

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

May 2, 1996

At 7:30 p.m. City Manager Olander announced that the executive session will continue for approximately another 10 minutes.

The regular meeting of the Des Moines City Council was called to order at 7:49 p.m. by Mayor Thomasson in the City Council Chambers, 21630 11th Avenue South.

PLEDGE OF ALLEGIANCE to the flag was led by Councilmember Wasson.

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil, Councilmembers Bruce Roberts, Bob Sheckler, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, City Attorney Gary McLean, Community Development Director Judith Kilgore and City Clerk Denis Staab.

BOARD AND COMMITTEE REPORTS

Public Safety and Transportation Committee

Councilmember Sherman reported that the Committee met earlier this evening. He stated they are reviewing options for the intersection of 10th Avenue South & Kent-Des Moines Road. He noted that they have narrowed the options down to two for further study.

OLD BUSINESS

Des Moines Creek Technology Campus - File No. MP 94-050

Community Development Director Kilgore explained to Council that the new packet, in pink, contains minor changes dealing with renumbering to match the existing notebook material. The only item with other changes was attachment 20. She proceeded to review the word smithing that identified Council's direction from the April 18th Council meeting.

City Manager Olander noted this has been a complicated project. He advised Council that staff has drafted language they may wish to include regarding what triggers amendments to the Master Plan that would bring it back for Council's review. He stated that this proposed language has been submitted to Mayor Thomasson.

MOTION was made by Councilmember Roberts, seconded by Councilmember Sheckler, to uphold the City SEPA Official's determination of adequacy of the Final Environmental Impact Statement and deny the City of SeaTac appeal dated May 26, 1995.

Councilmember Sherman informed Council that he cannot support the final EIS for the following reasons:

- Not fully accurate
- The first occupant (CTI) is not a permitted use
- Wants park property conveyed outright
- Transportation improvements are not fully addressed, impacts not analyzed fully

He stated that he will vote against any item where the EIS is used as a basis for approval.

Mayor Thomasson stated it is his opinion that many of the documents in Council's packet contain mistakes.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmember Sherman and Mayor Thomasson voting NO.

MOTION was made by Councilmember Roberts, seconded by Councilmember Sheckler, to uphold the City SEPA Official's determination of adequacy and adoption of environmental mitigation and deny the City of SeaTac's appeal dated February 12, 1996 to the extent that it is inconsistent with the environmental mitigation measures dated May 2, 1996 (Attachment 20) which are by this motion adopted by the Council.

Mayor Thomasson referenced Item 3 of Attachment 20, stating that this allows applicant to move structures, parking, etc. around. He noted that when Council passed the original conditions for a business park, their intent was that a developed master plan would be thoroughly reviewed by the Council. He felt that there is no proper direction to staff as what magnitude of change would cause this application to come back to Council for review. It is his opinion that Council did not intend for staff to have so much authority. Therefore, he stated that he cannot vote for this issue.

Mayor Pro Tem Brazil commented that he disagrees with Mayor Thomasson. He felt that there are stringent restrictions and safeguards in place. He further stated that he trusts staff to be prudent and noted that they are professionals in this area.

Councilmember Towe voiced agreement with Mayor Pro Tem Brazil feeling there are adequate check and balances, and staff would recognize significant changes that would come back to Council. He questioned Mayor Thomasson on what kinds of further safeguards he would like to propose.

City Manager Olander reminded Council that for one thing, any change in access points regarding traffic ingress/egress, would automatically bring the plan back for Council's direction.

Upon questioning from Councilmember Wasson, City Attorney McLean advised that Council can take action to stop any construction/features that it feels is legitimately beyond the scope of what Council has approved in the master plan.

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Roberts, Sherman and Mayor Thomasson voting NO.

MOTION was made by Councilmember Roberts, seconded by Councilmember Sheckler, to uphold the City SEPA Official's determination of adequacy and adoption of environmental mitigation and deny the Port of Seattle appeal dated February 12, 1996 to the extent that it is inconsistent with the environmental mitigation measures dated May 2, 1996 (Attachment 20) and adopted by the previous motion. Motion passed 4 to 3 with Councilmembers Roberts, Sherman and Mayor Thomasson voting NO.

MOTION was made by Councilmember Roberts, seconded by Mayor Pro Tem Brazil, to adopt the draft findings of fact and conclusions for the SEPA process included as Attachment 36 to the May 2, 1996 administration report and further direct the City Attorney to finalize the findings of fact and conclusions.

Mayor Thomasson stated he is not against the project, but there are inconsistencies such as acreage contained in the Findings, is not the same as shown on the map that Council was given last week.

Community Development Director advised that the map is correct and reminded Council that a survey still needs to be completed. Upon questioning from Councilmember Towe, she noted that the findings will be correctly updated when they are completed.

City Attorney McLean also advised Council that appropriate corrections will be made prior to the Mayor signing any of the final documents.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmember Sherman and Mayor Thomasson voting NO.

MOTION was made by Councilmember Roberts, seconded by Councilmember Towe to adopt Draft Resolution No. 96-033 ***[ASSIGNED RESOLUTION NO. 812]*** as shown in Attachment 41 of the April 4, 1996 administration report approving the vacation of plats and property lines as requested in File No. MP 94-050, except those areas of deeded and/or dedicated streets within South 216th Street and 24th Avenue South.

Mayor Thomasson stated that he will vote no because of errors in the process and Council never received a map that showed all of the requested vacations. He feels that he does not have a full understanding of what Council is approving.

Councilmember Sherman noted that Council will have a final review and approval in 6 months.

Community Development Director Kilgore advised Council that everything will be null and void if the applicant has not complied with all the conditions required during the 6 month review.

City Attorney McLean also assured Council that nothing will be final unless everything is completed and he assured Council that the City has reserved that right.

VOTE ON MOTION: Motion passed 6 to 1 with Mayor Thomasson voting NO.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Towe, to adopt the findings of fact and conclusions for the plat vacation included as Attachment 37 to the April 4, 1996 administration report. Motion passed 6 to 1 with Mayor Thomasson voting NO.

MOTION was made by Councilmember Towe, seconded by Mayor Pro Tem Brazil, to suspend Council Rule 26(b) allowing adoption of Draft ordinance No. 96-032 on first reading. Motion passed unanimously,

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler, to adopt Draft ordinance No. 96-032 as shown in Attachment 42 of the April 4, 1996, Administration

report approving the vacation of public streets as requested in File No. MP 94-050 and direct staff to verify, confirm and incorporate legal descriptions of proposed vacations which are consistent with prior Council directives related to this project.

Mayor Thomasson read the draft ordinance by title into the record.

Upon questioning from Mayor Thomasson, Community Development Director Kilgore advised that none of SR 509 right-of-way is contained in the legal description.

Mayor Thomasson questioned the effective date of the ordinance.

City Attorney McLean advised that the street vacatopms could not be recorded until applicable conditions have been met. He noted that if Council would like, he could draft some language during break that would clarify the issue.

8:54 p.m. Mayor Thomasson declared a 10 minute break.

City Manager Olander requested that the prior motion to approve Draft Ordinance No. 96-032 be tabled until the May 9th Council meeting to allow staff to consider revised language to comply with Council's direction.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Wasson, to table the previous motion until the May 9, 1996 meeting. Motion passed unanimously.

Councilmember Sherman stated he is in favor of the proposed changes and would vote for the ordinance, however he will not be in attendance at the May 9th meeting. Mayor Pro Tem Brazil stated the same comment.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Towe to adopt the findings of fact and conclusions for the street vacation included as Attachment 38 to the May 2, 1996 administration report. **MOTION WAS WITHDRAWN** after it was determined that Draft Ordinance No. 96-032 should be acted upon first. This item will come before Council at the May 9, 1996 Council meeting.

MOTION was made by Councilmember Roberts, seconded by Councilmember Towe and passed unanimously, to suspend Council Rule 26(b) allowing adoption of Draft Ordinance No. 95-167 on first reading.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler, to adopt Draft Ordinance No. 95-167 ***[ASSIGNED ORDINANCE NO. 1162]*** as shown in Attachment 23 of the April 4, 1996 administration report approving a rezone from RS 7200 to BP as described in File No. MP 94-050 and direct staff to verify, confirm and incorporate legal descriptions of the rezone area which are consistent with the revised rezone boundaries provided to Council on April 18, 1996.

Mayor Thomasson read the draft ordinance by title into the record.

MOTION was made by Councilmember Roberts, seconded by Councilmember Towe and passed unanimously, to adopt the following conditions of approval for the rezone, which shall be described as Attachment 2 to Draft Ordinance No. 95-167 and to amend such Ordinance to incorporate same:

1. Areas designated as park by the comprehensive plan land use plan map shall be excluded from the proposed rezone.
2. An easement across the rezone area, the exact location of which shall be determined at a later date, shall be granted by the Applicant to the City upon request to allow installation, maintenance, and conveyance of drainage runoff to Des Moines Creek resulting from the development of the adjacent public park.

VOTE ON PREVIOUS MOTION: Motion passed 6 to 1 with Councilmember Sherman voting NO.

MOTION was made by Councilmember Roberts, seconded by Councilmember Towe, to adopt the findings of fact and conclusions for the rezone included as Attachment 39 to the April 4, 1996 administration report.

Mayor Thomasson voiced objection based on the same technical mistakes that he has mentioned earlier.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmember Sherman and Mayor Thomasson voting NO.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler, to adopt Draft Resolution No. 95-166 ***[ASSIGNED RESOLUTION NO. 813]*** as shown in Attachment 22 of the April 4, 1996 administration report approving a request for a master plan as described in File No. MP 94-050.

MOTION was made by Councilmember Roberts, seconded by Councilmember Towe to adopt the following conditions of approval for the master plan, which shall be described as Attachment 2 to Draft Resolution No. 95-166 (and as may be further detailed on Attachment 3, site plan of said resolution), and to amend such Resolution to incorporate same:

1. An easement across the master plan area, the exact location of which shall be determined at a later date, shall be granted by the Applicant to the City upon request to allow installation, maintenance, and conveyance of drainage runoff to Des Moines Creek resulting from the development of the adjacent public park.
2. All wetlands that are filled or disturbed by site development shall be replaced by construction of a new wetland within the Des Moines Creek basin and within the Des Moines city limits.
3. With the specific intent to avoid future double charging or duplicating fee payments attributable to the proposed development or system improvements already required herein, mitigation payments made or the cost of facilities constructed pursuant to this agreement shall be credited against present or future obligations of the Applicant to pay mitigation fees, or impact fees or assessments under ordinances presently existing or hereafter adopted by the City.
4. The Applicant's obligations hereunder shall be contingent upon construction and development of the project, as approved by the City, or as the same may be amended. In

the event the Applicant elects to abandon the project, the Applicant shall so notify the City and those unfulfilled conditions of this agreement shall have no further effect. Under any circumstance, however, the City shall not be obligated to refund any portion or amount of fees or payments required under this agreement which have been advanced or paid at any time prior to or during the course of site development.

5. All applicable code requirements, environmental mitigation measures, and conditions of approval imposed on the proposed rezone, master plan, street vacation, plat vacation, and subsequent permits shall be made public record and disclosed to and transfer to and be binding upon subsequent owners of the property in any sale of the property or any portions thereof. Following such sale, the City shall not look to prior owners of the property for compliance with said requirements and conditions, except as provided by law.

6. The City Public Works Director shall retain the authority to determine when minimum maintenance work and improvements for private streets within the business park are required. The standards and criteria used by the Public Works Director to determine when improvements for these streets are necessary shall not exceed those used for other and similar streets throughout the City. The applicant shall make improvements to private streets serving the business park within 18 months of written notification by the City Public Works Director.

7. A 20' wide easement shall be retained within South 208th Street allowing non motorized access to Des Moines Creek and future associated improvements.

8. In the event that timing is such that Phase II or Phase III street improvements (as specified in Attachment 48 to the May 2, 1996 administration report) have not been constructed by the applicant and the 24th/28th Arterial Improvement Project is ready to proceed, as determined by the City of Des Moines Public Works Director, the Applicant shall not contest the formation of an LID for street improvement for the 24th/28th Arterial Project.

Mayor Thomasson noted that in several of the conditions the word "agreement" appears and he felt this is not a proper term.

City Attorney McLean advised Council that this is a typographical error which will be corrected.

VOTE ON MOTION: Motion passed unanimously.

VOTE ON PREVIOUS MOTION: Motion passed 4 to 3 with Councilmembers Roberts and Sherman and Mayor Thomasson voting NO.

MOTION was made by Mayor Pro Tem Brazil, seconded by Councilmember Roberts, to adopt the findings of fact and conclusions for the master plan included as Attachment 40 to the May 2, 1996 administration report. Motion passed 5 to 2 with Councilmember Sherman and Mayor Thomasson voting NO.

NEXT MEETING DATE

Mayor Thomasson announced that the next regular meeting of the City Council will be May 9, 1996.

ADJOURNMENT

The meeting was adjourned at 9:24 p.m.

Respectfully submitted,

Denis Staab
City Clerk