Planning & Development Committee  
Minutes of September 25, 2006  
Room 2200 – 6:30 p.m.  
Evanston Civic Center

Alderman Present:  

Staff Present:  

Presiding Official:  
Alderman Wynne

DECLARATION OF QUORUM

Chair Wynne called the meeting to order at 6:40 p.m.

APPROVAL OF THE MEETING MINUTES OF SEPTEMBER 11, 2006

Ald. Tisdahl moved approval of the September 11, 2006 meeting minutes, seconded by Ald. Bernstein. The vote was 9-0 in favor of the motion.

ITEMS FOR CONSIDERATION

(P1) Ordinance 93-O-06 – Zoning Ordinance Test Amendment, “C2 Special Uses”  
This item was approved with a vote of 8-1 (Ald. Bernstein voting nay).

(P3) Plat of Subdivision – Kendall College Property  
Ald. Tisdahl moved approval, seconded by Ald. Wollin. The vote was 9-0 in favor of the motion.

(P4) Release of Restrictive Covenant – Kendall College Property  
Ald. Tisdahl moved approval, seconded by Ald. Wollin. The vote was 9-0 in favor of the motion.

(P2) Ordinance 97-O-06 – Amendments to the Residential Landlord and Tenant Ordinance  
Ms. Haynes summarized the changes made to the ordinance as discussed at the last Planning & Development meeting. From that discussion, there was strong support for the amendment that allows the landlord to give the tenant a 30-day correction notice to give an opportunity to correct their and/or their guest’s unacceptable behavior or disturbance. If the behavior/disturbance is corrected during the 30 days but continues after that time, the landlord can terminate the rental agreement with another 30-day notice. She noted that because this proposed amendment provides for a 30-day correction notice to be served, staff is proposing to eliminate language in the ordinance under Section 5-3-6-2 that provides for a 14-day correction notice to the tenant because this section no longer serves a purpose. Ms. Haynes continued that another option was created.
that assists the tenant if a utility service is disconnected that is the landlord’s responsibility, then the tenant can serve the landlord with a 7-day restoration notice. She said if the utility is not restored by the end of the 7th day, then the rental agreement terminates and the landlord must return the tenant’s security deposit with a 48 hour period. However, another option that staff would like to incorporate give the tenant the opportunity to pay the arrearage of the utility and have service restored then deduct the payment from their monthly rent.

Ald. Rainey informed that in the Sunday Tribune there was an article in which the first amendment was discussed that she finds very interesting to be in the newspaper this past week because it is obvious that Evanston is not the only community concerned with this situation at this time. She pointed out that when a utility is shut down this is a code violation as well and should be considered as a dangerous building. Mr. Wolinski assured that when his department receives a call for a utility shut off, Property Standard’s Inspectors are immediately sent out. Ms. Haynes added that several City departments work together as a team when such a situation occurs. She explained the procedure in detail and how in most situations the tenant is put up in a hotel for several days until the problem is rectified. She noted that just last week there was such a case before Administrative Adjudication where they were trying to seek reimbursement from the landlord for the tenants hotel bill and the Adjudication Judge questioned what ordinance is being followed that requires landlords to reimburse hotel cost? Ms. Haynes noted that this question has been a problem within the ordinance where language needs to be added to address and clarify this issue. Ald. Rainey strongly agreed that the ordinance must be amended to clarify that a landlord must be held responsible if they’re at fault for a utility shut off the tenant needs to be displaced for a few days. Ald. Holmes stated that the beauty of having this “City Team” work together is that it can be very useful for the tenants of the building because in the end, Property Standards finds additional violations that need to be corrected, Police safety matters are dealt with, etc. Ald. Bernstein asked what the relative cost of housing is when tenants are put up in a hotel. Ms. Haynes responded that there are several hotels in Evanston where tenants have been placed and a few outside of Evanston; however the actual arrangements and bills are overseen by another City department. Ald. Rainey asked if the “team” can look further into problem building issues such as if the taxes have been paid, status of mortgage payments and if the property is coming up on foreclosure status, etc. Ms. Haynes said again this is not her department’s jurisdiction. Ald. Rainey feels that the Law Department should be a part of the team that is able to pursue that information if needed. She requested to the City Manager to look further into allowing the Law Department to research problem properties further when required to do so. Ms. Haynes said that the City is pretty much aware of where the main problem properties are and the majority of the owners. Ald. Rainey requested that the Water Department should notify other departments as soon as a shutoff has been ordered, even for single-family homes.

The last point Ms. Haynes brought to attention and reminded the Committee of the importance of the amendment to have all rental agreements in writing. The Committee members strongly agreed.

Ald. Holmes motioned to approve Ordinance 97-O-06 as amended. Ald. Jean-Baptiste seconded the motion and the vote was 9-0 in favor.

(P5) Ordinance 27-O-06 – Inclusionary Housing Ordinance
Chairman Wynne asked staff for an update on where this ordinance stands at this time. She said there are several issues that still need to be discussed. Mr. Wolinski stated the Inclusionary Housing Ordinance before the Planning & Development Committee this evening was last discussed at the meeting on June 12th. There have been a number of suggested changes and also
several critical legal issues discussed that are included in the packet materials. He recalled there was consideration of the fact that they could not do an Inclusionary housing ordinance for just new construction, that it would have to include both rental and condominium conversions. He noted that BPI presented a different position which Legal Staff responded to in the memorandum presented to the Committee this evening. The Legal Department’s opinion expressed is more in accordance with the BPI suggestion that they can have an Inclusionary Housing Ordinance without either rental or condominium conversions as part of it. Mr. Wolinski pointed out that some of the other suggestions and discussions are included on the agenda data sheet. He summarized the items still under consideration which are that this ordinance apply to new construction for planned developments of 25 units or more; a set aside of 10% of units; a payment-in-lieu policy alternative; a control period of in perpetuity; the appearance of the affordable housing units must be compatible with the market rate units; the interior finishes may differ provided that the mechanical equipment, insulation, windows, heating and cooling systems are the same; target income levels of owner-occupied units be available to households with incomes of up to 100% of the AMI with 25% reserved for households less than 80% of the AMI.

Mr. Wolinski pointed out that the ordinance presently before the Committee currently contains language for rental which he informed the Committee that this would be up their discretion if they choose to go forward with this inclusion.

Mr. Wolinski drew attention to the memorandum from the City Manager addressing the issue of alternative funding for affordable housing. He also noted other changes that staff has made in the ordinance itself where the removal of language regarding the “Inclusionary Housing Trust Fund” and replaced it with the title of the previously approved “Affordable Housing Tax Fund.” He directed the Committee to page 12 of the ordinance pointing out the apparent carry-over from wording in the past which should read: “All cash payments received pursuant to this chapter shall be deposited directly into the Affordable Housing Tax Fund.” The following language beyond that point should not be included in the wording. Mr. Wolinski informed that the City Manager has expressed an opinion that one of the ways the City has been collecting funds over the past couple of years from developments has been per unit donation. He believes one of the City Manager’s suggestions is adopting an affordable housing fee for all units built in Evanston; net cost would be $1,500 for a condominium and $3,000 for a single-family detached or attached house. He stated that the changes mentioned conclude the update on the status of this ordinance.

Chairman Wynne felt they should back up and recollect what has occurred previously with this ordinance as a result from past Committee discussion and also recalled the question as to why this item is on their agenda this evening, which is because two aldermen specifically requested to the City Manager that this item be returned to P&D’s agenda. As she sees it, there are several strands of discussion before this Committee. First of all, there is the referendum on the ballot, there is the proposed ordinance that staff has presented with all the changes made as a result from previous discussions as of the meeting in June and the Committee has the data from the City Manager that they now have $874,000+ generated by the case-by-case basis which has become their standard practice/procedure with the planned developments over the pass several years. Chairman Wynne thinks there are several issues that the P&D Committee needs to separate and discuss. First, she believes there is the issue of how they are going to spend the alleged $874,000 which the Committee can start by giving staff some direction on how to allocate those funds on affordable housing issues. Secondly, she questions what the Committee should proceed on since their last discussion of this matter at their June 12th meeting regarding the referendum. Third issue is the alternative presented by the City Manager.
Ald. Rainey questioned how much of the $874,000+ has been collected to date and what the status is for those funds. Ms. Carroll explained that this amount has been pledged from past planned developments to date, however the actual amount has not been collected. Ms. Spicuzza informed that the City has actually collected $25,000 so far from one planned development that has begun construction. Ald. Rainey expressed her concern with this being the only amount collected in comparison to the amount stated by staff that has been generated because it is nowhere near what has been slated for in this fund. Ms. Carroll explained the reason for this is that the projects have not yet started that allocate those funds claimed. She noted that those funds have been pledged from the time of approval of the planned development and she strongly recommends the collection of these funds be tied to the certificate of occupancy. Chair Wynne agreed and that they should start planning the allocation of those funds now. Ald. Rainey said in her opinion they can not make any plans for those funds if they have not actually been collected and that it is very presumptuous to even talk about the allocation of those funds until they are accounted for. Chair Wynne also agreed with Ald. Rainey and requested that staff come back with a report on the status of the funds pledged from the planned developments approved to date with anticipated or estimated time schedule for collection of funds. The Committee consensus was to tie the collection of the pledged funds to the certificate of occupancies of the units as constructed. Chair Wynne also requested that staff report back with information on suggestions of how the City can get the best investment value of affordable housing funds. Ald. Rainey suggested that the not-for-profit organizations should be consulted for their opinion on this matter as well. Ald. Jean-Baptiste stressed the importance of the need to have a policy in place stating when money should be collected from developers towards the Inclusionary Housing Fund.

Ald. Moran pointed out the timing standpoint that this proposed ordinance has been around and the need to move forward with this. He noted that this ordinance has been back and forth on their agenda for over the last two years now and the number of major developments that have occurred since this ordinance was first proposed. He feels the City has lost most of its power to grasp what the Inclusionary Housing Ordinance was meant to capture with the larger planned developments, therefore they need to act as soon as possible to start capturing any future developments that this ordinance could affect. Ald. Moran said that he is concerned with the City Manager’s suggestion because this ordinance is supported to support Inclusionary housing not just affordable housing. His point being that there needs to be more on-site Inclusionary housing in these new planned developments and the developers need to be made more accountable to provide this. He feels the option for payment-in-lieu of is always going to be the choice for the way out for developers. Lastly, he stated his opinion on the referendum and that he sees it as another opportunity for additional funds to go towards affordable housing effort. He feels that the real estate situation in Evanston is doing very well and will continue to do so with people happy to invest in housing here. He stressed the importance that this City can not afford to loose total availability of affordable housing therefore he reiterated his support to move forward with this ordinance even with the referendum in view because they should not wait until November for the outcome of votes before they consider moving on this ordinance.

Ald. Wollin expressed here opinion and support for the referendum because she feels it will help supply a steady stream of income for the Inclusionary Housing Fund. However, she also fully supports Ald. Moran’s position to go forward with this ordinance and to stop procrastinating on this issue because Evanston does need to make stand and step up to the plate on their support for affordable housing. She feels the passage of this ordinance will not make a difference on the position of the referendum. Ald. Wollin also expressed her support for the inclusion of mixed income units which Inclusionary housing would provide. Therefore, she feels it is important to
have on-site affordable units mixed in with market value units and not always have the developer choice the opt for payment-in-lieu of.

Ald. Rainey responded that the realization that needs to be considered here is that the units that would be provided for affordable housing would put qualifying income level families in an awkward position amongst the majority of owner-occupied households that purchased their units at market cost. She stressed her concern with the question of whether Inclusionary housing actually works in this capacity because it puts families making approximately $30-50,000 in with families making approximately $200,000+ and the complications of paying monthly assessment fees and other expected monthly costs. In addition, she pointed out that the majority of planned developments are condominium living situations which in her mind are not feasible for the typical families qualifying for affordable housing because the buildings are not family friendly oriented. Ald. Rainey concluded that affordable housing is much more feasible if provided in the single-family housing capacity versus the typical new condominium planned development housing that is being developed here in Evanston.

Chair Wynne stated her position at this point is that she is not comfortable with the proposed ordinance presented for introduction and that she still is concerned with specific issues. She noted the Developer’s Forum that was held in May and pointed out that there were very good ideas and suggestions made at that meeting. She requested that staff forward those notes to the Committee for review in their next packet. In her opinion, she does not believe this ordinance as proposed, will produce any Inclusionary housing. Even with her strong opposition to offering a tool box alternative for negotiation purposes, she realizes that it would be one of the alternatives in persuading developers to provide on-site Inclusionary housing. Chair Wynne also noted that it has been made administrative staff would be needed to oversee the program to allocate affordable housing funds and that someone with expertise in administering funds would be needed.

Mr. Wolinski recalled to the Committee again that this proposed ordinance included rental housing at this time and requested that the Committee make a decision as to their position to keep it in or exclude. It was the consensus of the Committee to delete rental housing from inclusion in this ordinance.

Ald. Moran noted that huge allowances have been made for past planned developments, therefore the tool box theory has been used in actuality. Discussion on this issue followed between the Committee members. Ald. Tisdahl stated that unintended consequences always occur with real estate, however the market is slowing and construction cost is going up but investments in Evanston have not diminished and she feels will not effect future buying or selling of property. Therefore, she supports the referendum because it is a means of continual income towards affordable housing. She also supports the need to move forward with this ordinance for Inclusionary Housing in addition to the referendum and does not see the harm in passing this ordinance at this time before the referendum is voted on in November.

Ald. Bernstein agreed with Ald. Moran in that they have already been using a tool box with all the approved planned developments by steady giving away allowances with every PUD. He said at this point everything depends on the economy as far as future development here in Evanston and the real estate market as well. He is for the referendum but supports passing this ordinance to make a statement on Evanston’s behalf. He pointed that affordable housing is also for the elderly and handicapped and that they do need to move forward on this matter.
Ald. Rainey again stated that she feels the typical 7-10 story condominium buildings are not family friendly and are not appropriate for the typical affordable housing family needs. She said that they need to think outside of the tool box. She reiterated her stand on the rehabilitation of existing housing that could be used for affordable housing for purchase and is much more appropriate. She said assessment fees are already too high and costly for the income qualified families to afford in addition to other monthly cost associated with homeownership.

Ald. Holmes stated that as City Council they should support the referendum fully and also support the education of every property tax payer here in Evanston on the affordable housing effort in our City and how everyone should take responsibility for this. Ald. Wollin agreed and said that it is a matter of principle also to pass this ordinance would make a strong statement for the City as well. Ald. Hansen stated that the referendum is not going to fail this ordinance in any way. She also agrees with Ald. Holmes in that they need to educate the voters on the affordable housing issue.

**Ald. Moran moved to introduce Ordinance 27-O-06, seconded by Ald. Hansen.**

Ald. Rainey expressed her concern with the fact that there still remain too many questions in limbo at this point. She also questioned if there is any way they can consider having this ordinance apply towards smaller developments than 25 units? Also she noted that there appears to be no real plan for the Inclusionary Housing Fund or who is going to administer the program. Mr. Wolinski responded to Ald. Rainey’s question on applying this to less than 25 units by recalling the discussion and report from Mary Stern where he concluded from his analysis that it would be unaffordable to build and supply affordable housing for developments fewer than 25 units. Ald. Jean-Baptiste suggested that consideration be given to having a reasonable fee for developments under 25 units. **The vote was 9-0 in favor of introduction of Ordinance 27-O-06.**

**COMMUNICATION**

(PD1) Change in Chairmanship Memorandum
This communication was acknowledged.

**ADJOURNMENT**

With no further business, the meeting was adjourned at 8:47.

Respectfully submitted,

Jacqueline E. Brownlee