

Meeting Minutes

Project: Mellon Arena

Date: July 13, 2010

Subject: Interested Parties Meeting #8

Time: 6:00 – 8:00 pm

By: Jackie Freeman

Place: Room 336
David Lawrence Convention Center
Pittsburgh, PA

Attendees: See attachment 1

Handouts:

I. Introductions

A welcome and introduction was provided by Ray Maginness, Environmental Project Manager with Michael Baker, Jr. Participants were thanked for their continued involvement in the Interested Party Process and asked to introduce themselves and the organization they represent.

Ray referred to and reviewed the meeting AGENDA, a copy of which was contained in the handout folder:

- Review the meeting minutes for IP Meeting #7, copies of which are in the handout folder
- Presentations by Todd Poole (Alternate Economic Analysis) and Gary English (Option 6-Restore Arena to Original Condition)
- Overview of the Second Draft Options Report
- Overview of the Draft Effects Report
- Initiation of mitigation discussions

Ray took a few moments to explain the difference between the Effects Report and the Options Report. The Effects Report is a document prepared for the PHMC presenting the effect upon historic resources by a set of options or a preferred option. The Effects Report presents the effects upon Mellon Arena of Options 1, 3, 5 and 6. The Effects Report borrows heavily from the Options Report which describes and summarizes the consultation process, the development of alternatives, evaluation of alternatives, comparison of alternatives and the identification of a recommended preferred alternative. Ray went on to suggest that, due to the redundancy between the two reports, time would be best spent focusing on the Options Report.

II. Meeting #7 Minutes Review & Comment

Ray said that the PHMC sent letters to the FHWA and ACHP requesting their involvement in the consultation process. To date, the ACHP has not responded. The FHWA responded that the project was neither on the TIP or Long Range Program. Neither PennDOT nor the MPO is aware of any intent for federal aid on the project. Arena Demolition is not an activity that the FHWA could reasonably foresee having a federally funded transportation link. Therefore, the FHWA has no discretion or influence and cannot participate.

Ray continued that the PHMC also sent a letter to the SEA (6/16) characterizing the Interested Party process in terms of content, organization, consistency with the State History Code and Section 106, process, and schedule. Response letters were prepared (Oxford-Chester and Baker) providing information on the schedule moving forward, additional studies underway, and thanking the PHMC for their continued guidance in an effort to keep the process valid and focused.

Ray said that a copy of the IP Meeting #7 minutes is included in the handout folder and was also posted on the website. Meeting discussions raised issues related to the RAD Law applicability which was again discussed. The opinion that RAD does not apply is included in the meeting minutes.

Ray continued by stating that Option 6 – Restore the Arena to Original Condition (to operate in competition with the Consol Energy Center) was suggested during IP Mtg #7. Option 6 has been developed and evaluated and the results are

presented in the Second Draft of the Options Report which has been posted online for review and comment. He noted that Gary English would make a presentation on this Option later at the meeting. Included in the posted evaluation of Option 6 was the revenue from event and commuter parking as well as events to offset the operational costs (see Option 6 Economic Analysis) as well as amusement taxes, parking taxes, and historic tax credits. The remaining 'cost' to restore the Arena to its original condition totals \$95 million and would likely require a variety of public and foundation subsidies to induce an operator to take it on.

Ray added that concerning the Arena reuse scenarios and investigation of other related projects, approximately twenty (20) scenarios are presented in the Addendum to the Second Draft of the Options Report.

Ray asked if the group had comments on the accuracy of the minutes reflecting IP Meeting #7 discussions.

Comment / Response

C: You say that the PHMC is on board with the process and explanation of the process, but in January they raised concerns about the process and reiterated those concerns in June. How have those concerns been addressed?

Bill Callahan, Pennsylvania Historical and Museum Commission (PHMC): From our perspective, our concerns have not been resolved. The SEA explained the process, we understand the process, and we don't have authority to stop them or tell them the process is wrong. It's not necessarily wrong, but the application of arbitrary ranking or rating of needs is not how we would do it.

Ray Maginness: We addressed the issue of ranking one against the other and also let Interested Parties elaborate on how needs should be defined and addressed.

Bill Callahan: That's correct, and the PHMC agreed that was an improvement, but I never said we signed off on the process. This process has been established by the SEA, and it's not our position to say whether or not they can do it this way. It's not invalid, not incorrect.

Ray Maginness: It was presented in IP meeting #2 minutes as valid, the PHMC attended the meeting, had adequate opportunity to correct the record, but did not.

Bill Callahan: It's not necessarily wrong, but it depends on how you define the word "valid". It is not a process that is incorrect, it has improved, but I am not signing off on the process as "valid".

C: For the record, Jean Cutler of the PHMC has described the process as arbitrary, not something the PHMC would recommend as an appropriate method of evaluating alternatives.

R: We have since written a letter to the PHMC concerning this and we are awaiting response.

C: If this was actually section 106 process, this would be a different conversation, but it's not the 106 process because there is no lead agency.

Ray: Is the PHMC essentially an Advisory Council for this process?

Bill: We're getting into the weeds by arguing about a process that does not exist. There is no analog to the Advisory Council for this process. This discussion is actually about a process that does not exist. The State History Code does not have a process for this. It requires agencies to consult with our office and seek our advice. The Bureau of Historic Preservation is only consultative in nature.

Ray: Didn't you encourage the SEA to mirror the 106 process?

Bill: Yes. The process the SEA is using is mirroring as best it can with the 106 process given the time frame and other factors. It is not possible for this process to mirror 106 exactly. We can't elevate it to an Advisory Council. The SEA chose to do this process as best it can; they are not required to do any of it. If it were the actual 106 process, public participation would only inform the discussion of alternatives as a required part of the process. It would be the federal agency's responsibility to look at alternatives; it would not be the responsibility of the consulting parties.

C: Can you clarify the other reuse ideas that you include in the Second Draft of the Options report?

R: It reflects discussions we have been having about situations in other cities where a stadium was considered for reuse. The ideas were expanded upon and evaluated in the context of the Mellon Arena and Pittsburgh market.

C: I had requested that Option 3 increase the development density to be more in line with Option 5. However, in the report, there are contradictions to that statement. There really should be an Option 3, and then an Option 3-A.

Ray asked for written comments on the Second Draft Options Report to be submitted by July 26 to history@pgh-sea.com.

C: Clarify the language of IP Meeting #7 minutes to show that only some members of Reuse the Igloo left the meeting at 8:25 pm.

C: Help us understand why there needs to be recommendations from this group, rather than presenting the alternatives to SEA and having them choose the recommended alternative. Can you explain who it was that said Option 5 is the recommended option?

R: We determined the preferred alternative based on evaluation.

C: Preferred by whom?

R: It was a recommendation informed by the discussion of the Interested Parties. [See follow-up remarks from Baker Engineering pertaining to this discussion.]

C: Options 3 and 5 are very close in tabular workshop rating when you add up all of the various rankings.

R: Ranking or rating the numbers is precisely what the PHMC did not want us to do. We did not apply value judgment. The preferred alternative was chosen not by how many highs or lows, but by what stands out as significant differences or advantages and disadvantages of each option.

C: Was the public commentary considered?

R: Yes, and what we heard at the public meeting was very much in line with what we've been hearing at the IP meetings, primarily because many of the public meeting attendees were IP members.

C: Are the criteria that were laid out early in the process static, or open to improvement and evaluation throughout the process?

R: We had meetings early on to define the basic criteria. During the workshops, the criteria or needs were further defined and expanded upon by the IP in evaluating the options. We are not anticipating re-evaluating the options or needs at this time.

C: Please make the distinction between commentary and recommendations.

R: We acknowledge recommendations from the PHMC and SEA. Everything we gather at the IP meetings are comments, which we consider and address, as appropriate.

C: You apply the federal process even though there is not a lead agency with an advisory council. Who is to say you're not just anticipating demolition?

R: As we move through the process, when it becomes apparent that the potential for an adverse effect exists, then measure are considered to minimize or mitigate that effect. Federal funding could be in jeopardy when a lead agency is identified down the road if it were to be determined that a situation of anticipatory demolition exists.

C: Given that there is not consensus on the preferred option, will Baker entertain the submittal of a dissenting report?

R: Yes. That was addressed in IP Meeting #1.

Bill Callahan: When we make our review, we look at all public comment and how it was addressed. We use the exact wording of the history code. We will say "our advice is" and will include a range of advice.

C: Based on your experience with projects similar to this size and scale, what is the usual general timeframe for this process?

Bill Callahan: It can range from several months to several years.

C: We will present our comments on the minutes in writing so as not to delay the meeting further. Do not take our willingness to move on as acceptance of the minutes as they are.

R: Noted.

C: We would like a meeting held in workshop format to clarify the Options Report. Reuse the Igloo officially protests that

you just want our written comments rather than holding a workshop where they can be discussed.

III. Presentations

Todd Poole of 4ward Planning LLC, retained by Preservation Pittsburgh and Reuse the Igloo, presented on Arena Reuse Refinements for Option 3. Rob Pfaffman then briefly presented on Option 3A, a revised version of Option 3 (no hotel, scooped out bowl), showing a rental capacities diagram.

Comment / Response

C: The Penguins are at a disadvantage not having been able to see Mr. Poole's plan or PowerPoint before this meeting. We believe some of the summaries and conclusions are incorrect and we will respond to his plan within 2 weeks.

Gary English made a presentation concerning Act 77 and historic preservation. He advocated for reuse of the Mellon Arena.

During the presentation the following comment was made:

Comment / Response

C: We would like the comment concerning personal attacks removed from Mr. English's handout if posted.

Ray said that full copies of the Second Draft Options Report and Draft Effects Report are available on the project website. Ray recommended that the group should focus review time on the Options Report as opposed to the Effects Report.

Ray said that given the time, the meeting will conclude prior to discussing the Second Draft Options Report, Draft Effects Report, or Mitigation.

C: Will there be another meeting and, if so, when?

The SEA will need time to review Todd Poole's economic analysis and formulate a response. We also want an opportunity to review the IP's comments on the Options Report to be provided by July 23, 2010. The IP's will be notified by email concerning a next IP meeting.

The meeting concluded at approximately 8:20 pm.

IV. Meeting Summary & Follow Up Items

Next Meeting:

The IP's will be notified by email concerning a next IP meeting.