

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

May 31, 2007

CALL TO ORDER - The regular meeting of the Des Moines City Council was called to order at 7:38 p.m. by Mayor Sheckler at the City of Des Moines Council Chambers, 21630 11th Avenue South, Des Moines, WA.

ALLEGIANCE - The pledge was lead by Mayor ProTem Scott Thomasson.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman, and Susan White. City Manager Tony Piasecki, City Attorney Pat Bosmans, and City Council Clerk Tina McVey.

PUBLIC COMMENTS:

Mr. Robert Benson introduced himself and stated he wished to speak about his concerns over the development occurring at Zenith, specifically the condos being developed by Alex White to the North of his home. He stated he no longer opposed the development, although it was making his access unusable because it was creating an 8 foot drop, but that his concern centered chiefly around the proposed sidewalk. He also stated that during his involvement with this matter, he'd learned that 4 feet of his property and 4 feet of Ms McCabe's property belonged to the City, who is now proposing to build a 5 foot sidewalk to provide public access to Zenith. He concluded saying that it was his feelings that the sidewalk was overkill and useless as the road would only go half way and that he and Ms. McCabe should not forfeit their 4 feet each for the sidewalk.

Ms. Alice McCabe introduced herself and stated she had always assumed that where the fence was located in her yard when she first moved in was her property line. She stated she'd only recently discovered that the City owned 4 feet of the property and that she'd spent a great deal of time in landscaping and improving that area. She also stated she would prefer that the sidewalk not be built as the neighborhood does not have any sidewalks and she enjoys the uniqueness of the neighborhood as it is and would like for that to continue. She offered to swap the City the 5 feet proposed for the sidewalk location for land on 7th Avenue which she owns. She concluded by stating that if the sidewalk was to be put in, she would have to put up a fence and would prefer not to have to do so.

Mrs. Debbie Workman introduced herself and her concerns regarding the sidewalk, stating that there wasn't a real sidewalk in the area to the beach, just some paving and would like for that to continue. She stated her other concern was regarding the property line issue with Ms. McCabe's and her family's property lines not being clear. She also stated the survey performed when Ms. McCabe bought her property was not correct, as it shows that Ms. McCabe technically owns the property in question, but it is actually their property. She concluded by stating that a Lot Line Adjustment was applied for a few years ago, but the issue is still not resolved.

Mr. Keith Workman introduced himself as the husband of Mrs. Workman and stated this property line confusion has been an issue since his family bought their property in 1953. He concluded by saying that it was his wish that the City find a way to resolve this issue.

The Mayor thanked the citizens for their time and effort to come to the meeting and stating their concerns. He further stated that he and the City Manager would be going to the site the following day to view the area of concern and invited any available Councilmembers to join them. Councilmembers expressed an interest in both the comments and the viewing of the site under concern. One issue

brought up by Councilmember Scott was that there was a lack of sidewalks in the Zenith area and that it concerned her that the area's historical uniqueness might be compromised if a sidewalk was put in. City Manager Piasecki stated the need for sidewalk was in keeping with the Street Standards for the City. He further stated that the Street Standards code was very clear and definitive, allowing very little room for allowances or modifications to the code.

CONSENT CALENDAR was read by Planning, Building, and Public Works Permit Technician, Tina McVey.

1. Motion is to approve the purchase of the RMS Software program for installation at the fuel dock and main office at the Marina at a cost of \$15,000, plus tax.
2. ~~Motion is to direct the City Manager to sign the *Agreement to Settle and Release Claims and Withdraw Terminations Related to Agreement to House Inmates*, providing for full settlement and discharge of all claims, and withdrawing terminations related to the previous Agreement to House Inmates.~~ (removed by Councilmember Kaplan for further discussion)

➤ Motion was made by Councilmember White, seconded by Councilmember Kaplan, to approve the Consent Calendar as amended. Motion passed unanimously.

REMOVED CONSENT ITEMS

Item #2 - Motion is to direct the City Manager to sign the *Agreement to Settle and Release Claims and Withdraw Terminations Related to Agreement to House Inmates*, providing for full settlement and discharge of all claims, and withdrawing terminations related to the previous Agreement to House Inmates.

Discussion began with Councilmember Kaplan stating he was concerned that the City was being asked to pay twice for the same services. Councilmember Pina stated it was his belief that with the new prison built and being fully staffed by the end of the year, that the liability issues the City had concerns regarding should be past as the old prison was not going to be used. Councilmember Sherman requested clarification as to whether the City would be required to continue paying until November by contract and if then, we'd have to find new accommodations for the prisoners. City Manager Piasecki stated that this was indeed the case. Court Administrator Jennefer Henson stated that in the past, it was a lack of communication that was the major problem. Now there is more communication with the facility and concerns are being addressed at regular meetings, allowing the City to have more control. The Mayor informed the Council that he and City Manager Piasecki would be participating in a sub-committee of South King County municipalities in a jail study to discuss these issues as they relate to all the other municipalities in housing and caring for inmates. Susan White stated she did not have any issues with the agreement being signed.

➤ Motion to approve Item #2 was made by Councilmember White and seconded by Councilmember Pina. Vote: Yays: Councilmembers Pina, Scott, Sherman, White, Mayor Sheckler, and Mayor Pro-Tem Thomasson. Nays: Councilmember Kaplan.

OLD BUSINESS

Des Moines Creek Business Park - Draft of Second Development Draft Agreement

Mayor Sheckler turned the floor over to Planning, Building, and Public Works Director, Grant Fredricks.

Director Fredricks stated for the presentation that night was only to seek direction from Council as to what their vision for the Business Park would be and what, if any, changes would be necessary to the DMMC to develop that vision into a reality. Director Fredricks provided Council with a handout of

tonight's slide presentation, pointing out the "Bottom Line" question at the bottom of slide 2 or page 1 of the handout: ***Bottom Line - what needs to be done to allow Council to preliminarily approve 2nd Development Agreement by August 2nd?***

Per the agenda listed on Slide 3 of the presentation, Director Fredricks also informed the Council of a necessary scheduling change with this project as the City will be submitting a proposal which is different than the proposal requested by SeaTac. Staff is not as ready as hoped to discuss street vacations and other related issues regarding Right-of-Way in buyout areas. Staff has not reached what they consider a reasonable agreement or amount. These items have been moved out another month in Council futures to give Staff time to deal with these issues as these details must be settled before Staff can bring the second proposal to Council for approval.

Questions/Comments from the Council and Mayor:

- Mayor Pro-Tem Thomasson stated his concerns regarding revamping the Code to accommodate the Port. Feels there are a number of issues not being addressed, such as: (1) Comprehensive Plan for the northern section is not zoned business, but businesses are in the conceptual drawings in the northern section, (2) zoning map in EIS is wrong and needs to be corrected, (3) the discussions and agreements are being set as if Staff would be providing approval and it is clearly stated in the Comp Plan as being Council's decision, (4) does not want to amend the Comp Plan to change the process.
- Councilmember Kaplan asked if the option presented in both the draft ordinance and in the maps were only one of the possible alternatives. His concern was that the percentages were not what the Council had previously discussed as to what they wished to see, but that he understood this was just one alternative. Director Fredricks confirmed this was indeed only one alternative. (did Grant really say this? Did he mean that this was the only option for which we provided a map and there were in fact three alternatives studies?)
- Councilmember Sherman stated it to be his opinion that Mayor Pro-Tem Thomasson was trying to suggest that the Council would not have time by August 2nd to consider an address these issues. It was his suggestion that the Council consider making a zoning change in that area. Mayor Pro-Tem Thomasson stated it would take an amendment to the Comp Plan to make the changes that are being suggested.
- Director Fredricks stated that the handouts and draft document were intended as use for the Council to use as a foundation to move in whatever direction they wished. The Council had requested detailed data as opposed to the conceptual data that had previously been presented and Staff went with the alternative which seemed to be the best for market demands.
- Mayor Sheckler stated his concern was also regarding the rather large percentage of warehousing represented in the drawings.
- Councilmember Sherman also stated his opposition to the provided plan as it was his understanding that the Council wished to see a much larger percentage of Office/R & D than is being shown.
- Councilmember White stated that it was her belief that these documents were what the Council requested: detailed maps. She further stated that the Council had asked Staff for detailed plans and ideas and that Staff had provided the Council with those. It was her belief that it was now Council's responsibility to take the information given and to figure out what Council actually wanted.
- Mayor Sheckler stated that Council was letting Staff know by their comments that they would not be approving this alternative and that it was, in fact, the least desirable of alternatives presented prior to this meeting.

- Councilmember Scott stated she would be interested in hearing what the Port had to say in regard to what they think is a viable mixture of businesses in the Park. She stated she was very concerned by the large number of 18 wheelers represented in the drawings.
- Director Fredricks stated that as Staff made the presentation, most of the questions would be addressed, if not answered.

At 8:44, Mayor Sheckler called for a 15 minute break.

At 8:59, Council resumed. Mayor Sheckler asked that the Council wait until the end of Staff's presentation to ask any questions or make comments, unless it was an emergency or for clarification.

Director Fredricks began the rest of the presentation by outlining the rest of the agenda for the presentation.

Schedule Logic.

- By 8/2/07, have a proposal for City development requirements and conditions of approval in place. Staff would then use this to provide the Port with clear information regarding what the City will require and what will be expected.
- During 5/07 - 10/07, the Port will test this proposal in the market through the Port's *Request for Qualifications* and *Request of Proposal* processes.
- Late 2007, finalize the 2nd Development Agreement based on market and selected Master Developer input.

Ultimate Outcomes:

To create:

- A **“vibrant employment center”** with any market-driven combination of the permitted uses that generates similar jobs, revenue and other economic benefits as those estimated for the Conceptual Master Plan in the December 2006 Economic Benefits Study and that helps achieve the socio-economic goals of the City,
- A new source of **direct and indirect long-term revenue** for both the City and the Airport,
- **Increased trade opportunities** for the Puget Sound region, and
- **An attractive and safe community asset.**

Director Fredricks stated that Staff did not like the idea of “dark facilities” traffic where large trucks pull in, turn on the lights, unload their products, re-load, turn off the lights, and then leave as this provides little return to the City. Instead, Staff believes a better use would be a mix that provides jobs, revenue, and tangible assets to the City. This would be a substantial revenue producer as it would create 1,200 - 2,100 jobs in the City of Des Moines which currently has 5,000 jobs. There would be a large amount of initial revenue to the City as one time monies through the development process, but the plan is to have a mix so that there is a continuous income through taxes and revenues for a long time.

Market Drivers:

Market value is a function of:

1. “Time to market”
2. Predictable development requirements
3. Predictable land use and building permit review and approval process
4. Community support and leadership

Director Fredricks stated this would be further explained during the presentation of the Conceptual Master Plan by Planning Manager Denise Lathrop, who then took the floor.

Planning Manager Lathrop addressed the Council and began by stating that the information and maps provided in the presentation were for the alternative provided in the Council packet, which would be Alternative 1. The proposed site plans were developed around what was considered to be the most likely alternative for today's market.

Slide 11, page 6 in the handout is in regard to the Environmental Review. Planning Manager Lathrop stated that the Environmental Impact Statement was provided to Council in January and that the 3 options given were based on the original analyses in the EIS:

- No Action
- Alternative 1 – Lower Intensity (900K Ft2)
 - 50% Logistics
 - 30% Manufacturing
 - 20% Office/R&D
- Alternative 2 – Maximum Intensity (1.1M Ft2)
 - 25% Logistics
 - 25% Manufacturing
 - 50% Office/R&D

Slide 12, page 6, stated that the site plans of the alternatives were created with the mitigation elements incorporated into them:

- SEPA Mitigation
 - Access and Roads
 - Stormwater management facilities
 - Fees and Funding
- DMMC 18.25
 - Development phasing
 - Conceptual site plan
 - Height, bulk and scale
 - Landscaping and Design standards
- Master Plan Review Process (DMMC 18.25)

Slide 14, page 7, Figure 8, shows the Conceptual Grading Plan for Alternative 1 which illustrates the slope to the Northwest.

Slide 15, page 8, Figure 7, illustrates the Stormwater System Plan for Alternative 1.

Slide 16, page 8, Figure 2, illustrates the Conceptual Site Plan for Alternative 1.

Slide 13, page 7, Figure 1, illustrates the Site Conditions for the Business Park using Alternative 1:

Earth

- Geotechnical analysis completed for EIS
- Approx. 712,000 cubic yards (cy) cut and 136,000 cy fill
- Net export of approx. 576,000 cy material
- Grading plan would comply w/ DMMC 14.60

Water Resources

- Approx. 60 acres (70%) of site would be covered in impervious surfaces (net increase of 50 acres)
- Stormwater runoff would be discharged off site to either or both of two route options:
 - S 216th Street system to Des Moines Creek
 - A new pipeline from the site west to existing S 212th Street stormwater outfall to Des Moines Creek

Wetlands

- 1.03 ac wetland fill approved by Corps and Ecology
- Approx. 0.96 ac wetland would be filled on DMCBP site (wetlands B11 and B14 - Category III and IV)
- Remaining wetlands (Category III and IV) would be regulated per DMMC 18.86

At this time, Planning Manager Lathrop introduced Mark Griffin from the Port to discuss how the “market driven” numbers were obtained.

Mr. Griffin began by explaining that by using existing market conditions and through discussions with developers, it was determined that this site would most likely need to be developed as shown in Alternative 1. He further stated that when the Port advertised to get proposals, that Alternative 1 wouldn't have to be what was presented, just that it was the most viable option under the current market conditions. He referred to Slide 17, page 9, which provided the following points:

- Proposed mix of uses results from a consideration of:
 - Current and foreseeable market conditions;
 - Physical features of the site, its surroundings and applicable regulations;
 - Infrastructure capacity needs; and
 - Potential environmental impacts.
- Flexibility will be key to successful development:
 - Larger buildings with the ability to serve multiple tenants and to incorporate office “modules” will be most marketable.
 - Office uses in the area are not highly marketable at this time.
 - In the long term, off-airport markets represent the greatest potential for development of the site.
 - For the near term, general industrial development represents the best opportunity.

Councilmember Pina noted that there are no alternatives with retail listed and inquired as to whether there could be a retail component created. Mr. Griffin responded by stating that the analysis used to determine the numbers was from 2006 when retail was not considered as a viable option as perceived interest was low. Mr. Griffin further stated he has had subsequent conversations with retailers and they have suggested that there is now a retail interest in the site. He further stated that the Port and City Staff would need to know if the Council would like to have that included, but that it would change the percentages. Mayor Sheckler stated that the City had received inquiries from ‘big box’ retailers regarding the site and that it was his belief that retail could definitely be part of the site's composition. Councilmember Kaplan agreed that the Council would probably like to see more retail offered in the conceptual plans/proposals.

At this time, Mayor Sheckler returned the floor to Planning Manager Lathrop.

Slides 18 and 19, page 9, Phasing of Trigger Points and Transportation were the next agenda items discussed.

Phasing of Trigger Points:

- Development anticipated to occur over a 7 to 10 year period, subject to market conditions.
- Development phasing will depend on:
 - Market conditions and
 - Developer’s assessment of how the needed site infrastructure can be most efficiently constructed.
- Infrastructure Phasing:
 - Infrastructure and building development is expected to begin from the south end of the DMCBP site and be phased north.
 - The major north-south roadway could be built as a cul-de-sac from South 216th Street and extended as specific building development progresses.
 - Alternatively, the developer could choose to build the main north-south road entirely at the outset of construction.

Transportation:

- New streets will be private roads owned and maintained by the Port with a potential future dedication to the City of the main north-south road.
- Primary site access will be from the two ends of the main north-south road:
 - One on 24th Avenue South at South 208th Street or South 210th Street, and
 - One on South 216th Street at 20th Avenue South (across from the entrance to the Des Moines Post Office).
- The access point on South 216th Street will form a four-way intersection with the post office access road and will be signalized if traffic levels meet signal warrant thresholds.
- The northern access will be controlled by a stop sign.

Slide 20, page 10, Parks and Open Space

- Approximately 31.9 acres (36.5%) of the 87-acre site will have pervious surface areas, including some wetlands and their buffers.
- Much of the space will be publicly accessible via the internal street and sidewalk system.
- The site’s developer could provide amenities allowing enhanced use of this space by tenant employees and the public.
- The recreation area requirement in DMMC Chapter 18.25.080 is not applicable per staff’s opinion based on state and case law.

Mayor Pro-Tem Thomasson stated he had concerns with the statements in this part of the presentation as to whether a site developer “could” provide amenities. This is something Council would decide, not Staff. He also said he was unhappy with the statement regarding the inapplicability of the recreation area requirement as people would want to pursue recreational endeavors after work, such as baseball teams. He was very concerned that we were giving away our recreational area before Council had even discussed the matter. Councilmember Kaplan agreed that the recreation area was indeed something that Council would need to discuss in order to provide Staff with direction. Councilmember Pina stated he agreed partially that it was his feeling the DMCBP would be like Pacific Ridge Development where developers have said that they couldn’t meet the City’s requirements, but the City and developers are now discussing those requirements to see what can be done. He stated he would like to see real proposals from developers in order for the Council to have a real idea as to what is wanted and what the Council can develop as real ideas for the site. Councilmember Sherman stated that in addition to the previously voiced concerns by other Councilmembers, his was also concerned that the additional traffic would have a negative impact on South 216th and 20th Avenue and would like to know what Staff and the Port would come up with to maintain the level of service now in the area. He would like to have other access points considered to bear the heavier of the traffic flows.

Planning Manager Lathrop continued the discussion, presenting Slides 21, and 23-25 which represent what the landscaping and aesthetics would be for the site using Alternative 1. She then returned the floor to Director Fredricks for the remainder of the presentation.

Director Fredricks presented the Council with Slide 26, page 13, stating again that these were questions provided to give Council a starting point for discussion:

What else needs to be done to allow Council to preliminarily approve 2nd Development Agreement by August 2nd?

1. What DMMC changes does Council support?
 - a. Review & approval process - Res 2(2)
 - b. Structured parking - Res 2(4)
 - c. Parks requirement – Res 2(5)
2. What additional conditions of approval does Council require? (Resolution Section 3)
3. Does Council desire additional discussion time on site development? Transportation? Storm water? Parks/open space? Permitted uses or use mix?

At this time, Director Fredricks asked the Council to provide comments or ask questions which would help Staff to know what their next steps should be.

Councilmember Scott:

Does not want 18 wheel trucks coming in and out of 216th as that's a major access to city. Retail traffic would be welcome, but she would like to see more ingress/egress on 24th and 208.

- Director Fredricks stated that there were conversations going on with the company that bought the Christian Faith Center to overlay 24th and possibly developing ingress/egress which will utilize 208th.

Councilmember Kaplan:

Sections 2 and 3 of the provided resolution will need more work. Staff needs to focus on what will be changed as that will educate the Council as a whole, which will then help Staff as Council will be able to make better decisions and facilitate project.

- Director Fredricks stated the changes in the resolution were ones that Staff thought would need to be made. He further stated that those 5 items are the areas where Council can decide to make changes to the code. Some of this would be a cleanup of the 1st Development Agreement.
- Councilmember Kaplan asked if the Council worked on the policy questions in Section 2, if that would help staff the most in this part of the process and Director Fredricks stated it would be a great help.

Councilmember Scott:

In terms of economic development, downtown is often considered to consist of just the Marina and the Beach Park area. It was her belief that if more was done to make 216th more attractive, it would draw people which would increase the need and desire for development in that area as 216th is not at all attractive at this time.

Councilmember Pina:

Agrees with Councilmember Kaplan's comments and would like also to see a 3rd alternative that would include retail.

Mayor Sheckler:

Would also like to see a retail component added.

Mark Griffin requested and was given permission to address the Council regarding the retail issue. He stated that the Port could put that issue to market to find out what retail interest is out there. This could be done as part of the RFQ process where the Port could tell developers that they could present ideas/proposals which included a retail component.

Councilmember White:

Likes the idea of businesses such as Pac Stainless in the Park. She stated that she couldn't envision the Park with small shops, but could certainly see it having larger retailers as part of the site.

Councilmember Sherman:

Agrees with the comments of his colleagues thus far.

Councilmembers agreed as a whole that they would like to see a third alternative involving retail and that it was their belief that interest would indeed be high in such an option.

Mayor Pro-Tem Thomasson:

Provided history of decision making process for the Port by explaining that the Council's vision of the DMCBP site was not one of creating another Kent Station, but instead a Business Campus. He would rather it take 20 years more to develop the site into what the Council had envisioned rather than develop it in 5 years, filling it with businesses and development types they didn't want. He stated he would not have problems with a big box retailer on the corner. Wanted to avoid a 90% logistics and 10% office scenario. Would like for the drawings, when redone, to reflect the more preferred percentages of higher office/R & D as opposed to the current high percentage of logistics as that would decrease the number of large trucks coming into and out of the property. Would not support a cul-de-sac on 1st Phase. Did not want traffic to use 24th south of 216th to get to Kent Des Moines Road. Need connection to DMC Trail and then need to retain public access to the property. Does not like the idea of this being a private street and not public. Needs to be platted from day one from end to end. Wants to know why City is using State Storm Drainage Codes for the site as opposed to City Drainage Codes.

At this time, Diane Summerhays of the Port requested and was granted permission to address the Council. Ms. Summerhays stated the Department of Ecology (DOE) and the Corps issued an administrative order based on another use and the Port does have the permit to fill those particular areas. For those areas where they do not have permit, the City's codes do apply. As for the DOE permit, it is her understanding that the permits are related to the non connected wetlands. They will verify this as the Port knows this is a very critical issue for the City.

Mayor Pro-Tem Thomasson:

Need to deal with public vs private drainage as public pipes can go across the Park, but private can not without benefit of easements and that decision may have to have federal approval as the Des Moines Creek Trail property was paid for with government funds. Is not comfortable with staff making review and approval process decisions and wants the Council making those decisions. Wants Staff to go back to the Comp Plan.

Mayor Sheckler:

Asked if Staff was getting the answers and clarification they needed. Director Fredricks stated Staff had gotten the information needed. He further stated that it was possible to have businesses in the park ready to open in 2008, but that would be dependent on the City helping the Port to stay on the current schedule.

Councilmember Scott:

Concerned with aesthetics of the detention ponds as they should be made to look more natural and blend in rather than standing out as obvious man made structures.

Mayor Pro-Tem Thomasson:

Concerned regarding frontage and road improvements along 216th and 24th. Believes the street improvements, traffic lights, and sidewalks should be completed by the day the Business Park opens. Believes traffic signal should be bought by the Park and not the City and would expect to have those conditions in any proposal brought for approval by Council.

NEXT MEETING DATE - Regular Council Session, June 7th, 2007.

ADJOURNMENT

At 10:29 p.m., the meeting adjourned.

Respectfully submitted,

Tina R McVey
Permit Technician
Planning Building and Public Works