REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES March 14, 2002

The regular meeting of the Des Moines City Council was called to order by Mayor Wasson at 7:39 p.m. in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Benjamin.

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler (left meeting at 9:13 p.m. to participate via telephone from home, telephone connection disconnected at 9:42 p.m.), Maggie Steenrod, Scott Thomasson and Susan White. Also present were Assistant City Manager Tony Piasecki (appointed Acting City Manager at 10:10 p.m.), City Attorney Gary McLean, Public Works Director Tim Heydon, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Mark Proulx, 26202 14th Avenue South

Mr. Proulx stated that he had served on a City annexation committee and a Senior Center study committee. Currently, he was a member of the Planning Agency. Mr. Proulx said that he had found City Manager Olander to be an intelligent, forward-thinking leader who had gathered a staff of like-minded individuals to serve Des Moines. Mr. Proulx said that he witnessed the March 13, 2002 Council meeting with profound disgust and likened the actions taken as to those of a junta. Mr. Proulx said that the meeting served no constructive purpose and fueled citizen cynicism. He voiced his opinion that Mayor Wasson and Councilmembers Benjamin, Petersen, and Steenrod should feel shame over their actions at the meeting.

Lynne Voss, 20810 9th Place South

Ms. Voss directed her comments to those who had acted in an unprofessional manner toward City candidates and Councilmembers. She said that she was highly embarrassed by what she has read and heard regarding the Council. Ms. Voss asked that all find a way to represent the community more appropriately. She said that it was time for Council to stop fighting against each other and to start doing the job they were elected to do. Ms. Voss said it was time for both sides to be heard. She voiced support for Councilmember Petersen and said that the new ideas of Council were refreshing.

Len Oebser, 20724 8th Avenue South

Mr. Oebser urged Council to explain their actions regarding City Manager Olander and the conveyor belt issue. He said that “lost confidence” was not a position but an attitude. Mr. Oebser asked Council to be more open with the citizens.

George C. Minnich, 22701 19th Avenue South

In regard to Draft Ordinance No. 01-169, Mr. Minnich said that he was concerned with the enforcement of the proposed ordinance and the timely arrival of police personnel. He asked that Valleycom consider parking related calls as calls in progress. Mr. Minnich then encouraged the residents to give the Councilmembers proper respect.

Jim Bartlemay, 23510 10th Avenue South

Mr. Bartlemay stated his belief that the March 13, 2002 Council meeting was an illegal meeting. He said that he had lost confidence in Mayor Wasson and felt that he had acted incompetently, was a hypocrite, and was selling the quality of life in Des Moines. Mr. Bartlemay questioned whether the March 13, 2002 meeting had been rehearsed as no questions had been asked regarding the resolution to hire Councilmember Steenrod's personal law firm for legal services. Mr. Bartlemay questioned whether it was true that Mayor Wasson and Councilmember Steenrod had met with Port of Seattle officials. In closing, he asked Mayor Wasson to resign from his position with the Airport Communities Coalition and with the City of Des Moines.

Scott McFarlane, 26906 10th Avenue South

Mr. McFarlane said that he had sent an anonymous survey regarding the third runway to the registered voters of Des Moines. He said that he and his friends had financed the survey and no city, county, or state funds were used. Mr. McFarlane stated that he received 1,390 of the 5,061 surveys back. He reported that 944 respondents believed the third runway would be built and 885 respondents felt that the city should not continue taxing residents to fight the third runway. Mr. McFarlane stated his belief that the City would not stop the construction of the third runway. He said that the surveys were available for review.

Stan Scarvie, 204 South 206th

Mr. Scarvie said that he had attended the March 13, 2002 Council meeting and was outraged at what had occurred. He stated his opinion that it was apparent that the majority of the Council felt they were above the law as they continued the meeting despite being advised that it was illegal. He felt it was also wrong to not videotape the meeting. Mr. Scarvie stated that the majority of Council would become familiar with the definition of the word "misfeasance." He asked Mayor Wasson and Councilmember Steenrod to explain why they had met with two Port of Seattle commissioners to discuss third runway issues. He said this action was never authorized by City Council in an open meeting nor, to his knowledge, was it authorized by ACC. Mr. Scarvie felt that Council had broken faith with the citizens. In regard to the survey results, Mr. Scarvie said that the survey was a "push poll" and should not be considered reliable. He said that push polls were discredited during the last presidential election.

Steve Hansen, 26503 8th Avenue South

Mr. Hansen encouraged Council to work together in fair, open discussion to build consensus. He said the burden for this fell upon Mayor Wasson. Mr. Hansen said that Mayor Wasson must set an example of operating in an open, legal, and above-board manner. Mr. Hansen stated that he felt the majority of Council used poor judgement in asking for the resignation of the City Manager as the City did not need a lawsuit for unlawful firing.

Tom Sitterley, 601 South 227th

Mr. Sitterley said that he had obtained the data for his comments made at a previous Council meeting from the 2002 budget document. He said that nine budget line items had averaged a 21.85% growth from Year 2000 to Year 2001 and a 11.1% growth from Year 2001 to Year 2002. Mr. Sitterley urged Council to immediately impose a freeze on City expenditures. He said that he applauded the new Council and their actions.

Molly Nordhaus, 815 South 216th

Ms. Nordhaus said that the majority of Council was working against the interest of the City and southend residents. She felt that Wescot Company was motivated by money. She questioned whether the Port of Seattle or the local Chamber of Commerce was behind Council's actions.

Ms. Nordhaus felt the Councilmembers had ran under false pretense as they told the voters they were against the third runway but were now taking action to bring about its construction. Ms. Nordhaus urged Council to sell their souls for a nobler cause than money.

Del Rivero, 1228 South 230th

Mr. Rivero commended Council for their interest in the business community. He noted that graffiti had been cleaned off several buildings in recent months. Mr. Rivero asked Council to pass a strong graffiti ordinance. He noted that the Chamber of Commerce was currently working on a graffiti program. Questions regarding the program should be directed to the Chamber Of Commerce.

Gary Hisel, 23003 Marine View Drive South, #B102

Mr. Hisel said that he was furious that a few individuals would try to change the meaning of words or procedures to better position themselves for control. He felt that the problem with City management and City Council was a matter of control. He voiced his opinion that the Council for the past eight to ten years had been a rubber-stamping Council controlled by City management. He said the voters did not want this but wanted a Council with successful business backgrounds to get a substantial hold on the City and its runaway management team.

Barbara Just, 815 South 216th

Ms. Just said that her comments were addressed to the four socialistic members of Council who removed anyone who would not do their will. She asked Councilmember Steenrod who was next on the list. She asked Council what plans they had made to improve the City rather than to tear it down.

Don Riecks, 21221 5th Avenue South

As trustee of the North Hill Community Club, Mr. Riecks informed Council that the community club had been in existence for several years and had been the forum for several important discussions. He said that all people had been treated fairly during the North Hill forums. Mr. Riecks felt that some of the comments made were demeaning, inaccurate, and opinionated. He said that Councilmember Benjamin used his own money to conduct monthly meetings at the Community Club.

Clarice James, 23459 27th Avenue South

As a private citizen, Ms. James spoke regarding the bad manners demonstrated at the last few Council meetings. She said that no public official should be harassed and she commended Council for doing their jobs.

Owen Arnett, 22506 7th Avenue South

Mr. Arnett described his background in residential property management. He encouraged Council to address the issue of graffiti before it resulted in a financial lost to the City.

Wayne Bader, 21938 Marine View Drive South

Mr. Bader told Council that dealing with the City through the permitting process was a bad experience. He said that staff was not friendly and he had turned other builders away from Des Moines. Mr. Bader said it was good that Council had started at the top. Mr. Bader said he told Council five years ago that, based upon information he had, the third runway project could not be stopped. Mr. Bader said that the Des Moines News had erroneously pictured his house in a news story. He called the newspaper a tabloid.

Dan Wend, 22810 Thunderbird Drive

Mr. Wend informed Council that he might open a software business in Des Moines. He felt that the construction of the third runway was not in the best interest of the City and would not aid the City in attracting good businesses to Des Moines. He said he was amazed and disappointed to learn of Council's firing of the City Manager and their quick pursuit of the conveyor belt system. He felt that these actions contradicted the long-term wellbeing of the City's residents and businesses.

Matthew Renner, 24142 17th Avenue South

Mr. Renner said that he would support the Councilmembers he had voted for at future Council meetings. He stated his intention to stand up for the majority.

Allie Larkin, 21937 7th Avenue South

Ms. Larkin informed Council of the gooeyduck/horseshoe clam situation she encountered on December 30, 2001 at the Des Moines Beach Park. She said that she had first thought that a toxic spill from the Port of Seattle had occurred and then thought it might be the result of an illegal gooeyduck harvest. Ms. Larkin said that she had spoken to Brett Bishop, President of the Pacific Coast Shell Growers Association, regarding the situation. Mr. Bishop suggested that a severe flood from Des Moines Creek had caused the situation. She then wondered whether Mother Nature or the diversion of storm water into Des Moines Creek was responsible for the excessive volume of water in the creek. Ms. Larkin reported that she had spent two hours with the Department of Natural Resources (DNR) staff videotaping and monitoring the entire area. The DNR marine biologist indicated that there was a healthy crop of eelgrass growing on the beach. Ms. Larkin said that it frightened her to think that Council would reconsider placing a conveyor belt system in such a fragile beach area with existing problems. The videotape of the area was available from DNR.

Brad Bryant, 21811 12th Avenue South

Mr. Bryant stated that he had known Mayor Wasson most of his life and had grown up with his sons. To Mayor Wasson he said that Mayor Wasson had forgotten the residents. He asked Mayor Wasson to remember his heart and remember who the citizens were.

Dennis Dowes, 22211 Cliff Avenue South

Mr. Dowes spoke in support of the changes in Council. He encouraged them to keep moving forward. Mr. Dowes said that it was not an issue of good and evil but of making logical decisions that would benefit the City in the long run.

Betty Haines, 601 South 240th

Ms. Haines said that she had participated in the Shoreline Plan process that had eventually determined that there would be no commercial activity on the beach. In regard to the conveyor belt system, she voiced concern that Council wished to overturn the decisions that had been months in discussion and development. Ms. Haines said that Council seemed to feel that they had a mandate from the voters. She said that she had spoken to several people who were confused by the election and did not realize who they were voting for. Ms. Haines said that she was now sorry that she had voted for Councilmembers Benjamin and Petersen.

David Kaplan, 2614 South 226th

Mr. Kaplan said that he had not received Mr. McFarlane's survey. He reminded Council that the City and ACC had won a stay from the Pollution Control Hearing Board regarding the certification from the State. Mr. Kaplan said that the stay would not have been granted unless there were substantive issues. He noted that the Board would hear the issue next week. Mr. Kaplan stated his opinion that the fight against the third runway was winnable. He then charged Council with hypocrisy during the March 13, 2002 for the following reasons: 1) the Councilmembers had spoken against the third runway yet they have taken actions to expedite its construction, 2) the Councilmembers talked about ACC fiscal concerns during the campaign yet none of them had attended an ACC meeting within the last five years to address those concerns, and 3) council had approved a personal services contract without going out to public bid and without considering the qualifications of the firm involved. Mr. Kaplan felt that Council had an agenda and had a responsibility to make it public. Mr. Kaplan said that Council had ignored state and local laws in a rush to accomplish their agenda. He said that cutting legal corners to achieve their ends was not appropriate. He advised Council to take their time, follow the law, and insure their decisions would be upheld. Mr. Kaplan said that multiple violations of state law to achieve whatever unstated ends Council had would backfire in the end.

BOARD & COMMITTEE REPORTS

Response to Comments from the Public

Councilmember Sheckler stated that he was saddened and frustrated by the City's current state. He voiced frustration that Councilmember was opposed to Councilmember, Council was opposed to staff, and citizen was opposed to citizen. He said that the condition was wrong.

Councilmember Steenrod voiced frustration that as a Councilmember she must listen to the comments and yet was not able to respond to them. She said that just because Council could not respond did not mean that they were guilty of the accusations. Councilmember Steenrod said that comments from the public were important but she felt the system was flawed since Council was unable to respond. She said that she would like to discuss how to get a more even flow of information back and forth. Councilmember Steenrod said that there was much that the public did not see nor hear in an open session. She assured the public that she spent much time educating herself as a Councilmember and trying to do the right thing. She said that she followed her conscience and did what she believed to be right.

Municipal Facilities Committee

Councilmember Steenrod reported that the committee had reviewed the Marina Plan. She voiced concern that there was very little money available to make the changes. She noted that traffic congestion and safety at Redondo were big issues for the committee. Councilmember Steenrod said that staff had been asked to rearrange their priorities so that grant applications for projects could be submitted in a timely manner.

Chamber of Commerce

Mayor Pro Tem Benjamin reported that the Chamber of Commerce had formed an Economic Development Committee.

Response to Comments from the Public

Councilmember White stated her belief that the Council meetings were open and that Council should have an opportunity to respond to the public's comments. She felt that a response was necessary for the community to heal.

PRESIDING OFFICER'S REPORT

March 13, 2002 Meeting

Mayor Wasson said that Council was reluctant to discuss various issues at the March 13, 2002 meeting due to the unfriendly and threatening audience. He said that if the audience continued to cause disruptions then they could expect the same response.

Comments from the Public Procedures

Mayor Wasson stated that only speakers who had signed in prior to the meeting would be allowed to address Council during future meetings.

ADMINISTRATION REPORTS

State of Washington Budget

Assistant City Manager Piasecki reported that the State of Washington had passed their budget. Per the adopted budget, the City of Des Moines would receive $360,000 of I-695 backfill money.

2002 Council Retreat

Assistant City Manager Piasecki questioned whether Council would be available for a Council Retreat April 3, 4, 8, 9, and/or 10th.

Councilmember White noted a conflict with the April dates and asked that the retreat be conducted in May.

Councilmember Sheckler said that he could not physically commit to those dates at this time for medical reasons.

Councilmember Sheckler confirmed that he would be allowed to leave the meeting and participate by speakerphone from home after the consent calendar was read.

Councilmember Petersen thought it would be best to have the full council attend the retreat.

Assistant City Manager Piasecki said he would try to schedule a Council Retreat based upon Council's direction.

CONSENT CALENDAR was read by City Attorney McLean.

1. Motion is to approve the minutes of February 21 and 28, 2002.

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 42.24.080, 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 #80117 through #80308 & electronic fund transfers in the total amount of $405,378.42
Payroll fund transfers in the total amount of $289,626.33

3. Motion is to enter into a grant agreement with the Washington State Transportation Improvement Board for the South 216th/24th Avenue South Signalization project and to authorize the City Manager to sign said agreement substantially in the form as submitted.

MOTION was made by Councilmember Thomasson, seconded by Councilmember White, and passed unanimously to approve the consent calendar as read.

At 9:13 p.m., Mayor Wasson declared a twenty-minute break and Councilmember Sheckler left the meeting.

At 9:32 p.m., Councilmember Sheckler was connected via speakerphone and continued participation in the meeting.

OLD BUSINESS

Draft Ordinance No. 01-169 - Vehicles Blocking Access to Mail Boxes - 2nd Reading

Assistant City Manager Piasecki introduced the subject. He noted that the Postal Service representative was not in attendance due to illness.

In response to Council's comments submitted during their last review of the proposed ordiance, Public Works Director Heydon noted that Section 1(1) of the draft ordinance had been revised to include the words "and blocking U.S. Postal Service delivery". He also stated that city maintenance and construction vehicles had been added to the exception list. Public Works Director Heydon noted that the information received from the post office had been distributed to Council.

Councilmember White restated her concern that the proposed ordinance would not work for the residents of Soundview Drive in Redondo due to the area's parking limitations and house proximity.

At 9:42 p.m., Councilmember Sheckler stated that he was unable to adequately hear the other Councilmember's comments. Therefore, the telephone connection was disconnected at that time.

Councilmember Petersen suggested that post office boxes could solve the problem.

Assistant City Manager Piasecki said that the police would respond on a complaint basis only and that the intent of the proposed ordinance was to educate the public.

In response to Councilmember Thomasson's question, City Attorney McLean confirmed that the proposed ordinance was intentionally limited to public rights-of-way.

Councilmember White questioned whether certain areas of the City, such as Soundview Drive, could be exempt from the proposed ordinance.

Assistant City Manager Piasecki noted that if residents were satisfied with the current situation, the draft ordinance would not affect them since enforcement was contingent upon receiving a complaint.

MOTION was made by Councilmember Thomasson and seconded by Mayor Wasson to adopt Draft Ordinance No. 01-169.

Councilmember Steenrod stated that she was concerned with the police's timely response to the complaints and questioned whether residents could take photographs or record license numbers of offending vehicles.

Assistant City Manager Piasecki said that he would discuss the question with the Chief of Police. He said that staff could possibly make the enforcement language more specific.

Mayor Wasson suggested that the proposed ordinance only pertain to designated areas of the City.

Councilmember Steenrod questioned whether Council could adopt the proposed ordinance now and then revisit it later.

City Attorney McLean advised Council not to adopt a draft ordinance if they still had concerns about it.

Councilmember Steenrod recommended that language regarding the complaint based enforcement be added to the proposed ordinance.

Councilmember Petersen noted that if a vehicle was towed, the towing company must advise the owner of their right to protest the impoundment.

Councilmember Petersen abstained from voting on the issue due to his towing business.

MOTION was made by Councilmember Thomasson, seconded by Mayor Pro Tem Benjamin, and passed unanimously to table the motion.

NEW BUSINESS

Marine View Drive Bridge Project – Barnes Property Purchase

Public Works Director Heydon described the property location. He explained that the purchase price was consistent with previous Council direction and would resolve an existing eminent domain lawsuit.

MOTION was made by Councilmember White and seconded by Councilmember Thomasson to purchase the Barnes' property for $25,000, plus costs, and further to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as attached.

Public Works Director Heydon explained that the funds for the purchase would be taken from the stormwater utility.

VOTE ON MOTION: Motion passed, 5 – 1, with Mayor Pro Tem Benjamin opposed.

Draft Resolution ***[Assigned Res. No. 924]*** – Terminating the City Manager's Employment Contract

Mayor Wasson said that as some felt that the March 13, 2002 meeting was an illegal meeting and that the actions taken were illegal, Council would review the actions again.

Upon Mayor Wasson's request, City Attorney McLean read a proposed resolution terminating City Manager Olander's employment.

MOTION was made by Councilmember Steenrod and seconded by Mayor Pro Tem Benjamin to approve the proposed resolution.

Councilmember Thomasson said that he wished to reinstate his concerns voiced at the March 13, 2002 meeting regarding Councilmember Petersen's participation in the vote. He also stated his opinion that Councilmember Sheckler would have wanted to participate in the vote and felt it was unfortunate that he had not been made aware that the issues would be discussed.

Councilmember White questioned why the proposed resolution had not been added to the agenda previously and why the Councilmembers had not been informed of the change prior to the meeting. Councilmember White said she protested the action as she did not feel it was right.

Councilmember Steenrod apologized and said that she had spoken to the Assistant City Manager earlier today regarding the agenda revisions recapping the March 13, 2002 actions and had assumed that the items would be listed on the agenda.

Councilmember White expressed her opinion that it was unacceptable for items to be placed on the agenda without prior notification. She stated that Councilmember Sheckler should be present and felt that he had the right to participate. She said that if the items had been discussed at the beginning of the meeting he could have participated and that it was wrong to discuss them at the end of the meeting.

VOTE ON MOTION: Motion passed, 4 – 2, with Councilmembers Thomasson and White opposed.

Draft Resolution ***[Assigned Res. No. 925]*** – Placing the City Manager on Paid Administrative Leave, Appointing the Assistant City Manager to Serve as Acting City Manager, and Directing the Commencement of a Process to Select a New City Manager

Upon Mayor Wasson's direction, City Attorney McLean read the proposed resolution.

MOTION was made by Councilmember Steenrod and seconded by Mayor Pro Tem Benjamin to approve the proposed resolution.

VOTE ON MOTION: Motion passed, 4 – 2, with Councilmembers Thomasson and White opposed.

Council Legal Services

Acting City Manager Piasecki stated that during the March 13, 2002 meeting, Council had directed him to enter into a contract with a law firm for special Council services. After researching the issue, Acting City Manager Piasecki informed Council that legal service contracts must be for a specific action or project rather than for broad services. Acting City Manager Piasecki said that he had informed the Mayor of his findings.

Councilmember Steenrod asked that this item be placed on the next agenda.

NEXT MEETING DATE - Regular Meeting March 28, 2002

ADJOURNMENT

At 10:17 p.m., **MOTION** was made by Councilmember White, seconded by Councilmember Thomasson, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk