mayor Pro Tem Thomasson expressed discomfort with rescinding the SOAP ordinance and adopting a new one and he questions what happens to all of the SOAP orders that are currently issued.

Acting City Attorney Mahoney replied we are re-codifying so everything that happens on the day this takes effect would be under the new ordinance, but the prior ones are still in effect. She noted that some of the areas have changed and the new ordinance reflects that need for change.

Upon questioning, Police Commander Tucker advised that these orders will apply to our boundaries only, and that Kent, Federal Way and SeaTac all have SOAP order areas that abut our Pacific Highway South boundaries.

Regarding the additional sentence under (ii) on page 3, Mayor Pro Tem Thomasson felt that identifying additional areas should only be the Council's authority, not the Municipal Court.

Acting City Attorney Mahoney responded that this sentence could be struck and it would not hurt the ordinance.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson, to strike the second sentence under item (ii).

10:39 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to extend the meeting to 10:45 p.m.

Acting City Attorney Mahoney expressed agreement with Mayor Pro Tem Thomasson that this sentence is in-artfully worded and could cause some issues.

VOTE ON AMENDING MOTION: Motion passed unanimously.

After discussion, City Manager Piasecki suggested language to read: "The attached map and the attached Des Moines Police Department Prostitution Related Case Reports dated 2005-2007 are hereby incorporated by reference". This was accepted as a FRIENDLY AMENDMENT by the maker and seconder of the motion.

VOTE ON MAIN MOTION: Motion passed 5 to 1 with Mayor Pro Tem Thomasson voicing opposition to the emergency clause.

Mayor Pro Tem Thomasson read ordinance Nos. 07-114 and 07-189 by title into the record.

Marina Bulkhead Replacement and North Marina Redevelopment

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to move this item to the December 13th Council meeting.

NEXT MEETING DATE

Next regular meeting is December 13, 2007.

ADJOURNMENT

10:45 p.m. Meeting adjourned by time expiring.

Respectfully submitted,

Denis Staab
City Clerk