

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

December 7, 2006

The regular study session of Des Moines City Council was called to order by Mayor Pro Tem Thomasson at 7:30 p.m. in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott and Dan Sherman. Absent: Mayor Bob Sheckler and Councilmember Susan White (Attending the National League of Cities Conference). Also in attendance were City Manager Tony Piasecki, Assistant City Attorney Richard Brown, Planning, Building and Public Works Director Grant Fredericks, Development Services Manager Robert Ruth, Land Use Planner I Jason Sullivan and City Clerk Denis Staab.

MOTION was made by Councilmember Scott, seconded by Councilmember Pina and passed unanimously, to excuse Mayor Sheckler and Councilmember White.

CORRESPONDENCE

City Manager Piasecki advised he has distributed a copy of a legal opinion from Attorney Susan Sampson he had requested regarding Gary McLean's remodel as to whether or not the City has the ability to regulate access to a property where he is doing a very large remodel. He advised he is satisfied with Ms. Sampson's legal opinion that the City has the authority to require either improving the access road or, allowing Mr. McLean to provide another alternative to provide the level of safety that the Fire Marshall was looking for. He noted Mr. McLean has been given a copy of the legal opinion and the permit for his addition has been issued, conditioned on him providing the access or an alternative method.

DISCUSSION ITEMS

Briefing - Des Moines Creek Business Park

Planning, Building and Public Works Director Fredericks reminded Council that in July of 2005, the City and the Port entered into a First Development Agreement that outlines the jurisdictional authority of each party and establishes the development process including permitted uses of the site, creation of a conceptual master plan, environmental review, and approval of a Master Plan. In April 2006, the Port completed a Conceptual Master Plan for the site which identified two potential development scenarios for the site that constitute the land use alternatives for the environmental review of the project. He advised that the SEPA review of the land use alternatives is currently underway and the draft Environment Impact Statement was released for public review on November 17, 2006, with a final EIS expected to be issued in February 2007. He introduced Rob Larsen of the firm ClearPath, who is serving as a real estate advisor to the City to provide guidance regarding decisions and milestones for the project.

Mr. Larsen informed Council the firm ClearPath is a strategic project advisory firm and is working with a number of municipalities and other entities in the area of economic development. He stated the firm will be acting as a real estate advisor and facilitator for communications in bringing together the City and the Port in the effort of the Des Moines Creek Business Park. He

stated the effort has been extremely successful so far and anticipates being able to move through the issues quickly in the future. He concluded by informing Council of numerous projects that he, as an individual, and ClearPath have worked on in the past.

Planning, Building and Public Works Director Fredericks proceeded to review a draft charter highlighting the following:

- *Mission* - Facilitate the development of the Des Moines Creek Business Park to revitalize the property, strengthen the community, and support the airport's role in promoting regional economic development.
- *Values (guidelines team will operate by)*
 - Respect
 - Collaboration and seek to understand
 - Assume positive intent - expect the best
 - Trust and be open
 - Make and honor commitments
 - Forgive
 - Pursue excellence
 - Learn from our past
 - Balance urgency and needs
- *Success Indicators (Measures, with targets to indicate when we are done)*
 - Lead Indicators
 - o Clear, efficient and predictable process to guide prompt implementation of a commercially successful development.
 - o Integration of the site within the surrounding neighborhood - environment, infrastructure and aesthetics.
 - o Protection of environmentally sensitive areas on the site and surrounding area, including Des Moines Creek, wetlands and steep slopes.
 - o Engagement of key stakeholders to support the DMCBP's development and success.
 - Lag Indicators
 - o A vibrant employment center that takes advantage of the proximity to an international airport.
 - o A new source of direct and indirect long-term revenue for both the City and the Airport.
 - o Increased trade opportunities for the Puget Sound region.
 - o An attractive and safe community - a gateway from the North.
- *Process (The way we will approach the work, a high-level 'to do'; list of activities and methods)*
 - o Engage Community
 - o Develop Conceptual Master plan
 - o Create 2nd Development Agreement
 - o Complete Plat and Street Vacation
 - o Complete EIS and NEPA
 - o Develop RFP and Select Developer
 - o Prepare DMMC 18.25
 - o Build Collaborative Team
- *Early milestones include the following briefings to Council:*

- o Early January 2007: Draft EIS (After Comment period closes), Economic Benefit Study and Preliminary Appraisal of Vacated Right-of Way in Ex. Session.
- o February 2007: Preliminary Plat and ROW Vacation
- o March 2007: FEIS Appeals (if any)
- o April 2007: 3 Party Agreement between Port, City and SeaTac on 24th/28th and EIS Planned Action Ordinance
- o May 2007: Preliminary review of 1st part of 2nd Development Agreement

Planning, Building and Public Works Director Fredericks concluded by requesting Council's feedback on the Draft Charter, the updated schedule and plans to brief Council in early 2007, or any other general policy direction that will not conflict with Council's quasi-judicial role.

In regards to the Draft Charter, Councilmember Sherman requested changes to *Barriers* on page 2, he suggested the word "Challenges" in place of Barriers, and that the word 'overcome' in the description be changed to "resolve". He stated that he is glad to have Grant Fredericks and Mr. Rob Larsen working on the project as this is the largest project the City has seen, noting it is very complex and needs to move forward.

In response to questioning by Mayor Pro Tem Thomasson, City Manager Piasecki noted the contract for Mr. Larsen and ClearPath did not come before Council as the dollar amount was under \$20,000. He noted that if ClearPath's services are needed beyond the \$20,000, it will come back to Council for authorization.

Planning, Building and Public Works Director Fredericks explained the LID proposed for the 24th/28th is in response to a request from the City of SeaTac who is anxious to complete the corridor from the Business Park up to the Airport. They have asked us to consider agreeing to being a part of a no-contest local improvement district. He noted it would require the agreement of the property owners.

Mayor Pro Tem Thomasson requested more legal research be conducted regarding formation of such an LID.

In response to questioning, Planning, Building and Public Works Director Fredericks advised that there are no planning activities underway to develop Port owned property north of Des Moines' City boundary.

Councilmember Scott encouraged awareness of impacts that may occur north of the project site in regards to the City of SeaTac and roadways.

In response to questioning by Councilmember Sherman as to whether any direct retail sales use is being considered, Planning, Building and Public Works Director Fredericks advised that at this time there is no direct retail sales envisioned. Mainly being considered are warehouse, logistics and R&D office uses. He also noted this property was acquired with Federal Funds (FAA) and they do have some say about how the property is used, and retail use is not one of the compatible uses consistent with the source of funds used to acquire this property.

City Manager Piasecki advised that at this point nothing is off the table. However, when you look at the EIS there are two different potential development schemes and they do not include retail. He further noted that one of the reasons he brought Mr. Larsen on board is to keep the

Port above board and honest when it comes to what mixes will and will not work on this property. He assured Councilmember Sherman that if some retail use can be worked in, it will be thoroughly examined.

Mayor Pro Tem Thomasson advised that Councilmembers must recognize that Council will be sitting as judges and should not talk to each other, and outsiders about this subject. He cautioned against forming opinions prior to appropriate hearings.

Planning, Building and Public Works Director Fredericks concluded by noting it is staff's intention to brief Council on the draft EIS and answer specific questions, while avoiding policy discussions about what is the right approach. He advised that forming opinions in advance of a potential appeal hearing would be a dangerous line to step over. The intent is to be factually based and keep Council well grounded in the work that has been done to date in which the public comment period has closed.

Redondo Rezone

Development Services Manager Ruth noted that this subject is before Council at Council's direction and at the request of some citizens in the Redondo area regarding non-conforming lot sizes. He advised that information has been presented to the Council's Finance and Economic Development Committee to assist in the identification of the geographical extent of the proposed rezone. He noted the Committee determined that the following 2 policy questions must be answered by the Council as a whole in order to continue with the rezone. The questions and the Committee's recommendations are:

- Should portions of Government lot 5 be included in the rezone since it was not part of the original Redondo Beach Division 1?

The Finance & Economic Development Committee recommended that Redondo Shores and the lots along Redondo Beach Drive should be included in the rezone; since historically the development of these lots is similar to the historical development patterns in the neighborhood. The Committee recommended that the Del Ray Mobile Home Park and lots created by 3 short plats that meet the current zoning code not be included in the rezone.

- Should the portions of Redondo Beach Division 1 that are currently zoned multifamily be rezoned to single family as part of the proposed rezone?

The Committee recommended that all of the properties that are zoned multifamily should not be included in the proposed rezone. However, they did identify 3 lots that are zoned RA 3600 that should be included in the rezone since the lots are currently developed with single family residences. It is important to note that a rezone of the multi-family lots will require a Comp Plan Amendment. Additionally, the Committee determined that Redondo Ridge which is currently zoned RS 9600 should not be included in the proposed rezone.

Agenda Revision

Mayor Pro Tem Thomasson noted that due to the number of personnel in attendance from South King Fire and Rescue, he will take that discussion item prior to continuing discussion the Redondo Rezone issue.

Interlocal Agreement with South King Fire and Rescue

It was noted this item is on the agenda at the request of Council.

City Manager Piasecki explained the Council's packet contains various agreements that were originally with Fire District #26 back to 1996, also supplied was a copy of the agreement with South King Fire and Rescue that will be effective January 1, 2007. He noted he has distributed this evening a copy of the agreement that South King Fire and Rescue has with the City of Federal Way. He pointed out that the agreement with Federal Way in regards to the issues of Code Enforcement and construction plan review, etc. is pretty much identical to Des Moines'. The one item we have that Federal Way does not is business license inspections. He noted this helps free up our building official and his staff from several hours of work every week. He advised that starting January 1st, the new agreement will run for three years, with no termination clause, as after 3 years it becomes year by year, with a 12 month notification period should we wish to terminate the contract. He also pointed out that it can be modified if Council so desires.

In response to Councilmember Scott questions regarding item 9 on page 3 of the contract, Fire Marshal Biesold acknowledged that Des Moines Municipal Code does contain hydrant code spacing in residential and commercial areas. He noted that the volume of water from the hydrant is not addressed in the City's code, but is in the Fire Code. It was pointed out that the water flows required change based on the type of construction of individual buildings.

Mayor Pro Tem Thomasson expressed concern about variable water flows at different times of the day. He noted as it relates to building codes and fire codes, he wants to make sure the City and the Fire Dept. have the tools needed to do the job, however he wants to ensure whether the City agrees with the rules the Fire Dept. is applying. In regards to items e, f, g, h and i on page 4, he wants to make sure the power is given to the right person. On page 5, item k, he questioned whether the City had passed legislation that gave the Fire Dept. the authority to collect the fee.

In regards to the collection of fees, Fire Marshall responded that he is not sure if the City has passed such legislation. City Manager Piasecki noted this will be checked.

Councilmember Pina expressed concern about having Water District #54 take the responsibility to ensure proper water pressure to the downtown Des Moines area, especially if it is detrimental in encouraging improvements and attracting new businesses to that area.

City Manager Piasecki advised there are current meetings underway with Water District #54, who has a new engineer on board, and together with the Fire District and City staff, are working on a draft plan of what the Water District needs to do along operational lines, and the next part will be on how to pay for the improvements. He informed Council a completed plan will be brought back to Council for review probably around the first of February.

Mayor Pro Tem Thomasson noted he wants to have confidence, based on what is in the legal opinion, that the City's Building Official, the Fire Marshall, and the City's Public Works Director know what the processes are and under whose authority things are being required.

City Manager Piasecki pointed out that the Fire Code Official and the Building Official have been given the authority that when it is impracticable for an applicant to comply with a requirement within the building or fire code, to allow modifications that provide an equal level of safety. If Council wishes to reduce that level of flexibility, Council can draft that legislation

which will go to the Building Counsel to ask them if they would approve such a modification to the Building and Fire Codes.

Councilmember Sherman noted in as much as the City has a relationship with the Fire Department and that each are independent authorities, the issue tonight has to do with carrying out responsibilities and has our roles been made clear, and who makes such rules. He felt the question is are there matters or issues where the City is not exerting its proper authority or has not given the proper authority to the Fire Department.

City Manager Piasecki stated he believes the agreement pretty clearly defines the roles and who is responsible for what. He felt what needs to be tied up is where are the standards we need to enforce, are they standards in the Fire Code or the Building Code, and basically are there areas where we want to see a different standard and do we have the ability to go to the Building Counsel and ask for a modification to a particular part of the Fire or Building Code.

Mayor Pro Tem Thomasson concluded the subject by requesting the City Manager report back in a month or two on issues raised this evening.

9:27 p.m. Mayor Pro Tem Thomasson declared a 7 minute break.

Redondo Rezone

Land Use Planner I Sullivan displayed an aerial view of the area. He noted the Redondo Beach Number 1 division created 97% of the lots currently located in the area outlined in red in Council's packet.

Councilmember Sherman questioned what kind of rezone is this specifically.

Land Use Planner I Sullivan noted staff questioned whether there was just one or two problematic lots in lower Redondo, or is this the continual development pattern for single family homes in that neighborhood. It was learned that there were 2 plats that created what is now known as Redondo. One was "Government Lot 5" created prior to 1900 which has been chunked off, sub-divided, short platted, and re-short platted again over the past 100 years. This includes the mobile home park, Redondo Shores and a few lots along Redondo Beach Drive, and this has been excluded from the proposed rezone area. Redondo Beach Division 1 consists of lots that were plated mainly 40' by 100', on average.

Councilmember Scott stated that Redondo should be looked at as an historic area, where those were legal lots when they were created, and they have been called less than minimum lot size because of governmental changes that had occurred later. She reminded Council these lots were platted before there were cars in the area, as people arrived by boat. She noted as a member of the Finance & Economic Development Committee, the members understood that the historic part of Redondo did merit a recognition of the fact that these were legal lots and are of the same size as the other developed lots in that area.

Mayor Pro Tem Thomasson stated that where there is a current home occupying two 4,000 sq. ft. lots, he would not be in favor of allowing that home to be torn down, so two homes could be built. He felt that to go through the effort to write a zoning code for a 4,000 sq. ft. lot, which is a textual code change, and then go through a rezone process, would be cumbersome to fix the building opportunities for three lots. He felt it would be simpler through a textual code change,

that is limited in scope, to say that in this specific neighborhood, 4,000 sq. ft. lots that existed and were built on, are legal conforming lots. It would need to be carefully crafted that you can build on a vacant lot, but the house in the middle of two 4,000 sq. ft. lots could not be divided.

Councilmember Kaplan did not feel this would solve the problems of citizens regarding issues over the lots being non-conforming in terms of insurance, etc.

Councilmember Sherman suggested perhaps staff should look at making this area 'townhome' zone.

Land Use Planner I Sullivan reminded Council that the idea tonight was to show Council the area that staff proposed be rezoned. In other words is this the geographical area that Council wishes to discuss.

Mayor Pro Tem Thomasson noted that this may be the geographical area, but changing the zoning to 4,000 sq. ft. is not going to solve all the problems as most existing homes will not meet setback requirements.

Land Use Planner I Sullivan informed Council that we already have setbacks established for lots that are less than 6,000 sq. ft. in the Municipal Code. He advised that what staff is trying to establish is, is there a minimum lot size that the Council can establish that will legitimize a neighborhood.

Mayor Pro Tem Thomasson felt that if we are trying to deal with sub-standard lots, we should deal with it City-wide. If the argument is that it is the lot size that is a problem in Redondo, it is actually a problem all over the south end of Des Moines.

Land Use Planner I Sullivan reminded Council, as noted in an early hearing, Redondo presents a unique historical neighborhood that is different than the rest of Des Moines. The key difference between the railroad platting of 25' x 100' lots is that plat was never built. The plat in Redondo, as it was laid out, was built, including roads.

Councilmember Kaplan stated that the difference in Redondo from the rest of Des Moines, is the historical nature of the platting. He felt staff's idea is the best approach to address a number of different concerns in Redondo all at the same time.

Councilmember Pina stated he feels staff has done what Council asked for, and the fact of the historic difference of the neighborhood, there is a strong motivation to move forward with the staff's recommendation.

Land Use Planner I Sullivan noted the parcels designated RA 3600 will be included, but if we do then we will have to rezone them and docket a comp plan amendment, so when the 2007 amendments to the comp plan are evaluated, this would have to be changed to a preferred use of single family.

Council's consensus was to proceed with staff's proposal.

NEXT MEETING DATE

Mayor Pro Tem Thomasson noted the next regular meeting is December 14, 2006.

ADJOURNMENT

At 10:27 p.m. **MOTION** was made by Councilmember Sherman, seconded by Councilmember Scott and passed, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM 12/7/06 COUNCIL MEETING

- Do legal research on forming no-contest LID with City of SeaTac for corridor on 24th/28th Avenues South from Business Park to Airport.
- City Manager to report back in 2 months regarding issues raised over the Interlocal Agreement with South King Fire & Rescue.