



THE CITY OF WHITTIER

Gateway to Western Prince William Sound
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PLANNING COMMISSION Special Meeting Wednesday, February 5, 2014 Council Chambers, P-12 Building

MINUTES

1. CALL TO ORDER

Charlene Arneson called the meeting to order at 7:00 pm.

2. OPENING CEREMONY

Charlene Arneson led the Pledge of Allegiance.

3. ROLL CALL

Commission members present and establishing a quorum:

Charlene Arneson	Seat A	Present
Terry Bender	Seat B	Present
Ed Hedges	Seat C	Present
Jean Swingle	Seat D	Present
Dyanna Pratt	Seat E	Present

ADMINISTRATION PRESENT

Thomas K. Bolen, City Manager
Jennifer Rogers, Deputy City Clerk

PUBLIC PRESENT

Arnie Arneson	Jen Kinney
Andy Donovan	Jim Kubitz
Suzanne Eusden	Carl Madson
David Garcia	Keith Pratt
David Goldstein	Bill Rome

4. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Terry Bender made a motion to approve the February 5, 2014 Special Meeting Agenda.

SECOND: Dyanna Pratt seconded the motion.

VOTE: Motion passed unanimously

DISCUSSION: None

5. APPROVAL OF MINUTES

MOTION: Dyanna Pratt made a motion to approve the Regular Meeting minutes of January 14, 2014 as is.

SECOND: Ed Hedges seconded the motion.

VOTE: Motion passed unanimously

DISCUSSION: None

City Manager, Thomas Bolen, suggested that we proceed with the Public Hearing to Rezone Block 10, Lots 3 & 5 prior to giving his report.

Planning & Zoning Chair, Charlene Arneson, closed the Planning & Zoning Special Meeting at 7:09 pm to open the Public Hearing to Rezone Block 10, Lots 3 & 5 of Whittier Subdivision Phase II.

6. NEW BUSINESS: Public Hearing to Rezone Block 10, Lots 3 & 5

Charlene Arneson called the Public Hearing to Order at 7:09 pm.

Charlene Arneson invited Alaska Railroad representative, Jim Kubitz, to come forward to give testimony of behalf of the Alaska Railroad. Charlene reminded Jim to speak up so that the recorder can catch what he's saying. He said he will try.

Jim Kubitz said, "Thank you. Good evening. It's a pleasure to be here again. Just a quick recap of when I was here last time. Essentially, what the railroad is doing, you have your maps there, is trying to rezone all of our property we own there that's going to be used for either dock purposes or railroad purposes to industrial because that's what the zoning is in our yard currently. Lots 3 and 5 that we own are zoned commercial. Lot 4 is already zoned industrial. So we thought it would be in our best interest to get that done because we don't know what we're going to do on that project. We have no specific project set. We know that we're to be doing some work in analyzing the DeLong Dock and seeing whether we can improve that dock.

This last summer, as most of you know, was an amazing fishing year for off the dock and it took us by surprise for sure and the dock got quite a bit of use and we're actually going to have a surveyor look at it again to check the conditions and see if there's anything we can do to improve it. The railroad has decided it would be good to be in compliance with our zoning that we currently have in the yard and rezone lot 3 and 5. Lot 6 which we own which is down by Smitty's Cove there is obviously is a lot that we consider to be connected with Smitty's Cove. It's a lot that people use when they go diving when they use the cove and they launch boats. That zoning will remain as it is, commercial because we have no plans to do anything industrial or railroad operations type on that property because we know that it's important.

Also, when I was here, I talked about our plan in the future. We don't have the money for it right now, but our plan in the future is to put in Kittiwake Road, to improve it to City standards and make that an access down to the Smitty's

Cove area down there and allow people to safely use that recreationally. We don't have that on our budget yet, but that's what our long range plan is to do. We would not close any access to it until it has its own separate access. Nothing is on the radar at this time, but we're just asking for your consideration to bring all of our property under our proper zoning, which for railroad operations is supposed to be industrial. We are going to keep number 6 commercial and dedicate that to the usage of Smitty's Cove.

Charlene Arneson said, "Would you kind of explain exactly that these are on top of the cliff. Kind of give us an overview of that because it's confusing just to look at the plat, the plat map. Jim Kubitz replied, "Absolutely. People may have maps, and they may not have maps there, but I think you all have been at Kittiwake Road there which is kind of a narrow road. Phil Johnston used to own the property on the left. He had some trailers and stuff on there years ago and that's the property we're talking about. Down below is where of course, Alaska Marine Lines, Linden has built their facility. They use that for their equipment and maintenance there."

"The road goes around over to Smitty's Cove. It is a cliff and it is really steep there. Our plan will probably be someday to make that more usable and take some of that off, but we no immediate plans to do it. We just think it's in the best interest to make things operate safely in the rail yard there. We just need some room. We were so stacked up this year especially because it was such a big fish year. We just need more room to operate. And if we're going to make improvements to the DeLong Dock for the future, we just need some breathing room down there. We may take some of that cliff down, we may not. We just know that we need to incorporate it into our long range plans."

Charlene Arneson thanked Jim Kubitz and said, "At a given time, if there are questions, I'll ask you to address those. But this is a hearing and not a town meeting, so we'll keep it as a hearing."

Charlene stated, "We are here tonight with a meeting to eradicate, or to rezone Lot 3 & 5, Block 10 Whittier Phase II. At this point I will call for testimony for people, anybody who is in favor for the project and would like to state their interest."

Daniel Blair approached that table to sign in and made the following statements. "I guess I don't really have a strong position for. I primarily have questions more than positions." Charlene reminded him, "There are three portions to this; those that are for it, those that are oppose and those that are neutral. So when we call for the person in neutral, that would probably be the best time for you." Dan Blair replied, "So questions are for neutral people?" Charlene said, "Questions will come after." Dan Blair said, "I can't side one way or the other until I have the answers." Charlene said, "Jim can answer the questions as well at any time. What is your question, by the way?" Dan Blair said, "There were , I guess the questions were, I guess on Lots 3 if there's, it looks like on Lot 5 is what Jim was referring to a lot as far as possibility of blasting and I was wondering if the same thing is in consideration for Lot 3 as far as a lot of blasting. And who owns lot 4?" Charlene replied, "The railroad owns it."

Dan Blair asked if it was zoned industrial. Charlene replied, "Yes, it is." Charlene made the following comments. "One of the requirements for industrial in our table for Title 17. There is a table of what is allowed and what is not allowed. And let me just clarify and read what the industrial district consists of. Which is 17.16.050 of our code, 'This district is intended to provide an area for manufacturing, storage, shipping terminals and railroad-related uses. This is an area of development which is generally not compatible with residential and commercial uses because of conflicts from vehicle traffic, noise, dust and danger. The area is characterized by loading docks, railroad yards, storage buildings, and wholesale commercial enterprises. This is an area which provides for those marine uses which are not compatible with the small boat harbor.' Then there is the table of allowed uses, which is a lot, but it is in the code. One of the things, it states exactly what can and what cannot be put up. Now, if the railroad wants to put something on there that is not compatible with our table of uses, they can come for a variance or a conditional use and we would have another hearing and we would then deal with it at that time."

Dan Blair said, "Thanks, Charlene. That helps me with my questions." Charlene went on to say, "In that table also, whatever they do, it also gives the dimensions that are required. The front yard for industrial lot area, there is no footage, just whatever lot size is dedicated for industrial. The front yard has to have a setback of 20 feet, the side yard

is 10, the rear is 10 feet and the buffer zone for residential area is 200 feet." Terry Bender said, "Can you tell me how big are these lots? There's no way that 10 ft. x 20 ft. that I see." Charlene said, "No, but whatever the size is, is." Terry bender asked, "Does anybody have that? Length and width?" Charlene asked Jim if he had the dimensions. He replied that he did not. Charlene went on to say, "It isn't relevant at this point because the size of an industrial can be any size." Terry replied, "I didn't mean it for that. I was quaking about the blasting and what I remember of Lot 3 down there is that they're going to have to blast a bunch to use that lot and I wondered how many feet they would actually be going back."

City Manager, Thomas Bolen called for a point of order and stated that this is supposed to be public testimony. Charlene reminded her that she can ask these questions when the public testimony is closed.

Dan Blair stated, "For clarification purposes, these Lots, 3, 4 and 5, what I would call the front yard would be facing the bay." Charlene replied, "The road side is usually the front side." Terry Bender added, "But they boarded both roads?" Charlene said, "Yes. Then I'm assuming that that would be too." Dan Blair stated, "My other question would be, to the railroad, when the time is for this, these industrial, should these be zoned industrial, can we get some sort of a commitment that the traffic for that industrial traffic might be, my assumptions are toward that railroad side."

Charlene added, "Looking at the map I would say that the front would be the Kittiwake because that's the road that goes up the zoning road. But also, just to remind everyone, we have a three minute time limit on the testimony. If you would like, look in your Title and it gives you everything in there that is required of the railroad, including the vehicular things that they're supposed to have including, I believe they have to have two parking spots per one per two employees. But again, there are variances, conditional uses, there's a lot of things that can come after that." Dan Blair voiced, "As to whether or not I'm proponent or an opponent, a lot of that would be based on where the industrial traffic would be. That industrial traffic's going to be going up on Blackstone Road and Emerald, the street that's in front of all the industrial stuff, I mean, commercial stuff, then I would be an opponent, but I want to say I don't have enough information."

Charlene thanked Dan Blair and asked if there are anybody else in this category that would like to testify? Hearing none, I close that portion and open for testimony to those who are opposed.

Suzanne Eusden came forward and made the following comments.

"I'm 100% opposed to it. We have had ongoing problems with the railroad. They're going to continue to put the screws to us; I should be careful with my language here, but they're going to continue to squeeze people that live at that part of town, the entire town. They are not going to stop until they get everything they want, including this. I don't think it should be turned over to industrial. The blasting is going to happen at some point. It is a cliff and it will affect those of us at the Manor. It will affect us traffic wise. It will affect us noise wise. You even had that it's not compatible with residential.

You've got a couple of cabins and homes up on the hill there. Those people are going to be heavily impacted by whatever is done up there. Mr. Kubitz just said something about working on Kittiwake Court. You've got another house, you've got a house. I mean, granted Mark and Vicki have not lived in that house for about twenty years, but I believe they still own that property. Maybe they still do not own it, but you do have budding land owners up there, you've got homes up there. And Mr. Kubitz also stated something about doing this in preparation for DeLong Dock. It's almost like the apple before the cart because the DeLong Dock issue has not been settled yet to my understanding. I have grave reservations about it. I do not want to see them controlling any more than they control in the city at this point.

As far as I'm concerned, they control too much, or think they control too much. I've lived there for 23 years and I have very very serious concerns about it. For them to be able to use those two lots because it's on a hill, on a cliff, to use it in the way they want to utilize it they're going to have to blast, they're going to have to alter that area. And to think that there would be more industrial traffic either on Blackstone, on Kittiwake, wherever, is not very palatable.

And I'm also concerned about Smitty's Cove. I mean more and more industrial. Smitty's Cove isn't going to be ours anymore, it almost isn't at this point and if this persists, it'll be even less. I might have more to say after he says more. That's basically it."

Charlene thanked Suzanne Eusden and asked if there were any other testimony opposed to it? Carl Madson came forward. As Carl was signing in, Charlene voiced the following reminder, "In preparation for this, everyone who had ownership of lots or residential areas within 500 feet of this concern received a letter letting them know. It was also put in the newspaper as well." Carl said, "Thank you for sending those letters out because I would have been unaware. I live in the Whittier Manor Condos. I live in the Whittier Manor Condos and my concerns reflect Suzanne's. Right now the nicest thing about Whittier Manor Condos is that it's quiet on one side of the building. I realize there is industrial noise and I moved in there recently and I accept the noise on the railroad tracks, but to not be able to get away from the noise at all is kind of a daunting proposition for the residents. I do have some concerns and questions

I guess that would have been nice to have a public question period beforehand because without knowing what the foreseen uses are, hours of operation, things like that; I can only assume that they're going to run operations similar to how they are currently down in the waterfront. Also, they show some road changes on their maps and it may redirect traffic in front of Whittier Condos. I'm concerned about the increased industrial traffic that may come up Blackstone Road or Cove Creek Road. Also, moving industrial operations up onto a higher lot, if they do operate on the elevation of 3, 4 and 5, it's really going to spread noise further out through the Whittier area.

Getting operations up off the water seems like it's going to make things a lot noisier. More light pollution and scenery. And then also, Smitty's Cove is a wonderful place. I had a boat or had been diving in Whittier area for a number of years and it's kind of sad to see it continually just get degraded and look more industrial. I realize it's not the railroad, but the Alaska West Express Building looks like a pile. So it would be nice to try to keep that area as pristine as possible and I am concerned about the increased industrialization of the area is degrading that. That's about it."

Charlene thanked Carl Madson for his testimony and asked if there were any others who has a testimony. Bill Rome came forward and made the following statements.

"I agree with everything, all the points that Suzanne and Carl made. It's just, even if the railroad takes over this area, there's still a limited area, the whole area there, there's not that much land out. I don't know why they don't just go up to the head of the bay where there's a lot of property and do the expansion up there. This is a residential area and it just doesn't seem to be compatible with what they're trying to do. Thank you."

Charlene thanked Bill Rome for his testimony and asked if there are any others who has a testimony. David Garcia came forward and made the following statements.

"I'm David Garcia and I stand opposed. I feel that the railroad should have been up here way ahead of everybody and explained down in detail what their schedule is now and in the future. I also have had in the past years suggested the head of the bay where they don't have to come into the city area as far as traffic and block the only crossing we have in and out of Whittier. I'm also concerned as to Lots 3 and 5, what their present and future plans are for that area. As it stands now, I've seen containers in the train yard are now stacked four high which is compatible to a four story building. I live at the Manor and I wouldn't want to look out the window and see containers blocking all that beautiful view. Having said that, I stand opposed."

Charlene thanked David Garcia and asked if there are any others to testify in opposed. Seeing none, she closed that portion and opened it to anybody who is neutral and who would like to speak.

David Goldstein came forward and made the following statements.

“Thank you, Madam Chairman. My name is David Goldstein. I live in Whittier. My questions will probably take under a minute, but the responses may go a little longer. I really don't have a dog in this fight and I'm neutral. I would like to state that blasting has occurred on some of the other lots besides 3 and 5. I think that was when Mr. Johnson owned some of this land also. The first question I have here is either for the commission, Madam Chair or one of the commission members or perhaps the City Manager can give a little history behind why 4 is industrial and 3 and 5 are commercial.”

Charlene replied, “At this point I'm not sure when all that was done. We have an official zoning map at the City and that was last done by ordinance in 1996. We have the ordinance. The map was supposed to be attached. At this point, the map is not attached and both Brenda and Jenny have been looking for it and seeing if they can find it in one of the packets from the meeting that it was done. Ben Butler was Mayor at the time and so we're not sure what the official map says. All of the maps that we have since then in the Comprehensive Plan and on the other maps has it industrial.”

“I do know that I'm not sure if it was that lot or another lot that was done by the city council without a hearing in 1993-1996. It was done in-house by them. At that time it was to be able to get the freight off of the east loading ramp so the little boats could come in and offload like Protzman's boat; to come off and offload off that ramp. I'm not quite sure how that happened. I do know having found that we don't the official map, that's one of the things the commission will be working on to do an updated and see if we can find evidence of that.”

Terry Bender asked, “Is that where Custom Marine was once located?” Charlene replied, “I don't know, I believe it was, but if that's where that was, it was done because it was City owned at the time and it would be industrial because it had the garbage collection on it and the electrical area.” Ed Hedges added, “Custom Marine is at the bottom, this is at the top.” Charlene said, “That lot was done by the City for their own use for industrial. Why 3 is I have no idea or when it was done.” David Goldstein thanked Charlene.

David Goldstein stated his second question, “The second question would be directed to the railroad. Obviously, this is something that the railroad is concerned about and I'm wondering what prompted the request at this time?” Jim Kubitz replied, “Nothing specifically prompted, other than when we read what's allowed on commercial, which is 3 and 5. What we could do on commercial according to the zoning is intended to foster a concentrated area of shopping, entertainment, office facilities and tourist oriented compact and pedestrian oriented community center. That's the only thing we can do on commercial property.” Charlene added, “Churches and meeting halls.”

Jim Kubitz said, “When we looked at that we said 'There's nothing we'd want to do in that category.' We want to operate the dock and we want to run the railroad. We have fishing customers. There's always been talk about about an ice plant being built that would help support fishing. Whatever is necessary. We don't have plans to be the developer, we want to find someone who wants to come in and put up some sort of development that supports the operations there. We realize that we weren't going to do anything with these things so we thought we'd better get it zoned in the same category as the rest of our rail yard and the lots that are there, except for 6.”

Charlene thanked David Goldstein and asked if there is anyone else who is neutral who would like to speak up. She asked Walter Finke if there was anything he wanted to add since he came in late. He responded that he did not.

Charlene closed that portion and opened it for Other Comments from any category.

Dan Blair asked, “Who owns lot 6?” Someone in the audience replied, “The railroad.” Dan Blair then asked, “Is that zoned industrial?” Several people replied at the same time, “Commercial.” Ed Hedges added, “That's Phil Johnston's old property.”

Carl Madson asked the railroad, "How did you acquire lots 3 and 5?" Jim Kubitz answered, "We purchased 3 from a private party. We purchased 4,5 and 6 from Phil Johnston several years ago." Carl Madson asked, "Is this the zoning that was on them when you purchased it?" Jim Kubitz said, "Correct." Carl thanked Jim.

Charlene asked for any other questions or comments.

Suzanne Eusden said, "If 5 was commercial, how was, I mean, where Phil did his blasting and stuff was 6, but wasn't it also part of 5?" Jim replied, "Probably." Suzanne said, "Ya, I mean, if you look at that, so if that is still commercial, how was Phil able to do what he did down there? I mean he racked the land basically. Smitty's was a beautiful area. You could go down there and see the northern lights. You could get out of the wind. There are eagles nesting there. I mean its been trashed, but why let the railroad trash it anymore is my feeling?"

Charlene responded, "Unfortunately that was done again without having a hearing, but also, was permitted by the Corps of Army Engineers and DNR." "But not by Planning and Zoning, correct?" was Suzanne's response to this. She further went on to say to Jim Kubitz, "Is lot 3 where you're pseudo building is where the containers that have had a structure built around it?" Jim said, "No." Suzanne replied, "So that's where you're little road is right here. Is that correct? You're little dog leg road now that goes, so you're building thing is right here?"

Jim replied, "It's on what we call 3A down below it." Suzanne said, "So questions on how far back in here would you propose to blast for your purposes and do you want to run railroad track in there? Do you want to widen this road or do you only want to alter this road? Do you want to run semis and God knows what up here and down if you alter the incline or decline joined by lot 5? I mean, serious concerns, real serious concerns."

Jim said, "Let me say something. Before we do anything we would have to come and get a permit and tell the City what we plan to do. We don't have any definite plans." Suzanne said, "Tell them or ask them? There's a difference." Jim said, "We understand that ma'am, we'd ask them." Charlene said, "Just to clarify that question there, 15,16 and 17 will tell you exactly what they have to do." Suzanne said, "Ok. I should probably take a look at that." Charlene then said, "They would have to follow up exactly what the ordinance says for those particular things. If they want a variance or conditional use, then they would have to come back for another hearing."

Suzanne asked Jim, "If you're leaving 6 as commercial, what are you planning to with do with down in here?" Jim said, "Are you talking about the road?" Suzanne said, "If you're going to take this land, blast it, whatever you're going to do." Jim interrupted by saying, "Once again, we don't have any plans. We just thought we'd like to get our land in conformance with the rest of our land and then plan an expansion someday. We have nothing on the books. We don't have a nickel to do it. We just thought it was the right thing to do because we know we're not going to use it as commercial."

Suzanne said, "If you don't have plans, you don't have to divulge them I guess, but if you don't have plans what is the big push to get this? I guess I'm not following this." Jim said, "There isn't a big push." Suzanne said, "There has been some talk to expanding your track down further. I know in some recent meetings there's been talk of that too. If you do get this up in here, are you going to want more street lights that will blare right on top of the Manor or bother the people that have homes and lots up there?" Jim said, "I don't even think you can even see the Manor from the property. The Manor can't see the property because it's up on a hill." Suzanne said, "I can, I can. I live right there and I can see right down around." Jim said, "It's up on a hill." Suzanne replied, "I understand that. I've been snow machining up there for years. I'm pretty familiar with that land up there. I shouldn't tie up more time, but I do have serious concerns."

Charlene asked if there were any other testimony at this point. Dan Blair stepped forward and asked the following questions.

"Jim, would you be more inclined to, it seems like these properties would be valuable to the railroad if you had sort of designated these lots as the front of the lots facing the bay. Would that be a fair statement?" Jim replied,

"Well, we wouldn't use them from the water side. How would we access from the water side?" Dan Blair said, "What I'm looking for is some of assurance that the industrial traffic would be from the bay side. It would not be from Cove Creek side. Would that be accurate?" Jim said, "That's accurate. The only thing we've talked about, which we call Kittiwake Road that someday improving that road which will give people access to Smitty's Cove without having to drive through the industrial area." Dan Blair said, "The residential traffic would be for divers and kayakers, not 18 wheelers?" Jim Kubitz said, "Exactly. We'd like to separate the industrial from the regular traffic."

Dan Blair asked, "Do you know if Lots 3A and 2A, are those industrial?" Jim said, "Yes. We purchased those lots from Larry Gilman as you can remember. We purchased them from the City and have leased them. All of our property is industrial, except for 3 and 5, that's my point." Dan said, "So my concerns about traffic going up Cove Creek and Kittiwake, I don't need to worry about that as far as industrial goes?" Jim replied, "Not at all." Dan said, "That's all the questions I have."

Charlene asked for any other questions or thoughts. There were none. Charlene then closed the public meeting portion of the hearing and opened the hearing and questioning to Commissioners.

Dyanna Pratt asked Deputy Clerk, Jennifer Rogers, "Jennifer, can I ask you how many letters did you send out to, how many letters got sent out to everybody?" Jennifer replied, "Approximately 30." So Dyanna said, "About 30? So we heard testimony from one, two, three four. Four opposing it out of 30. That's all I have to ask." Terry Bender mentioned, "Well, I wanted to mention that we had this pretty rapidly. There wasn't a whole lot of time because people don't live here, so maybe they didn't have time to clear their schedules to come and testify."

Dyanna said, "They could have written letters or emails and they definitely had plenty of time to reply and respond in some way if they were negative against it. I know that if I was against it and I got a letter I would make a phone call, an email, something to state my case." Terry stated, "We did have one that sent an email." Charlene said, "As a matter of fact, I forgot to do something and I apologize. I do have a testimony that I was supposed to read and I apologize for not doing it before this. She then read the email out loud. (See Deputy Clerk for a copy of this testimony.) After reading the email, Charlene disclosed that it was written by Peter Denmark. Charlene went on to say to Dyanna, "I'm sorry I didn't read it before you started."

Ed Hedges said, "To tell you the truth, I agree with Peter." Terry Bender said, "I think we should have a plan before we rezone anything." Jean Swingle said, "It's my understanding that they would have to get permits. If we rezone industrial, they can't just do whatever they want." Ed Hedges asked, "Was there ever a permit done for that building that is on the old Custom Marine lot?" Charlene replied, "No." Ed said, "So right there tells you that they don't get permits." Charlene replied, "No, they got permits after that. That was permitted and built according to the ordinance of the City of Whittier, which they did not need to come and have a hearing for it. Planning and Zoning, unless it's conditional use or a variance."

Charlene asked if there were any other questions. Hearing none, she stated, "I have went through completely on this and have deliberated this and kept an open mind, but when I got this from Peter and I also got a phone call from another councilor who also expressed concern in this area, I think that we have time. This is not an issue that they have to have it tonight because they're doing a plan that they need to start by spring and get it permitted. But, we do have time to postpone this and bring it back up again if it becomes an issue. One of the things I learned when I first started in all this is 'Do no harm.'

"A lot of times we've had, not the railroad, but others as well, other big businesses come in and we have to have this done now, so we don't have a chance to really get the information we need to have a comprehensive hearing and what the ramifications might be. The other thing is, it is Alaska Railroad land. They own it, they're doing the request and we can just go ahead and do it. So we have those options. We can deny it tonight. We can say yes tonight. We can postpone it until such time as we feel that we have more information that we might need. Those are the options we have. I would like to have your input on that as well." Ed Hedges said, "Well, if there is

no plan, they have no plan for it, there is no big rush to rezone. I'd like to know what their plans are for rezoning. I'm more for postponing it until we can hear a plan." Suzanne Eusden raised her hand. Charlene reminded Suzanne, "That part of the hearing is now closed, Suzanne. This is for Commission comments only."

Dyanna Pratt asked, "Is it common to have to get someone's plan to rezone their own property? Is that the way it's normally done?" Charlene replied, "We usually do have to find out, if we rezone it and they can just put whatever they want on it." Dyanna further asked, "So as long as it goes by what industrial is allowed to do, that's the whole point of rezoning, to stay in the industrial thing. They can't do anything outside of that scope. So, we basically look at the industrial thing. But if they don't know what they have planned down the road, I'm not really sure what more information we're going to be requesting from them and what will satisfy us to come to a vote. So I'd like some input from you guys on that. You want to wait to get more information? What is it that we need to find out? I need to understand that." Charlene replied, "Well, we got a request from Peter Denmark to postpone that because of what he did say, and I don't know. That's why, 'Do no harm.' their deliberation. I don't know. Terry Bender added, "On the land trade deliberation?" Charlene said, "Yes. The land trade deliberation." Dyanna said, "I guess I need to know more about the land trade deliberation."

Charlene Arneson acknowledged Thomas Bolen and said, "Tom you, yes. You're Administration. You could have been up here. Mr. Bolen stated, "I would respectfully advise the Commission as such. There is something called due process. There is nothing to be gained by postponing your taking a position on this matter. And by the way, you are not saying yes or no, you are making a recommendation to the City Council yes or no. City Council will make the decision." Charlene asked, "On what?" Tom said, "On the rezone." Charlene said, "No. They will by ordinance they will do it, yes. But we will recommend to them to zone it or not to zone it." Thomas Bolen said, "Correct. That's what I'm saying." Charlene went on to say, "At this point, we are making the decision." Thomas Bolen said, "So whether you postpone six months or a year, the facts aren't going to change. Code says Railroad is supposed to apply and provide certain information, which they have supplied."

"There's no requirement for them to tell you what they're using the property for. You cannot demand that they tell you what they're going to use it for. And so, if you postpone, you're really just deliberately not providing due process to the Railroad, the same as you might do to any other average citizen should they come forward and they have a similar rezoning request. So my recommendation to you is make a decision one way or the other tonight and move on. Whether that's no or whether that's yes, that's up to you, but you should make a decision tonight."

Charlene said, "And the due process from there is if we say no, we would do the documentation. We would send the reasons why, and we would have darn good reasons to do it. We would send it to the City Council. The City Council then reviews it and either can uphold our decision or they can reverse the decision. If they uphold our decision the Railroad has the option to take it to court. And that's why the City Planning and Zoning is not just an advisory commission, it's also able to make decisions that do that. Is there any other comments?"

Dyanna said, "I was really ready to come in here tonight and have a room full of people opposing this. I was ready to listen to what everybody had to say opposing this. But the letters we sent out...I don't see it. I don't see the people opposing to the letters we sent out. I see five people; I'm grateful that you're here. I'm very grateful that you're here and that you stated your case because you know, we need to hear it. But like Mr. Bolen said, they've done what is required of them. I haven't really heard any, honestly, I haven't heard any good reasons to deny them. I've been listening. All I hear is people, they think this and they think that, but I haven't really heard a reason to postpone for myself. Terry, you've got to have something to say. I know how you feel on this and I need to hear it, otherwise I think it would be wrong to postpone."

Terry Bender said, "I'm in agreement with Peter that I would like to hear a plan for the land. That's it for me." Charlene said, "Jean. I haven't heard much from you." Jean said, "Is it even an option to rezone one of the lots and not the other?" Charlene said, "That's not the request. We would have to, they would have to do the request. We can't designate something like that. If they want it, then yes. But I came here with an open mind. I did stop and talked to Tom and I had concerns. At that time I really wasn't all that much in favor of doing it, but they are

land owners. They are here requesting. And I also said I would be persuaded by anybody who came in here with a good reason for not redoing it. The best one that I've seen was Peter Denmark's request for not doing it until after the trade, land trade. He has some concern over how that would take away some of their ability to negotiate. I have no idea what that is all about, the negotiations because I'm not privy to that information, but it is a concern to me. The only concern I can see that would be a big concern to me. Evidently Peter had a big concern over it.

I don't know whether that would be or not. At this point, if we can't postpone it, if the Railroad would ask us to postpone it, we can do it. But I don't see in Code where we can postpone. We'll either have to vote yes or no and then go from there. Are we ready? Does anyone else have any comments? Jim, do you have any comments? You know we're in a quorum to figure out. This is the first rezoning we've ever done and it's a hot potato issue."

Jim replied, "It's the first one we've ever done too, certainly in Whittier. At this point, can I read something from your minutes?" Charlene said, "Sure. Come closer so we can record it." Jim replied, "Sure. I wish I could tell you what the Railroad's plans are. We want to use it to expand the area that we operate the railroad at the dock. That's it. That's what we want to do. We don't know when we're going to do it; we don't know. We don't have the money scheduled for it yet. But the one thing that bothers me about Peter Denmark is, these are the minutes from your last meeting when I was here. If I can read the third paragraph it says, 'Terry Bender asked if this will affect the land swap? Jim said it is not related; it is just rezoning their property. The land swap is a separate issue.' I just want to reiterate that this has nothing to do with the land swap. We are not going to swap this land. This is land that is ours in our rail yard and we need it because we need to expand."

Charlene said, "So you don't see an issue with rezoning, that it would bother that at all?" Jim replied, "I don't because we want to use the land to help expand our operations." Charlene said, "And at the point of when you come back in and get blasting, you have to have permits. You have to, just to let you know, that we still have our Coastal Zone Management that is part of our Ordinance and you would have to come in and address your permits with us, there's a well on that. And we would have to have another hearing on that. It's exactly the same thing we had with AML when they did theirs."

Jim said, "I can't imagine us not getting a permit for everything we do. The Railroad is under a microscope and we always do things by the letter of the law and we try to do the best we can to explain what we're up to. The Railroad will do whatever we have to do to follow the law and to respond to the public."

Charlene said, "One of the issues that was not good when Phil did it was he did not inform anybody what he was doing and getting a permit. By the time we found out, he had already been approved, which is not the way to do business. Also, permitting, dimensions and all of this kind of stuff, making sure the buffer is 200 ft., any residential, and your minimum everything. The advisor the Planning and Zoning for that issues and permitting is Scott Korbe. He works with everybody that AML, he works with all people who come in and he's the one you can work with to be sure you're doing everything by ordinance. I appreciate your coming and I appreciate your time. I appreciate everybody's time, but I think that this public time now, unless someone else has another question for him, it's time to vote."

Dyanna Pratt said, "I hold Peter Denmark in the highest esteem and respect, my only regret is that he wasn't here to express more about his letter to convince me to vote a no vote." Charlene said, "Suzanne, this part of the public meeting is over." Suzanne said, "Why was he able to speak and we can't?" Charlene answered, "Because he is part of the permit, he is the person asking for this and I asked him to clarify something for the commission. I'm sorry, but anything you have to say, it's not a town meeting, it's a hearing and commission is the one speaking now." Suzanne said, "We can't comment that he just contradicted himself ten minutes ago from what he just said? We can't address that?" Charlene asked the commission if they wanted to allow Suzanne to speak. The members approved.

Suzanne Eusden said, "When I sat I sat up there before and I turned and I asked Mr.Kubitz, 'What are your plans? What are your expansions? What are you thinking about railroad tracks?' He said 'We don't have plans.'"

He just went up there two minutes ago and said, 'We need that to expand.' And yet he will not tell us what that expansion is. And that's part of why some of us at the Manor has serious concerns. And I'm also concerned about Dyanna saying four people show up to speak and not one person spoke pro for it. Regardless of how many letters or how many people came, not one person went up there in favor of it. And I'm done."

Charlene said, "That was allowed, but we're not going to make a town meeting on it, ok? If you have questions, ok. So we're going to vote now and actually have a motion. Someone needs to make a, the Chair will entertain a motion." Jean Swingle asked, "If we vote to make it industrial, is it 100% sure that they can't do any blasting or building or anything without permits and approval?" Charlene replied, "Yes. Absolutely, they have to have permits. The Corp of Army Engineers, DNR, they do control that. It's close to the water. They may have to even go with the Coast Guard. I don't know. We're not going to allow people to do that. I'm 74, and if I die then you guys will have to take over. So I will entertain a motion. Hearing no motion, Charlene said, "Ok, the Chair will make a motion to approve, and you can't make a motion in the negative, to approve the rezoning of Lots 3 & 5, Block 10 of Whittier Phase II.

MOTION: Charlene Arneson made a motion to approve the rezoning of Lots 3 & 5, Block 10 of Whittier Phase II.

SECOND: Jean Swingle seconded the motion.

Charlene Arneson Y Terry Bender N Ed Hedges N Jean Swingle Y Dyanna Pratt Y

VOTE: Passed

Charlene said, "I voted yes, simply because I did not hear a good reason why it shouldn't be done and the fact that it would be taken straight to the City Council. I will vote yes. If we had had more people come and explain to me why we couldn't follow the ordinance then I would have voted no. At this point we will close legally the hearing portion and go on to the rest and reconvene the rest of the meeting. I will encourage everyone to read the code and come again when they do the next permitting process because that's when you can make your voices heard on that.

Charlene Arneson closed the Public Hearing at 8:15 pm.

7. City Manager's Report

Charlene invited City Manager, Thomas Bolen to come and report on setting a hearing for Shotgun Cove land. Mr. Bolen reported that he was unsure as to why this topic was on the agenda. Commission members voiced that Terry Bender requested to have it on the agenda. Thomas Bolen stated that he believes he talked about this in one of his previous reports. He briefly reviewed his previous report. Terry Bender said it was her understanding that there was a plan to build a variety of city buildings and a school on Shotgun Cove land. Charlene replied that there was not.

The information that Thomas Bolen has seen on Shotgun Cove land doesn't suggest that that's a principal idea at all, so perhaps a public meeting is necessary to clarify. We're required to dispose of a certain amount of property. With the 10 year extension that was recently granted, the deadline would be 2024. He doesn't believe that a road to that area will be completed by 2024. He felt that holding a town meeting would be better than a public hearing. There was much discussion among the members to determine when would be a good time to hold the town meeting. It was decided to host the town meeting to discuss land disposal at Shotgun Cove on May 21, 2014.

8. NON-ACTION BUSINESS:

A. Tank Farm

Thomas Bolen did not have new information to report on this. He'll meet with the government on this issue and he will have more to report at the next meeting.

B. Land Trades with Alaska Railroad

Thomas Bolen reported that the Administration is working to schedule a town meeting as requested by the City Council.

C. Review of Hazard Mitigation Plan Update

The Mitigation Plan has been presented to Council for adoption. They have not opted to adopt. There have been comments by council members that there are additional revisions necessary. Tom called Scott Nelson to find out what the situation was. The revision has been submitted to the State, which was submitted and reviewed by FEMA. It is now up to the City Council to adopt the plan. Scott Nelson said another revision can be done. However minor the revisions may be, it'll have to go back to the State and Feds prior to adoption. No real penalty to the City unless we were to have some sort of disaster and ask for a mitigation project.

Tom stated that we cannot ask for a mitigation project without having an adopted mitigation. Tom requested the Council will be to either adopt it and if there are significant issues to be addressed, we need to give a list of those issues to the Planning Commission. Charlene stated that she spoke to Scott Nelson and he has volunteered to attend the next City Council meeting on the 18th to do a fifteen minute presentation to explain exactly what a Hazard Mitigation Plan is and what our options are. The Council can adopt and amend the Hazard Mitigation Plan at any time.

Charlene went on to say that if they adopt it, we'll be covered. Right now we're not covered for any disaster. Without the plan in place it would take FEMA about three months to react to whatever problem we have. Thomas Bolen clarified that not having a Hazard Mitigation Plan adopted does not prevent us from receiving federal assistance in the event of a disaster, it prevents us from having a Hazard Mitigation Project, which is a pre-disaster project. Hazard Mitigation is taking steps to limit damage that might occur.

D. Smitty's Cove Park

Thomas Bolen did not have anything to report. Charlene requested that Mr. Bolen bring somebody that has the survey so that we can finalize making that area a Marine Park. It will be the only and first official Marine Park in the state of Alaska. She believes that Scott might have this survey. Charlene said she would like to see this finalized soon.

E. Whittier Historic Railroad Plaza

Thomas Bolen distributed two different drawings for the Whittier Historic Railroad Plaza and went over it in detail, explaining the architectural design and cost difference. He'll make a presentation to the Council at the next meeting and unless he receives different direction, he'll move forward with the design. Dyanna Pratt asked if CVP funds will be used for this project. Thomas Bolen replied that we have Railroad grant money from DCCED.

F. Review of Tideland Zoning

Nothing to report.

G. Signage for Anton Anderson Tunnel Traffic Staging Area

Dyanna Pratt reported that she got in touch with Gordon Burton and he disclosed that he spoke to Matt Murphy, who is the Avalanche Control and Scott Thomas is the Traffic Engineer. He was told that there was a huge engineering study done on this years ago, and they don't feel that it is an avalanche area. The traffic staging area is designed to keep people safe. If people go past the lights and an avalanche occurs, the most that would happen is their car would get dusted with snow. He encouraged us to get in touch with Matt Murphy and Scott Thomas if we feel that signage is necessary.

H. CVP Fund Projects

Nothing to report.

I. Shotgun Cove Land

Thomas Bolen reported that we received a 10 year extension on the reversion clause.

9. CORRESPONDENCE:

None

10. PUBLIC COMMENT:

David Goldstein stated that he was involved with the Hazard Mitigation Plan in 2004. He questioned why this came before the Planning & Zoning Commission, but he is in agreement that this plan needs to move forward. Charlene clarified that the plan needs to be reviewed and updated every five years by the Planning Commission. It is on the agenda to document that we are paying attention to you. Eileen Bechtol was hired by the City to write the plan.

David Goldstein then mentioned that he also worked extensively with the Division of Emergency Services and FEMA on a number of projects. One of them was the Storm Ready Tsunami Program. Having the Hazard Mitigation Plan in place, and making sure that our community is storm ready and tsunami ready allows us to have discounts on insurance rates.

Lastly, he voiced that he liked the idea of the Whittier Historic Railroad Plaza to take the place of the muddy stairway area.

For clarification purposes, Charlene stated that the Planning Commission worked on the Hazard Mitigation Plan Update, it was approved through FEMA and a resolution was forwarded to the City Council for approval. It is now in the hands of the City Council.

Suzanne Eusden stated that she is concerned about the vote that the Planning Commission made regarding the property near the Manor area. She voiced that she felt it was a poor decision and strongly disagreed with comments that a commission member made. She further stated that there was not a single positive comment made yet the motion passed. Charlene reminded Suzanne that what was voted on and the comments were based on the Whittier Municipal Code. Charlene stated that she's not in favor with all that the railroad does but the code has to be followed.

She could not find a legal reason in the Code to not approve it. Suzanne stated that certain parts of Lot 3 are within 200 feet of their residence at the Manor. Charlene reminded Suzanne that the Railroad will be told what they can and can't do when they apply for a permit just as they did with AML. What AML built was approved by the City. They didn't have to come before the Planning & Zoning because they didn't need a variance or a conditional use. When issues arise, our objections are based in accordance to the Code.

Charlene stated that we can deny the application to rezone, and it can be revised at any time. She went on to say that she can reconsider her vote. Jim might take it to the City Council and it might be overturned. Just because the Planning & Zoning denied it, doesn't mean that would have been the end to it. Charlene felt positive that the railroad would have taken it up to a higher authority. Charlene said if that is what people want, she'll call for a vote of reconsideration and vote NO.

Suzanne asked Charlene to clarify why AML was exempt from appearing before the Planning & Zoning Commission to get a variance on building the structure. Charlene replied that it is on an industrial lot and the minimum structure height is 60 ft. It can be higher if a variance is obtained. Approval would need to be

obtained from the State Fire Marshall before building begins. They would also have to contact Scott Korbe, Whittier Public Works Director. Scott Korbe then appears before the Planning & Zoning Commission to inform the Commission of what is going on.

The Planning & Zoning Commission abides by the Whittier Municipal Code when making decisions. Charlene again offered to revise her vote. Jean Swingle also announced that she spent a great deal of time reviewing the Code prior to the meeting. She stated that she lives in the Manor and has the same concerns as a lot of people do, but as a Commission, we have to abide by the Code. Dyanna Pratt stated that the Commission had a difficult time with the vote and came prepared to turn it down if she heard a solid reason, but she said that she did not.

Charlene said she can't stop progress. We can't stop people from using their land; we can only require them to follow the Code, state statutes and the permitting process.

11. COMMISSION COMMENTS:

None

12. NEXT MEETING ATTENDANCE PLANS: March 11, 2014 @ 7:00 pm

MOTION: Ed Hedges made a motion to adjourn the meeting.

SECOND: Terry Bender seconded the motion.

VOTE: Unanimous

13. ADJOURNMENT: Charlene Arneson adjourned the meeting at 8:58 pm.

ATTEST:


Jennifer Rogers
Deputy City Clerk


Charlene Arneson
Commission Chairperson