

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

March 14, 1996

The regular meeting of the Des Moines City Council was called to order by Mayor Thomasson at 7:33 p.m. in the Council Chambers, 21630 11th Avenue South.

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

ROLL CALL - Present: Mayor Scott Thomasson, Councilmembers Bruce Roberts, Bob Sheckler, Dan Sherman and Gary Towe. Absent: Councilmembers Terry Brazil (other business) and Don Wasson (vacation). Also present were City Manager Bob Olander, City Attorney Gary McLean, Senior Planner Robert Ruth, Community Development Director Judith Kilgore, Public Works Director Tim Heydon and City Clerk Denis Staab.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman and passed unanimously, to excuse Councilmembers Brazil and Wasson.

BOARD AND COMMITTEE REPORTS

Arts Alive Festival

Councilmember Roberts reported that he represented the City at the Festival last Friday, and presented an award to Joshua Bell of Mt. Rainier High School, as a very talented trombonist.

South County Area Transportation Board

Councilmember Sherman advised Council that the Board met on March 12th. He noted the following:

- The letter that SCATBd sent to PSRC last year regarding not funding the \$900,000 extra for the 2nd phase of the SR 509 study, was read and dismissed by PSRC.
- The METRO bus plan that is changing to a hub service, will happen by 1998. Renton will have the service in 1996 and it will be expanded to South King County in 1997. Des Moines will have the benefit of the experimenting.

Puget Sound Regional Council

Councilmember Sherman informed Council that Doug Southerland was once again elected President and Gary Locke Vice President. He noted that dues will be going up since federal and state funding is declining. He also noted the PSRC budget is down to \$6 million from \$7 million. Other highlights from the meeting were:

- There are no findings yet from the Expert Noise Panel.
- RTA plan proposal will be on ballot in May, still holding hearings.

PRESIDING OFFICER'S REPORT

National League of Cities

Mayor Thomasson noted that he and 4 Councilmembers attended the National League of Cities Conference in Washington, D.C. recently. He advised that this gave Councilmembers an opportunity to attend various workshops and meet with local Congressmen and Senator's to discuss issues of importance to our area.

ADMINISTRATION REPORTS

Congressional Hearings

City Manager Olander reminded Council that Congressional hearings regarding funding for the 3rd runway will be held at the Des Moines Recreation Center on Monday, March 18th beginning at 8:30 a.m. It is estimated anywhere from 100 to 1,000 may be in attendance.

Written Report

City Manager Olander noted that he has furnished Council with a written report. He requested Councilmembers to let him know if this report meets their needs.

PUBLIC HEARING CONTINUED

Draft Ordinance No. 95-167 - Street Vacation and Rezone from RS 7100 to BP (Business Park), and Draft Resolution No. 95-166 - Approving Request to Vacate Plats and Approving a Master Plan Providing for Development of a 54 Acre Site for Business Park Use - Applicant: Port of Seattle, File No. MP 94-050

Mayor Thomasson introduced the topic.

City Attorney McLean again read the rules for conducting the public hearing into the record and questioned Council whether there has been any new matters under the Appearance of Fairness Doctrine. There were none.

City Attorney McLean questioned Councilmember Sheckler whether he had viewed the video tape of the February 29th Council meeting, as furnished by the City Clerk, in order to participate in tonight's discussions. Councilmember Sheckler replied in the affirmative.

Mayor Thomasson advised that at the February 29th meeting Council was listening to opponents. He called for additional opponents three times, there were none.

PROPOSERS REBUTTAL

Lloyd Skinner, 3564 NE 166th - Mr. Skinner addressed the following issues that were raised by opponents:

Air Quality: Analysis was overseen by both Des Moines and the Port of Seattle. The analysis was cautious, conservative and objective. The land use assumptions that were used for future growth were those of the Regional Transportation Plan as approved by the Puget Sound Regional Council with upward adjustments based on comments from both the City of Des Moines' Public Works staff and City of SeaTac's public works staff to

account for greater than accounted for under PSRC localized growth. The groups met with Puget Sound Air Pollution Control Authority for estimating carbon monoxide impacts at local intersections. EPA guidelines were used. The impacts in all cases were less than existing conditions and the maximum difference at any single intersection was less than one tenth of a part per million. In all cases well within the Air Quality standards.

Highline Aquifer: The environmental impact showed there is an impenetrable barrier to potential spills. There is no threat to the well at South 208th and 11th because Des Moines Creek acts as a natural barrier.

Cumulative Impacts: Traffic and other environmental modeling includes regionally accepted assumptions for land development and future roadway projects.

Gerri Poor, Port of Seattle - Ms. Poor clarified the following points:

Soil Exports: Port has committed to minimize any earth work on this project. This site will not be used as a borrow source.

Runway Protection Areas: 2,500 foot area immediately before the runway and an approach transition zone goes to South 208th.

Fire District #26: Needs are met. The District and the Port are working on an interlocal agreement to address training and staffing needs. EIS projects annual net revenue to the Fire District on the order of \$150,000 to \$225,000 at full build-out of the campus. Hazardous material training will be provided at the Port's expense.

Jack McCullough - Mr. McCullough addressed the following issues:

February 29th Minutes Correction: On page 7, reference to Condition #9 - "no intent on the part of the Port to discharge surface water in to Des Moines Creek". Meant to say: "In connection with condition #9 there is no intent to allow discharges to occur in an undetained or untreated fashion."

Fire District #26: Agree with keeping truck traffic limited to South 208th to keep it in the same drainage basin as the project is in. Also agree with containment of potential spills, that it be based on applicable codes and performance levels.

Appropriateness of Industrial Development: The issues of land use have already been resolved in the context of the City's Comprehensive Plan.

Taxes: Port will pay leasehold excise taxes instead of property taxes.

Zoning Status of Site: In reference to appropriateness of the proposed CTI use, submitted a letter to address the issues (Exhibit #15). The business park zone does permit light manufacturing of chemical related products. CTI is under a specific sub-category under the SIC code.

Hazardous Material: The product is not flammable, not explosive, not poisonous, and is not toxic. CTI will establish extremely high levels of protection for the people and environment near the facility. CTI will follow principles of the Chemical Manufacturers Association and the Process Safety Code of Management Practices espoused by CMA.

Conditions of Appeal: Have worked with City staff and have resolved all of the issues. Endorse the revisions as supplied to Council via City Manager memo dated March 14, 1996. The only change would be on Condition 38, last sentence, change the word shall to "may".

Attachment 31: Clarified that an additional buffer area be shown in the corner of the project to comply with the critical areas ordinance. Port endorses this modification.

Attachment 34 Conditions of Approval: Acceptable and the Port endorses.

Gerri Poor submitted a map showing runway protection areas (Exhibit #16) and a letter from Gina Marie Lindsey to King County Fire District #26, reconfirming Port's desire to work with them on an agreement (Exhibit #17). In conclusion, she noted that the Port feels this application is a positive contribution to Des Moines' Comprehensive Plan vision for economic growth, a positive addition to the City's tax base and a positive addition to the City's Open Space Plan.

Dick Meyers, 911 Western Avenue #515, Seattle, 98104 - Mr. Meyers remarked that he thought it was significant that there were only two opponents that spoke. He further commented that the 2nd opponent who spoke was not necessarily in opposition, but voiced concerns regarding Des Moines Creek which he feels have been adequately addressed. In regards to Ms. DesMarais' comments, he stated that as Chairman of the Citizens Against SeaTac Expansion she is obviously very strong against the 3rd runway and therefore is against the Port. He commented that the 3rd runway is not the issue here. The issue of the rezone has been settled several years ago, the issue is the master plan. In conclusion, Mr. Meyers noted this proposal has had a lot of public and expert input and has been well thought through. He asked Council to keep in mind the benefits that people will receive from the products of CTI.

Opponent Rebuttal: There was none.

Mayor Thomasson questioned Administration whether there are any misstatements of fact, or whether they wish to enter any new material as to subjects raised, or do they wish to alter in any regards its initial recommendations.

Senior Planner Ruth commented that staff has made some corrections to earlier recommendations. He noted these corrections and recommendations are contained in the memo to Council dated March 14th and at Council's places this evening. Mr. Ruth proceeded to review the material furnished highlighting the following items:

Page 6, Item 22: Language added that the City will contact utilities for undergrounding.

Page 8, Item 31: Identified sensitive streets.

Page 9, Item 38: Last sentence, agree with Port to replace the word shall with the word "may".

Attachment 34: These are not mitigation measures, but are meant to be attached to the Master Plan. Item 4 addresses sunsetting to the Master Plan rather than the zoning.

Council Discussion:

Mayor Thomasson requested that staff separate findings and conditions and organize them by the subject they are related to such as master plan, transportation issues, health and safety issues, natural environment vs. urban environment, etc. He felt this would make it easier as Council deals with each separate approval issue.

City Attorney McLean advised Council that the Mitigation Measures that Council has, and were issued by the Community Development Department are SEPA Mitigation Measures and were issued as such. He reminded Council that under that standard they are applicable to everything done in this project, they are not isolated to any particular item. He noted that Council can amend the SEPA mitigation measures and adopt the SEPA mitigations it may determine as necessary.

Upon questioning from Councilmember Roberts, City Attorney McLean noted that the applicant can only appeal Council's decision to Superior Court as Council is the final SEPA decision maker.

City Manager Olander suggested Council take topics such as transportation issues, on site and off site, drainage issues, master site alignment issues, occupancy issues, health and safety, one at a time which may help discussion.

Upon questioning from Mayor Thomasson, Senior Planner Ruth displayed a map showing the boundary of the rezone area and the requested street vacations. He pointed out that the legal description is guaranteed by Stewart Title Company who consolidated 204 separate properties. Mr. Ruth also noted that a proper map is in Council's materials.

Mayor Thomasson questioned whether South 208th is part of the rezone application. Senior Planner Ruth advised that he is not sure, but the Zoning Code allows that streets that are vacated to automatically obtain the zoning of the adjacent property. Mayor Thomasson noted that normally during a street vacation one half goes to each of the bordering properties, he questioned whether part of the street could wind up in the City of SeaTac as far as the zoning goes. Staff noted that they will have to research this item.

In response to Mayor Thomasson, Senior Planner Ruth advised that a portion of the proposed park is within the Master Plan area. He noted that if Council approves of the park concept and the Master Plan, the park will not be included in the Master Plan area.

Upon questioning from Council, Senior Planner Ruth stated that there are two types of truck traffic, operational vs construction. He remarked that it is the operation truck trips that may involve possible hazardous material transport, this is the trips that would be required to have a hazardous materials truck routing plan and would be directed to stay within the one drainage basin area.

Mayor Thomasson, in regards to phase II street improvements, questioned whether there should be LID covenants and what if the arterial street is developed sooner. Public Works Director Heydon stated that the project could drag out and therefore he will need to review this further. Senior Planner Ruth reminded Council that these are mitigation measures and they are tied to when the impacts are occurring, so to that extent the trigger matches up to when the impacts occur.

Upon questioning from Mayor Thomasson, Public Works Director Heydon stated that LID covenants in the Street Code are for single family homes and that for commercial the improvements need to be actually constructed. However, he noted that he will look into an LID covenant as an appropriate tool to be used in this case.

Senior Planner Ruth noted that the assumption was the project would be built from the north to the south and that each development would require the associated street development. However, if a building is constructed in the south end, he feels that built into the agreement, is some flexibility to allow reprogramming for improvements on 24th Avenue South.

Mayor Thomasson stated as he reads item 22 the City has no ability to require frontage improvements south of the northern line shown as phase I. Senior Planner Ruth noted he will review this item.

Councilmember Sherman questioned how long construction is expected to take for the CTI project.

Councilmember Roberts addressed item #23 and asked why CTI is cited when it is possible another business could go in if something should prevent CTI from completing the project. Senior Planner Ruth agreed that CTI should be struck.

City Attorney McLean advised that the applicant has made it very clear that this project has to do with this tenant, that is their Master Plan application. It is not for somebody else. It is for a specific tenant and that is why the environmental mitigation measures are so specific.

Mayor Thomasson questioned that if CTI does not locate here, will it require an amendment to the Master Plan. Jack McCullough stated that the approval is not limited to a particular entity. The Port's approach under the Master Plan was that they had an obligation under SEPA to identify as much as could be.

City Manager Olander noted that should another applicant come into the Master Plan, Des Moines has the right to require a SEPA review if there are significantly more adverse impacts because of a higher level occupancy or different impacts.

Councilmember Sherman questioned whether once Council approves this master plan and rezone, is the Council through with any future changes.

Senior Planner Ruth reminded Council that the EIS analysis was done on a worst case scenario, and the development alternative that posed the most impacts and was the most taxing on the

street system, was the one that was used and evaluated for programming the improvements that Council now sees before it.

9:18 p.m. Mayor Thomasson called for a 10 minute break.

Mayor Thomasson requested staff to report back on which mitigation's/conditions it is appropriate to specifically name the tenant, versus which are strictly Master Plan issues.

Upon questioning from Councilmember Towe, Fire Marshall Polhamus informed Council that construction trucks are not their concern, only tank trucks. He advised that he does not feel it is necessary to sit in with public works staff on these issues. He feels that Public Works Director Heydon shares the same concerns as the Fire District.

City Manager Olander reminded Council that the Port, SeaTac and Fire District #26 can be consulted on traffic impacts, but the decision is ultimately with Des Moines.

Mayor Thomasson questioned of all the vehicle trips how many are estimated to be people going to work, how many are related to the development or CTI. Mr. Skinner noted that truck trips for the operation of CTI should be 10 to 15 trips a month or, less than one a day.

Mayor Thomasson questioned what sanctions/penalties can be imposed if trucks choose to ignore the conditions set by Des Moines.

City Attorney McLean informed Council that very stern consequences would result if trucks violate SEPA mitigation measures. He assured Council that the City can enforce the traffic plan.

Mayor Thomasson requested staff try to determine the construction traffic versus long term users.

Councilmember Roberts requested that Item #31 be divided into 3 separate issues ie. hazardous, construction, and truck traffic.

Upon questioning from Council, Fire Marshall Polhamus stated that that any tenant that may deal with hazardous materials has to file a Hazardous Management Plan as this is a Fire Code requirement.

Senior Planner Ruth advised Council that street frontage improvements would be required through the Municipal Code if the development is spread out during phase I, if not, then development would most likely be from the north to the south.

Upon questioning from Council, Senior Planner Ruth stated that the applicant will develop street frontage improvements to a small part of the park (500' along South 216th), that was part of the original master plan.

Mayor Thomasson questioned item #18 in regards to the proposed park development. Senior Planner Ruth reminded Council that these items relate only to the business park proposal and that the public park will be reviewed as a separate issue.

Mayor Thomasson stated that perhaps it would be best if access to the park was from within the Master Plan. City Manager Olander noted that there is nothing to preclude access from South 216th into the park. He also stated that this is not a decision for Council at this time.

Councilmember Sherman requested that the Port bring back potential effects to this area if the 3rd runway should be built, in particular the runway protection zone.

Councilmember Roberts questioned the proposed public park in regards to runways especially if there is lighted ball fields. Gerri Poor advised that there is a park north of the airport already and they use special shades on the night lights that are approved by the FAA.

Councilmember Sherman questioned CTI representative on whether they are a member of the Chemical Manufacturers Association or if not, are they a partner for the Responsible Care Program. Maury Schuarz of CTI replied that he cannot commit that they would become members of the CMA, but they do subscribe to the principals of Responsible Care. He also noted that most of the rules and regulations that the City, State and Federal Government has require most of the same processes for fire, safety, hazardous materials, etc.

Mayor Thomasson announced that the public hearing will be continued to April 4th. City Attorney McLean noted that public testimony will no longer be received but the record itself is still open in the sense that Council is still asking questions.

Councilmember Towe requested further information concerning comments by Ms. DesMarais dealing with her concerns over possible emissions from the CTI site mixing with aircraft emissions and, will there be radio active materials on site.

Councilmember Towe questioned whether the construction revenue stream could be applied to the development of the 12.2 acre park, are there any strings attached to potential federal funding of the business park development that might preclude the City from using these funds, and are there restrictions on federal funding as it applies to any park development.

City Manager Olander replied there are two potential revenue streams that will be subject to Council use for park development. One is the 1% sales tax generated during construction, this would be up to Council. He cautioned Council to keep in mind this will not be a great deal of money on the initial construction. He noted the second option would be to designate a portion of the leasehold excise tax.

Councilmember Sherman questioned how the Port arrived at their estimate on revenues to the City for the leasehold tax based on a square foot estimate.

Councilmember Sherman requested that staff compile some additional recommended motions, including adding the extra triangle buffer.

City Attorney McLean encouraged Councilmembers to advise staff of any questions they may have of anyone in attendance at tonight's meeting so responses may be prepared for the April 4th meeting.

MOTION was made by Councilmember Roberts, seconded by Councilmember Sherman and passed unanimously, to continue the public hearing to April 4, 1996.

NEXT MEETING

Mayor Thomasson announced that the next regular meeting will be March 21, 1996.

ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Denis Staab
City Clerk