

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

April 26, 2007

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

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

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, Planning, Building & Public Works Director Grant Fredericks, Development Services Manager Robert Ruth, and City Clerk Denis Staab.

CORRESPONDENCE

Cities Insurance Association of Washington (CIAW)

City Manager Piasecki referenced correspondence from Cities Insurance Association of Washington, dated April 5, 2007, concerning their solicitation of the City and their concept of "stop-loss". He advised that the City's insurance provider, Washington Cities Insurance Authority (WCIA), has responded to his request for comment dated April 17, 2007, detailing their concerns. He noted a copy of WCIA's letter has been distributed to Council for review.

COMMENTS FROM THE PUBLIC

V. Staab, 21628 28th Avenue South

Ms. Staab addressed Council speaking in opposition to building 3 to 4 story condos in the Pacific Ridge neighborhood stating that the City cannot control the problems in this area. She felt the City should join with King County Police to help control drugs and violence. She further suggested surveillance cameras would help, along with a five star hotel. In conclusion, she expressed concern that "home made submarines" will be used in the Marina to bring in illegal drugs.

Alice McCabe, 23902 7th Avenue South

Ms. McCabe informed Council she has lived in her home for 30 years, and referenced the Zenith Viewpointe condo construction in her neighborhood. She stated that yesterday she received a letter that referenced a recent survey shows her fence on the north side encroaches on the public right-of-way around two and a half to three feet. The letter further stated her fence, landscaping and electric gate must be moved to make room for a 30 foot road and sidewalks for the new construction. She noted the letter was from City staffer Robert Ruth and gave her until May 4th to make a decision or her fence will be removed and thrown in her yard.

City Manager Piasecki advised he will review this with staff and get back to Ms. McCabe.

Council requested to be advised of the outcome.

Robert Benson, 23905 Marine View Drive

Mr. Benson noted he lives immediately above Ms. McCabe and he also received a letter yesterday. He advised that he installed his fence 30 years ago and the survey marker that he used

was destroyed when the street was regarded. He advised his fence is 6 inches on his side of the marker. He also stated that this street had been vacated. He criticized the City for waiting until the last minute to communicate that something is going to be done. He requested some action or resolution from the Council.

Mayor Pro Tem Thomasson requested the City Manager also investigate whether a vacation by operation of law may have occurred.

Debbie Workman, 23903 7th Avenue South

Ms. Workman noted she lives directly across the street from Ms. McCabe and is here to express concern and support her neighbors over the Zenith View Pointe issue. She requested the City give the residents more time and investigate the matter. She noted Mr. Benson's back yard would be completely blocked with no access. After reviewing a blueprint, she questioned how much green space is being utilized on the public right-of-way on behalf of the private developer, as it appears there is none on the developer's property, but only the public space. She suggested the City offer a variance to not develop the road to the full width, to save the neighbor's back yards.

George Pettibone, 23653 Marine View Drive

Mr. Pettibone advised Council he is here in support of his neighbors regarding the Zenith View Pointe construction. He also requested they be given a complete set of blue prints to review with a friendly meeting of City staff and the effected neighbors. He also noted that it appears that a proposed green belt has disappeared.

Mayor Sheckler assured the speakers that administration will review this matter and furnish a full report.

BOARD & COMMITTEE REPORTS and COUNCIL COMMENTS

Earth Day

Councilmember Scott reported a tremendous turn out last Saturday, for Earth Day, of volunteers to help clean up downtown Des Moines. She expressed appreciation for their care and for City staff support of the efforts of Destination Des Moines for hosting the event.

Lodging Tax Committee

Councilmember White noted she attended a meeting last week. She reminded Council that all of our Hotel/Motel tax revenue, around \$17,000, is being allocated to Seattle Southside which is doing a great job of promotion for Des Moines and neighboring cities. She advised there was a great presentation by Seattle Southside.

South King County Small Business Center

Councilmember White reported attending a presentation, again done by Seattle Southside.

Public Comments

Councilmember White voiced support for addressing Ms. Staab's concerns over crime problems in the Pacific Ridge area. She advised that several years back she physically moved her mother from that area to downtown Des Moines because of the crime level and concerns she had for her safety.

City Manager Piasecki noted that the Police do spend more time patrolling that area than any other part of town. He further advised the Police are working hard to get the Levy Lid Lift team together which once formed, will spend a lot of time in that area.

Municipal Facilities Committee

Councilmember Sherman advised the Committee met on April 20th. One issue addressed was Design Guidelines of the Marina Master Plan and it was decided to hold this element in abeyance until the study is completed by the U of W Students, which should be completed later this year.

City Manager Piasecki advised the students will be starting their study in September and the report will be to Council by the end of the year.

Councilmember Sherman stated other Marina issues discussed included bulkhead replacement with steel pilings and a new mid-scale restaurant. He reported the security camera installation is moving forward however, staff will be asking for additional funding, and are hoping to have a camera on the City's web site. He advised that the Marina Master Plan should be back to the full Council in a few weeks for adoption.

King County Public Health Board

Councilmember Sherman reported attending a recent meeting about what the County is going to do about the HIV/AIDS issue, including better information and education. He noted it has stabilized in the County, but has been increasing with the population increase. He advised that an interesting fact is the rate of infection has increased in South King County as individuals have moved out of Seattle in the last 10 years.

Municipal Facilities Committee

Mayor Pro Tem Thomasson noted discussion also included the City's lease with Anthony's in regards to bringing them on board regarding the Marina Master Plan.

Slide by Condos East of Marina

Upon questioning by Councilmember Kaplan regarding the status of this issue, City Manager Piasecki advised the City had a geo-tech engineer take a look and make a few recommendations. However he pointed out the slide is on the upper part of the bluff and is owned by the condominiums located above it. We have worked with them to install the plastic to stabilize however, it is in the hands of the condo association to deal with the issue. They have been given a copy of the geo-tech report and the City has offered support to help find someone to provide a solution. He stated he will request the Harbormaster to provide an update on the situation to Council. He further advised we have updated a report concerning this slide area and the City can share that information with property owners up and down the east side of the Marina.

ADMINISTRATION REPORTS

Council Special Meeting

City Manager Piasecki reminded Council there will be a work session on Saturday, 9 a.m. to Noon, at the Beach Park. Discussion will focus on Priorities of Government. He distributed a copy of the Agenda.

Absent Acting City Attorney & New City Attorney

City Manager Piasecki advised there will be no City Attorney this evening as Acting City Attorney Brown is at a State Association of Municipal Attorney's conference in Vancouver. He also reminded Council the new City Attorney will start on Tuesday, May 1st.

CONSENT CALENDAR was read by City Clerk Staab.

1. 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 #108614 through #108920 & electronic fund transfers in the total amount of \$1,323,689.57

Payroll fund transfers in the total amount of \$300,524.38

~~2. Motion is to remand to the Public Safety and Transportation Committee the development of an Interlocal Agreement with the City of SeaTac of a No-Protest Local Improvement District to complete development of the 24th Ave S/28th Ave S corridor between S 216th Street and the Seattle-Tacoma International Airport.~~ [ED Note: Removed by Mayor Pro Tem Thomasson]

3. Resolution No. 07-084 [ASSIGNED RES. NO. 1036] - Title: A Resolution of the City Council of the City of Des Moines, Washington, dedicating and declaring the week of May 19 through May 25, 2007, as "National Safe Boating Week" in the City of Des Moines.

MOTION is to approve Draft Resolution No. 07-084.

4. Resolution No. 07-087 [ASSIGNED RES. NO. 1037] - Title: A Resolution of the City Council of the City of Des Moines, Washington, proclaiming May 2007 to be Older Americans Month and urging citizens to honor older adults, and those who care for them, during the month of May and throughout the year.

MOTION is to approve Draft Resolution No. 07-087.

5. Motion is to approve the Amendment to the Interlocal Agreement to extend for one year the Agreement between the City and Highline Water District for use of Highline Water District property dated April 20, 2005, wherein the District granted the City the right to use a portion of the District's North Hill Water Storage Tank Property for parks and recreational purposes, and authorize the City Manager to sign the agreement substantially in the form as submitted.

6. Motion is to approve Supplemental Agreement #2, contract for professional engineering design services for the 2007 Arterial Maintenance Program to KPG in the amount of \$26,585.38 and authorize the City Manager or his designee to extend the contract until September 30, 2007, approve change orders up to an amount of 10% and to further authorize the City Manager to sign the contract substantially in the form as submitted.

Consent Item #4 - Councilmember Scott noted the City has a tremendous amount of volunteers over the age of 55 and wishes to acknowledge what a great contribution they are to the City, and especially at the Senior Activity Center.

Consent Item #2 was removed by Mayor Pro Tem Thomasson.

MOTION was made by Councilmember Sherman, seconded by Councilmember Scott and passed unanimously, to approve the Consent Calendar as amended. Motion passed unanimously.

Removed Consent Item #2

Mayor Pro Tem Thomasson stated that development of an Interlocal agreement with the City of SeaTac of a no-protest local improvement district (LID) should not go to the Public Safety and Transportation Committee before Council as a whole makes the policy decision as to whether this should be done or not. He felt it would be important for the new City Attorney to provide Councilmembers with an "LID 101" briefing. He felt it is important to know that a property owner can sign away their right to object to the formation of an LID, but cannot give up their right to protest the amount of the assessment of their individual property. He felt LIDs of this nature can be tricky to deal with, as you must prove benefit to the property. He noted he would prefer the full Council gets briefed so they understand an LID well enough to decide whether an Interlocal agreement does anything for Des Moines or not. If Council decides to go forward, then the PS&T Committee could work on the terms.

Upon questioning regarding the timing, Planning, Building & Public Works Director Fredericks stated this is an item that needs to be dealt with prior to looking at the totality of the 2nd Development Agreement with the Port. He noted this proposal was the next item on the check list of things to do, along with the plat vacation, the right-of-way vacation, the approval of the conceptual master plan and then the 2nd development agreement. He wanted the PST Committee to help frame what the policy issues are regarding an LID, so we could then have a more complete discussion with Council about the advisability of forming an LID and the criteria.

Mayor Pro Tem Thomasson noted Director Fredericks' idea is not what the motion implied. He felt Council needs to fully understand the mechanisms of this LID as to whether or not a developer should construct improvements or whether the City should rely on an LID, and whether that LID would actually get us what we want.

City Manager Piasecki suggested the motion should say: "Move to remand to the Public Safety & Transportation the investigation of . . ."

Councilmember Kaplan, Chairman of the PST Committee expressed agreement with Mayor Pro Tem Thomasson and would prefer a briefing to the Council as a whole. Then if there are specific policy issues that need to be addressed, send that to the Committee to bring back a recommendation.

Mayor Sheckler advised that he will schedule this as an upcoming agenda item before the Council as a whole.

PUBLIC HEARING

Draft Ordinance No. 05-253 [ASSIGNED ORD. NO. 1401] - Adopting Shoreline Master Program (SMP) - 1st Reading

Mayor Sheckler introduced the public hearing noting the purpose is to review edits staff has incorporated into the Draft Shoreline Master Program Update (SMP) and to request Council action on a draft ordinance which would adopt the SMP with these edits.

Mayor Sheckler declared the hearing open and questioned whether there were any speakers who had signed up to speak, as there were none, he called on Administration to describe the matter under consideration.

Development Services Manager Ruth reminded Council that the update process began in the fall of 2004. He advised the past year staff has worked with the Department of Ecology to work out details and responses to their comments, details of which are contained within Council's packet. He noted Council has been furnished with a bound draft update of the SMP. He advised staff is requesting Council take final action on the draft ordinance which will adopt the Shoreline Master Program. He introduced the City's consultant Kent Hail, of Adolfsen and Associates.

Mr. Hail proceeded with the use of a slide presentation, to brief Council, noting the Shoreline Management Act was adopted by Washington State to establish statewide policy to provide for management of the shorelines by planning for and fostering all reasonable and appropriate uses in an environmentally responsible manner. It is required that all local jurisdictions develop their own local master program in compliance with State guidelines. He pointed out:

- The program applies generally 200' from the ordinary high water as a body of water designated as shoreline of the State - In Des Moines that is Puget Sound.
- Des Moines shoreline is approximately 4.8 miles.

He briefly reviewed the history of preparation of the SMP as follows:

- Process began in Fall of 2004
- Prepared shoreline inventory and characterizations, and a restoration planning report
- Public outreach included open houses, 6 meetings with Planning Agency, 3 meetings with City Council, 3 public hearings (including tonight), and provided presentations to Highline Community College Marine Tech Center
- Met with DOE 3 times to work through their comments
- Met with Council's Environment Committee
- SEPA has been issued and completed, including 60 day review period required by State
- Minor wording changes have been made throughout the document to be consistent with the State Administrative Code
- The recently adopted Critical Areas Regulations have been intergraded
- Have balanced environmental protection and restoration, while providing public access and supporting water dependent uses
- Identified Des Moines Beach Park, the Marina and Redondo Waterfront as important waterfront areas to the identity and vitality of the Community
- CTED review is complete

Mr. Hail concluded by requesting Council's formal adoption this evening, which will move the item into the State's formal review and approval process. He noted Council has been supplied with a table summarizing the changes in the final document.

Mayor Sheckler called for speakers three times, there was no response. He inquired whether Council has any questions.

Upon questioning by Mayor Pro Tem Thomasson, Development Services Manager Ruth advised that SEPA was just completed in January of 2007, therefore there is no need to re-issue.

Mayor Pro Tem Thomasson questioned (figure 5-1) in the Des Moines Beach Park the policy issue that if we tear down the concrete bulkhead and re-vegetate with 115 foot buffer, would we be allowed to build a gazebo as Council had planned. He suggested this be changed from green to red, designating high intensity to allow for some construction.

Mr. Hail noted they did build in allowances for alterations to the buffer distance, if the proposed development allowed for public access, or was related to water dependent uses. Being aware that there is desire for future development in the Beach Park, they did not want to hamper the City in being able to do that. In regards to the concrete bulkheads, he noted there is no requirement to remove what is in place, but if it had completely failed or new development ensued, then you must find design alternatives. He emphasized some development is allowed if it promotes public access and use, or is a water dependent use, then the buffer distance can be adjusted, such as for a recreational enhancement project.

Development Services Manager Ruth commented that the document before Council has been vetted by the Dept. of Ecology, therefore he would suggest not changing the designation at the Beach Park at this time. He felt policies incorporated into the document, will not prohibit future construction, such as in the Beach Park.

8:58 p.m. Mayor Sheckler called for a 10 minute break.

Mayor Pro Tem Thomasson questioned Vegetation Conservation on Page 6-3, and how this matches with the new critical areas regulations. He noted that on page 6-6 it states the SMP shall govern. He felt it should say whichever is the "most restrictive" shall govern.

Mr. Hail advised that because the SMP provides for exceptions for water dependent uses and public access development that enhances use of the shoreline, you are allowed to modify the buffer distances. He felt you should allow for the reduction of the marine buffer if there is no other overlapping designated critical area or buffer per the critical areas regulations, and this language can be added. He pointed out that on page 6-5, number 2, last line states: "In the event buffers for more than one designated critical area per DMMC 18.86 are applicable, the most restrictive buffer shall apply." He expressed agreement with Mayor Pro Tem Thomasson, that this language should also be applied to the Vegetation Conservation section.

In regards to page 6-27, item #5, Mayor Pro Tem Thomasson objected to using a minimum lot area of 7,200 square feet. He felt this could mislead property owners into believing they can reduce their lot size. He questioned whether we need this section at all.

Councilmember Kaplan noted the Council Committee preferred to use references instead of putting figures in the document.

Mr. Hail stated that an earlier draft did reference the Zoning Code for standards. However, he noted that the Dept. of Ecology felt that was inadequate and wanted to see the standards that would be in effect.

Councilmember Kaplan voiced the opinion that the Dept. of Ecology can set the standards by which we have to comply, but they cannot tell the City that they have to put the Zoning Code into the SMP so that they can review it every time we want to make a change. He emphasized it is not their business, as long as we are in compliance with what State law says in terms of the requirements of having a shoreline master program. He felt that the City has no legal obligation to follow their word-for-word approach, as they do not regulate our land use.

Council's consensus was to remove tables four and five, and references will be made to the underlying zones.

As there was no further questions, Mayor Sheckler closed the public hearing.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to suspend Council Rule 26(b) to take action on Draft Ordinance No. 05-253. Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to approve Draft Ordinance No. 05-253 approving updates and changes to the City's Shoreline Master Program to be consistent with State requirements.

Councilmember Sherman can accept the attempt to make the changes in the zoning wording, but he would not pick a fight over this if DOE objects.

Councilmember Kaplan requested the 2nd to the last Whereas on page 2 that the date be corrected showing the Public Hearing. Also in the last Whereas on page 2, after the City's Comprehensive Plan, insert "the City's Critical Areas Ordinance". These changes were accepted.

Mayor Pro Tem Thomasson questioned if the SMP is not codified, how will it be available to citizens.

Development Services Manager Ruth advised that historically the SMP has been a set-a-side document. He felt if its components were broken down and placed in the Municipal Code, then any time Council amended any part of the Code where the SMP is mentioned the Dept. of Ecology would demand review. He stated it could be made available on the City's Web site and noted in addition it is available at the Libraries in Des Moines, City Hall and various posted locations.

Councilmember Kaplan thanked staff and consultant for their remarkable work given the constraints that had been put out by the Dept. of Ecology. He expressed frustration and anger over the DOE's interference with the City's ability to comply with State law. He felt someone needs to convey to the Governor and DOE that jurisdictions are required to comply with the law, but are given the latitude on how to comply, and not be micromanaged as DOE has tried to do.

Councilmember Scott noted that Des Moines' shoreline property owners have protected it from erosion for 75 to 80 years with the use of rockeries and concrete bulkhead. She stated Ecology would like to get rid of those things, which would mean shorelines would erode away, as they would like to go back to soft plants. She felt that DOE is being very unfair to property owners who have invested great amounts of money and time to keep shorelines stable.

Mayor Pro Tem Thomasson wished to make it clear that all the revisions made this evening to the SMP, which is exhibit A to the ordinance, will be made.

VOTE ON MOTION: Motion passed unanimously.

Mayor Sheckler read the ordinance by title into the record.

NEW BUSINESS

Des Moines Creek Business Park 2nd Development Draft Agreement - Policy Framework

Planning, Building & Public Works Director Fredericks introduced Land Use Planner Denise Lathrop the City's Project Coordinator, Rob Larson the City's consultant from ClearPath and Mark Giffin, the Port of Seattle's Project Coordinator. He proceeded with review as follows:

- *Policy Framework* - Council approval of this approach:
 - Streamline process & decision criteria
 - Focus on success indicators
 - Agree on Purpose of 2nd Development Agreement
 - Define roles & responsibilities
 - Fill gaps in 18.25 for a phased development

- *Purpose* - Facilitate the development of the Des Moines Creek Business Park
 - To revitalize the property
 - Strengthen the community
 - Support the airport's role in promoting regional economic development

Planning, Building & Public Works Director Fredericks advised that the Port has confirmed that the Mayor or a Council designee will be asked to be part of the developer selection process along with the City Manager. This will provide good assurance that what we say we want, we will get and we will be selecting from some of the best developers from around the country to be part of this process. Upon questioning, Planning, Building & Public Works Director Fredericks stated it is not anticipated that any quasi judicial issues will be raised, but he will check with the City Attorney.

Planning, Building & Public Works Director Fredericks proceeded to review a chart showing the dates regarding the collaborative master process and plan, including completed projects to date, and what to expect at future meetings. He noted how the RFQ and RFP process will interact with dates items will be brought to the full Council for discussion or decisions.

Mr. Larson proceeded to review the success indicators which are meant to signify that success has been achieved as follows:

- A vibrant employment center that takes advantage of the proximity to an international airport
- A new source of direct & indirect long-term revenue for both the City and the Airport
- Increased trade opportunities for the Puget Sound region
- An attractive and safe community asset - a gateway from the North

Mayor Pro Tem Thomasson expressed the feeling that the word "vibrant" is overused.

Mr. Larson replied that he has not fleshed out exactly how to measure "vibrant" at this point, but the plan is to create a dashboard of economic indicators that would express what vibrant is. This will allow Council to monitor the development and determine whether this is a vibrant development or use. He advised he will certainly look at modifying the word vibrant.

Councilmember White expressed excitement over this development and encourage Councilmembers to not hold back the process.

Mr. Larson advised Council that tonight he wishes to focus on a policy discussion and noted success indicators as we proceed are:

- A clear, efficient and predicable process to guide prompt implementation of a commercially successful development
- Integration of the site within the surrounding neighborhood - environment, infrastructure and aesthetics
- Protection of environmentally sensitive areas on the site and surrounding area, including Des Moines Creek, wetlands and steep slopes
- Engagement of key stakeholders to support the proper development and success

He advised to achieve success Council needs to ask what are the developers looking for, and what are the end users looking for who would ultimately locate in the business park. He noted, in his experience, he consistently hears predictability, economic viability and leadership from the City.

Upon questioning by Mayor Pro Thomasson as to what is being asked of Council, Planning, Building & Public Works Director Fredericks advised he needs consensus from Council that the framework looks like it will achieve what we set out to achieve and to go forward and layer in the detail. That way as we move forward there will be more specific discussions about parts of the 2nd Development Agreement, including the on-site and off-site infrastructure, development regulations that will apply, how phasing will work, how we work with adjoining jurisdictions and property, and how we will know the next increment of infrastructure needs to be developed. He stated those are the kinds of details that will be brought forward if Council feels staff is heading in the right general direction.

Upon questioning by Councilmember Sherman concerning flexible use mix, Planning, Building & Public Works Director Fredericks advised that the Consultant evaluated the economic impact with the two alternatives in the EIS and felt the one with the larger, 50% of the use in office mix, would generate up to 2,100 with greater economic benefit and activity. What he emphasized is this is an estimate of a bunch of folks who have not yet talked to the market place about the way they would choose to develop this site. He advised the market place may come in with a different idea.

Mayor Sheckler remarked that he does not feel Council is sure of what restrictions may apply because of this being FAA land.

Planning, Building & Public Works Director Fredericks reported those talks are occurring between the Port and the Federal Aviation Administration. He noted that an agreement will have to be made that resets the business relationship between the federal government and the Port of Seattle with the respect to the use of this property.

At 10:27 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott and passed, to extend the meeting to 10:40 p.m.

Planning, Building & Public Works Director Fredericks noted staff hopes to have clear enough direction tonight to have the attorneys put language together for the final draft of the 2nd development agreement.

Upon questioning, Planning, Building & Public Works Director Fredericks noted that under 18.25 of DMMC there is requirement that there be property on site set a side for park active recreation purposes. What staff is proposing to Council is to agree with the addition of more open space than would otherwise be required by the zoning code, and with passive recreation

opportunities provided, along with the connection to the Des Moines Creek Trail, that it would meet the Council's expectations for the Park requirements set out in 18.25.

Mayor Pro Tem Thomasson noted he would be open to meeting the recreation requirements with land not inside the 90 acres, like the piece next door that is not zoned a business park.

Planning, Building & Public Works Director Fredericks noted it was very clear in the mind of the former City Attorney that there was not a legal basis for requiring a Park.

City Manager Piasecki felt this is an issue that will require more legal research.

Councilmember Sherman commented that he envisioned a park type environment similar to the development in Kent along the Green River, feeling this would be an amenity that the community would enjoy that would provide breaks for the people who work there and atmosphere that may encourage a high level of employment.

10:36 p.m. **MOTION** was made by Councilmember Sheckler, seconded by Mayor Pro Tem Thomasson to extend the meeting to 10:55 p.m. Motion passed. [ED NOTE: Councilmember White left the Council meeting.]

Councilmember Scott noted years ago Council had envisioned the type of recreation use Councilmember Sherman described for a business park. She noted however, that the land west of SR 509 right-of-way would be excellent for a Park and at that time the Port was open to investigating this idea.

Mayor Pro Tem Thomasson expressed concern that the direction Council is taking is not exactly what the Code says. He questioned whether the laws that allow development agreements allow those agreements to bend the Municipal Code. He questioned whether a Textual Code change could be made to address these issues. He felt a legal response should be given to address this. He also question the vesting issue and the duration of the development agreement. He noted he would be hesitant to a vesting scheme that would tie this into today's code. He also expressed concern that the term of the 2nd Development Agreement is for 20 years.

Mr. Larson noted discussion such as the Park element is relevant to the success indicator among other elements, but they must be balanced with the success indicators of the employment center and how that is defined. He stated staff is attempting to get policy agreement on the direction they are heading, and to flesh out how we do this in a more detailed discussion. He noted all parties would like this developed out in five years, but there is a possibility for whatever reason that we wind up in one of our business down cycles. So we are trying to create that predicable environment for the developers so they will lease now, make an agreement with the Port, if we have created a package that they can use going forward.

Planning, Building & Public Works Director Fredericks stated that vesting will occur, with the current building code, when the applicant actually applies for a building permit.

Councilmember Scott questioned whether the Port has someone exploring the issues of the transportation connection, the economy, and availability of employees, and whether there are prospective tenants available for what we have to offer. She felt it would be difficult to look for a developer if you do not know who the anchor tenants might be.

Mr. Larson replied that yes, there are teams of consultants focused on this project to develop the master plan, the environmental impact study and an economic benefit study. However, it is not uncommon to not have a specific tenant in mind. He advised it is hard to predict the mix of potential tenants and a lot will depend on the timing of the market and which particular users happen to be in the market at that point in time.

Mayor Pro Tem Thomasson voiced the opinion that Council would want to prevent the developer that negotiates a lease and turns it into 100% airfreight warehouses.

Mr. Larson felt this can be built in because it would be contrary to the success indicators jointly built with the Port.

Councilmember Pina expressed frustration that the 1st agreement had more detail, and in this case Council has done too much talking in generalities, and is all over the place, instead of specifics.

It was announced that discussion on this subject will continue at the May 10th meeting.

NEXT MEETING DATE

Mayor Sheckler noted the next meeting will be a study session on May 3, 2007.

ADJOURNMENT

The meeting adjourned at 10:56 p.m. by time expiring.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM 4/26/07 COUNCIL MEETING

- Report to Council regarding concerns expressed under Public Comments about Zenith Viewpointe
- Report to Council regarding slide area by Condos, east of Marina