REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES February 13, 2003

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

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

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Scott Thomasson, Bob Sheckler and Susan White. Absent: Councilmember Don Wasson (vacation). Also in attendance was City Manager Tony Piasecki, City Attorney Linda Marousek, Public Works Director Tim Heydon, Parks and Recreation Director Patrice Thorell and City Clerk Denis Staab.

> **MOTION** was made by Councilmember Petersen, seconded by Mayor Pro Tem Benjamin and passed unanimously, to excuse Councilmember Wasson.

COMMENTS FROM THE PUBLIC

Linda Tualaulei, Chairman of ACORN (Association of Community Organization for Reform Now) and Des Moines Resident

> Ms. Tualaulei expressed concerns regarding Midway Park located on the east side of Pacific Highway South. She noted that the Park is surrounded by approximately 120 apartments and condos. In particular she citied the lack of lighting, along with lack of rest rooms and water fountains. She spoke of concerns for safety of children due to the lack of Park lighting, and adults traveling through the Park at night. She informed Council that residents have complained that children knock on doors requesting to use restrooms, and they use residents outside water facets and leave them running.

Kay Sanches, ACORN Co-Chair of the Pacific Highway Group

> Ms. Sanches requested Council have lights installed. She informed Council that Public Works Director Heydon has agreed to meet with the ACORN group after the meeting. She stated lights are needed between South 216th and South 220th, on 29th and 30th Avenues South. She cited this as the basic problem area for drug dealers, car thieves, thugs and crack addicts. She informed Council that residents of the area are hard working people comprising of about 1,500 families. She noted that they are tired of their cars being broken into and finding needles laying around.

Brian Wilson, ACORN

> Mr. Wilson stated that he believes studies have shown that better lit streets deter crime. He felt that this would decrease drug activity dramatically. He also felt lighting in the Park is essential to keep muggers out and Park users safe.
>
> Upon the request of Council, City Manager Piasecki stated he will give an update on the Midway Park area situation under Administration Reports.

<u>Stuart Creighton, 18926 Edge Cliff Drive SW, Normandy Park, Chairman of ACC and Normandy Park City Councilmember</u>

Mr. Creighton addressed allegations that were made at a Des Moines City Council meeting on January 23rd about ACC and how it conducts business. He commented as follows:

- ACC is not now, and has never been, involved in any political, legal or civil action in Des Moines. Does not interfere in policies, or politics of jurisdiction of other government agencies.
- ACC comes in contact with many citizen groups, but none of them, including Citizens for Des Moines, has any connection to ACC. ACC provides no support, monetary or otherwise, to Citizens for Des Moines.
- The Regional Commission on Airport Affairs is a private corporation in the State of Washington. They are not connected to ACC and receive no monetary support from ACC.
- The State Auditor has done a complete revenue and expenditure audit of the ACC for the last four years. That audit has been detailed and exacting and has not produced any findings or revealed any controversial expenditures. The audit report has been given to each ACC member City.

Mr. Creighton pointed out that Des Moines ACC Representative Councilmember Don Wasson has attended ACC meetings over the past year and never dissented in his vote on or raised concerns about budgetary items before the Committee. He noted that prior to the action by Des Moines to withhold funding to ACC for 2003, Mr. Wasson voted in favor of committing ACC to a course of action which had financial consequences to ACC. He concluded by requesting that if Des Moines' Councilmembers have any future concerns about ACC, that ACC be asked for clarification before making public allegations not based in fact. He reported that his statements this evening have been endorsed by the entire ACC Executive Committee.

<u>Florence McMullin, 914 South 248th</u>

Ms. McMullin referenced Council's discussion at the February 6th Study Session regarding a proposal to reduce Councilmember's salaries. She pointed out that this reduction would not effect any sitting Councilmember, only those elected in the future. She accused the Mayor and Mayor Pro Tem of grandstanding, noting that they could give their salaries back to the City. She concluded by stating that she felt any move to reduce Council salaries would only discourage qualified candidates from running.

<u>Wayne Bader, 21938 Marine View Drive</u>

Mr. Bader noted that citizens are not given unlimited time to rebut Council comments. He stated that it is bad manners and unacceptable for Councilmembers to interrupt public comments, and is part of Robert's Rules of Order. He requested that Robert's Rules be posted in the Council Chambers. He questioned why a citizens name was not released by the press when they were removed at a recent Council meeting.

Mayor Steenrod cautioned Mr. Bader not to make personal comments.

Mr. Bader requested that his notes be initialed by the City Attorney that he is not allowed to make this remark.

City Attorney Marousek informed Mr. Bader that the Mayor has the duty, and the right, under Council Rules to preserve order. She advised that the Mayor is within her rights to request that he not make personal remarks.

Mr. Bader remarked that the A.C.L.U. is going to hear about this.

Mayor Steenrod noted that it is not her intention to prevent Mr. Bader from making comments, but it is her intention to try to provide a forum for everyone to have their view heard in such a manner that people can tolerate each other views.

Mr. Bader continued by noting that it is not fair play when a small minority, including Councilmembers Thomasson and Sheckler are getting it their way. He noted that the citizens want new business in town and on Pacific Highway South. Instead of offering new incentives to come into town, there are new ones to keep them out. He reminded Council that they were elected to serve the citizens.

Michael Dannels, 1115 Woodmont Beach Road South

Mr. Dannels complained about a gate that he was forced to install, that blocks the safest and best way to exit and enter his property. He advised that the gate was required by the Building Department to finalize his building permit. He requested that he be allowed to remove the gate as it is unsafe for him and his family. He distributed photos for Council to review.

City Manager Piasecki advised that he will arrange a meeting with Mr. Dannels, the Public Works Director, City Attorney and himself to look into the matter.

Tom Sitterley, 601 South 227th

Mr. Sitterley remarked that it is a sad day when a citizen is removed from the Council chambers due to outbursts from the audience. He commented that it appears to be the same folks that are fighting the 3rd runway. He noted that he is against the 3rd runway, but before any more money is spent on the fight, the taxpayers need a complete accounting of how the money is spent. He remarked that an audit is not an accounting. He specifically noted he wants to know how much was spent on travel, dinners, attorneys and consultants.

Mr. Sitterley questioned why the City is unwilling to reduce spending instead of burning up reserves.

In conclusion, he noted that in regards to belt tightening, Councilmembers reducing their pay is an excellent idea and noted that Councilmembers can voluntarily give the money back to the City.

BOARD & COMMITTEE REPORTS

Mt. Rainier Pool

Mayor Pro Tem Benjamin reported that at a recent swim meet a ceremony was held in regards to the efforts to keep the Pool open. He advised that there was a great turnout to recognize the efforts of the Ad Hoc Pool Committee and private citizens alike. He stated that the Mt. Rainier boys swim club presented a check to the Save the Pool Fund in the amount of $543.00. The money was raised by holding a winter yard clean up effort.

Municipal Facilities Committee

Mayor Steenrod advised that the Committee will meet next week.

Finance and Economic Development Committee

Mayor Steenrod noted that the Committee will meet next week to review procurement policies. She advised that the Finance Director has prepared a draft of guidelines and policies for the Committee to review.

PRESIDING OFFICER'S REPORT

Council Compensation

Mayor Steenrod responding to public comments made earlier, announced that she was not grandstanding in regards to reducing Council pay, but was showing a leadership stance and was not intended to stop qualified Council candidates in the upcoming elections.

ADMINISTRATION REPORTS

ACORN Requests Regarding Midway Park

City Manager Piasecki requested that Public Works Director Heydon and Parks and Recreation Director Thorell report on the status of the requests received by the ACORN group regarding the Midway Park.

Parks & Recreation Director Thorell reported on the following:

- Portable restroom was in place, but has been removed for winter. Will be reinstalled this spring.
- Working with Puget Sound Energy to install two poles adjacent to the Park. Will cost the City $15 per light per month and they will be installed shortly.
- 2004 Budget - $78,000 is earmarked for additional lighting in the play area, re-install play equipment to a safer area and install a drinking founding.
- Ad-hoc Committee recommends expansion of the Park area.

Public Works Director Heydon reported the following:

- Dark sections south of South 216th Streets are due to undergrounding of power. Large cost to install new poles with lights.
- Public Works has been concerned and has tried several options such as part of the street light utility. However, public comments were strong on this idea and therefore funding was not pursued. Tried for a Block Grant, but Puget Sound Energy is a private company and therefore Block Grant funds were not available for lights.
- Pacific Highway South Project will provide for sidewalks which will include lighting.
- Potential funds may be imposed through impact fees for new development in the area.

City Manager Piasecki informed Council that he has asked the Public Works Director to continue searching for funding sources outside of the City. He noted that current City CIP funds are pretty well stretched to the maximum, but we could take another look to see if one or two lights could be installed in the near future.

Upon questioning by Council, City Manager Piasecki stated he will check with the Police Department to see if any crime statistics exist for this area.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to remand this issue to the Public Safety and Transportation Committee for recommendations. Motion passed unanimously.

Mt. Rainier Pool Fund

City Manager announced that, to date, private donations total $30,740. He reported that the cities of SeaTac and Normandy Park have paid their commitments in full, as has the Highline School District.

He noted the January preliminary costs figure is $29,000, revenue was $23,000. He noted that he will distribute a detailed cost break down for Council to review. He advised that King County has cautioned that although revenue and costs appeared to be close, January is when most of the season passes are sold, therefore revenue for January tends to higher than other months.

A-Frame Sign Complaints

City Manager Piasecki noted that he has distributed a memo prepared by the Community Development in response to complaints regarding A-frame signs. He advised that Community Development feels that the current code makes it difficult to formally regulate such signs. They have decided to attack the problem on a more informal basis, talking to the businesses in the community to let them know that these signs are illegal and ask for voluntary compliance. He concluded by informing Council that the issue of A-frame signs and how they are regulated, is something that should come back to Council to review in more detail to see what, if any, changes should be made.

Home Land Security

City Manager Piasecki informed Council that Des Moines Police does receive various information put out by the State on the Federal level regarding threat warnings. He advised that no specific threats have been made to the State of Washington, and certainly not the City of Des Moines, but information is distributed to all appropriate Police personnel. He concluded that Des Moines Police are very aware of the threat level, but no specific activities are being undertaken.

Upon questioning by Council, City Manager Piasecki advised that if an emergency situation should arise, this would be part of an entire emergency response by both the City and King County. He noted King County, for the most part, would handle all official information through the normal media channels on television and radio.

CONSENT CALENDAR was read by City Clerk Staab.

~~1. Motion is to approve the minutes of January 23 and 30, 2003.~~ [ED NOTE: January 23, 2003 minutes were removed by Mayor Pro Tem Benjamin.]

2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #84041 through #84248 & electronic fund transfers in the total amount of $457,731.85

Payroll fund transfers in the total amount of $347,921.74

3. Motion is to purchase 2,513 square feet of land and improvements from Mark D. and Shannon L. Johnson in the amount of $55,732.00 plus closing costs, and to authorize the City Manager to sign the Purchase and sale agreement substantially in the form as submitted.
4. Motion is to purchase 700 square feet of land and improvements from James Henry O'Hara and Jennifer Jane O'Hara in the amount of $26,667.00 plus closing costs, and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
5. Motion is to purchase 3,750 square feet of land and improvements from Jack I. and Lily L. Almo in the amount of $110,186.00 plus closing costs, and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
6. Motion is to purchase 924 square feet of land and improvements from DBJ Properties, LLC in the amount of $252,000.00 plus closing costs, and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
7. Motion is to approve the "Consent Judgment & Decree of Appropriation" in King County Superior Court Case No. 02-2-19400-1 KNT and authorize the City Attorney to approve said Judgment and Decree and present to the court, for approval and entry substantially in the form as submitted.
8. Motion is to approve the "Consent Judgment & Decree of Appropriation" in King County Superior Court Cause No. 02-2-19404-4 KNT and to authorize the City Attorney to approve said Judgment and Decree and present to the court, for approval and entry substantially in the form as submitted.
9. Motion is to approve the "Consent Judgment & Decree of Appropriation" in King County Superior Court Cause No. 02-2-19397-8 KNT and to authorize the City Attorney to approve said Judgment and Decree and present to the court, for approval and entry substantially in the form as submitted.

Mayor Pro Tem Benjamin requested that Item #1, approval of minutes, be removed from the Consent Calendar.

Mayor Steenrod and Councilmember Petersen announced that they were recusing themselves from Consent Items #3 through #9.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson and passed unanimously, to approve the Consent Calendar as read. Motion passed unanimously.

Removed Consent Item #1 - Approval of Minutes

Mayor Pro Tem Benjamin noted that a statement made by him on page 3 of the January 23, 2003 minutes, does not accurately reflect what he said. He requested that the Clerk insert verbatim the statement he read and that the minutes come back for approval at the next regular meeting.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson, to approve the Special Meeting Minutes of January 23, 2003, and the Regular Meeting Minutes of January 30, 2003 and table the Regular Meeting Minutes of January 23, 2003. Motion passed unanimously.

8:30 p.m. EXECUTIVE SESSION

Mayor Steenrod announced that the Council will take a 5 minute break and then convene to an Executive Session.

City Attorney Marousek stated that the purpose of the executive session is to discuss with legal counsel representing the City litigation or potential litigation to which the City is, or is likely, to become a party and about which public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the City. The session is expected to last 10 minutes.
8:45 p.m. City Manager Piasecki announced that the executive session is expected to last approximately another 5 minutes.

9:00 p.m. City Manager Piasecki announced that the executive session is expected to last approximately another 5 minutes.

At 9:10 p.m. the Executive Session adjourned with no formal action taken.

9:20 p.m. The regular meeting resumed.

NEW BUSINESS

Senior Services Advisory Committee Report

John Carroll, Chairman of the Senior Services Advisory Committee, noted that the Committee was organized under Ordinance No. 1161 in January 1996, to advise the Council from time to time as to the needs to seniors. He stated that a part of the ordinance states the Committee should report to Council annually on the activities of the previous year, which is the purpose this evening. Mr. Carroll introduced members of the Committee who were present: Councilmember White - Council Representative, George Hadley, Keith Noess, Kaylene Moon and Natalie Wilcox-McCann.

Mr. Carroll proceeded to review the following Committee activities for the year 2002:

- Sent letter to the Council in April explaining the need for one location for senior programs
- Mr. Carroll and Ms. Moon were appointed by Council to serve on the City Municipal Facilities committee to study a temporary home for senior programs and services.
- Committee members interviewed senior center lunch participants during the summer regarding their location preferences for a temporary senior center home. Consensus: They did not care so much were they met, as that there were all back together in one location.
- Came before Council in early 2002 to express support of the construction of Steven J. Underwood Sports Park.
- Presented to Council in September their support and appreciation to Council for the renovation of the Des Moines Activity Center.
- Representatives attended the annual Senior Lobby Day in Olympia in February.
- Hosted visits from our county, state and federal elected officials from April through September at lunch program.
- Committee member Hadley and 3 Normandy Park participants were successful in asking the City of Normandy Park for $12,000 for fiscal years 2003/2004 for Senior Center programs and services.
- Committee members Hadley and Carroll were appointed in June to serve on Congressman Smith's Advisory Board.

Ms. Moon proceeded to thank the following:

- Des Moines Council for approval of funds for Activity Center.
- Des Moines Masonic Lodge for use of their building for nutrition program.
- Des Moines Police Dept. for meeting room space for senior programs.
- King County fire Dist. #26 for meeting room space for senior programs.
- Wesley Homes & Judson Park Retirement Communities for classroom space.
- Des Moines Parks & Public Works Departments for nutrition storage & office space.
- Senior Center volunteers for their flexibility and patience with temporary locations.
- Participants & their patience.

Ms. Wilcox-McCann informed Council of the following 2003 activities that are planned:

- Senior Outreach - continue to communicate with elected officials, research options to reach more homebound seniors in the community. Find a way to reach the seniors living alone that need contact with people and perhaps meals.
- Continue to be responsive to the Des Moines City Council
- Continue to support senior programs and services in the Des Moines/Normandy Park communities.

In conclusion, Mr. Carroll informed Council that they currently have a vacancy on the Committee and while they have well qualified candidates, the do not meet the criteria contained in Ordinance No. 1161 that they must live in the City. He requested Council consider amending the ordinance to allow at least two more members to reside outside of the City.

MOTION was made by Councilmember White, seconded by Mayor Pro Tem Benjamin, to direct administration to prepare an ordinance to allow 2 more members on the Committee that live outside the City limits, but must work or do volunteer work within the City. Motion passed unanimously.

Draft Resolution No. 02-269 Adoption of an Economic Development Plan

City Manager Piasecki informed Council that the Community Development Director is ill and not able to attend this meeting.

MOTION was made by Councilmember Sheckler, seconded by Councilmember White and passed unanimously, to move Draft Resolution No. 02-269 regarding adoption of an Economic Development Plan to the meeting of February 27, 2003.

Draft Resolution No. 03-023 Ballot Title for Advisory Vote on Funding 3rd Runway Fight

City Manager Piasecki introduced the subject noting the resolution is presented in accordance with Council action taken at the special meeting on January 13, 2003, directing staff to prepare a resolution to place this issue on the April ballot. He noted that should Council choose to have a traditional election (polling places, absentee ballot) the cost is $2 per registered to voter. If Council chooses a mail only election the cost is between $2.50 and $2.75 per registered voter. He advised that the minimum cost would be $32,600 and could go up to almost $45,000.

Councilmember Sheckler noted that he brought this up because a Councilmember kept stating that 66% of the citizens, based on a non-scientific survey, are not in favor of supporting the fight against the 3rd runway. He stated that he believes that to be nonsense, so in order to get the discussion off the table, he requested that a scientific survey be conducted. He noted that somehow that changed from a survey into an election. He informed Council that he will do whatever is necessary to take this question and answer it. He believes that a survey is a better way to go because the costs is less, but can support putting it to a vote of the people.

Councilmember Thomasson advised that he is not in favor of this resolution because this was discussed before the PDC report came out and it seems that someone with a lot of money can't help but influence the outcome of elections in this town. He is unclear whether we would really get a good reflection of what our community thinks, or how they may be influenced by an expensive campaign over the next several weeks. His preference would be to take the money that an election would cost and put it into funding ACC. He stated that he has never doubted that the majority of citizens favor the 3rd runway not being constructed. He noted that he is willing to assume the roll of an elected official to make the tough choices on how the City's finances should be spent and feels it is more important to fund the runway fight, rather than an election.

Councilmember White expressed total agreement with Councilmember Thomasson, and would like to see the funding restored to ACC.

Councilmember Petersen noted that when he was running for Council, some of his campaign literature stated that he was for a referendum before the people, so that the people could vote on the issue of the 3rd runway. He advised that he still stands behind that. However, he noted that this is for an April vote and the cost of the election, because it is special, is pretty high. He noted that if the issue is placed on the November ballot the cost would be around 60 cents per registered voter, therefore he favors using the November ballot.

Mayor Steenrod expressed concern over the cost of the April ballot, and acknowledge that placing it on the November ballot would be more cost effective. She noted she agrees that Councilmembers need to do what they believe to be the right thing as elected officials, however believes this ballot issue would answer the question once and for all whether citizens wish to continue to fund the fight against the 3rd runway. She noted that ACC financial statements show Des Moines contributed a $945,000 in 2001, but not that much in 2002, therefore it is not right to say Des Moines is not paying its fair share. She also noted that the recent financial report supplied by ACC does show that nearly 88% of their expenditures did go to legal and consulting fees. She remarked however, that she still is not comfortable with ACC funds being spent on items that are not directly related to fighting the 3rd runway.

Mayor Pro Tem Benjamin questioned how much private donations have been received to date to fight the 3rd runway. City Manager Piasecki responded that $500.00 has been received from Mayor Steenrod.

Upon questioning by Councilmember Sheckler as to what this had to do with the advisory ballot issue, Mayor Pro Tem Benjamin stated that this proves that the 3rd runway fight is not important enough to citizens to contribute funds, and therefore it may not be important for the City to contribute funds either.

MOTION was made by Councilmember Sheckler to pass Draft Resolution No. 03-023, submitting to the electorate of the City of Des Moines on The April 22, 2003 King County Ballot, for advisory purposes, the question of whether the City of Des Moines should continue to contribute City funds for its share of the expense of organized opposition to the construction of a third runway at Seattle-Tacoma International Airport. Motion DIED for lack of a second.

MOTION was made by Mayor Steenrod, seconded by Mayor Pro Tem Benjamin, to direct staff to draft a resolution to place the same question on the ballot for the next general election. Motion FAILED 3 to 3 with Councilmembers Sheckler, Thomasson and White voting NO.

Draft Ordinance No. 03-036 Marina Rates

Mayor Steenrod advised that she is removing this item from the Agenda as she firmly believes that this item needs to go the Municipal Facilities Committee which is meeting on February 24th.

Councilmember Thomasson noted that the item can only go to Council Committee by motion.

Mayor Steenrod then pulled the item and directed that it be placed on the February 27, 2003.

City Manager Piasecki advised that at the February 27th meeting the only action that Council can take is to decide which future meeting agenda that the item should be placed on.

Councilmember Thomasson expressed disappointment as he feels this is an urgent issue that the Council needs to deal with.

Mayor Steenrod voiced the opinion that more time is needed to make sure Council is not taking action without proper deliberations.

Claims Warrant #83550 Reconsideration

City Manager Piasecki noted this item represents a claim voucher that was on list of Claims on the December 19, 2002 meeting. The claim would pay partial reimbursement of legal fees incurred by Councilmembers Wasson, Benjamin and Steenrod in defense of the lawsuit "Citizens for Des Moines v. Don Wasson, et al". The Presiding Officer at the December 19th meeting removed this item from the agenda and it has been on several subsequent agendas before tonight until it was placed on this Agenda for action by Council motion at the January 30th Council meeting.

Mayor Steenrod and Mayor Pro Tem Benjamin announced that they will recuse themselves from participation on this item.

MOTION was made by Councilmember Petersen to authorize payment of the last three items on the December 19, 2002 Claims list, check #83550.

Councilmember Petersen stated that he has made this motion based upon the fact that he did not receive legal representation during this case from the legal counsel that provided services for Steenrod, Benjamin and Wasson. He advised that he was represented by his own attorney and he also represented himself.

City Attorney Marousek advised Councilmember Petersen that under RCW 42.23.030 does require a Councilmember to reveal any interests. She felt it was important to reveal whether he is presently represented by this attorney.

Councilmember Petersen stated that he is at this time, presently represented by this attorney. (ED NOTE: Legal counsel is Short, Cressman & Burges.)

MOTION DIED for lack of 2nd.

NEXT MEETING DATE

Mayor Steenrod announced that the next regular meeting will be February 27, 2003.

ADJOURNMENT

10:05 p.m. **MOTION** was made by Councilmember White, seconded by Councilmember Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk