REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES March 28, 2002

At 7:28 p.m. City Attorney McLean announced that Council is currently in Executive Session, and it is expected to last until 7:45 p.m.

At 7:45 p.m. Acting City Manager Piasecki announced that the Executive Session is expected to continue until 8:00 p.m.

CALL TO ORDER: The regular meeting of the Des Moines City Council was called to order at 8:08 p.m. by Mayor Don Wasson in the City Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Don Wasson, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod, Scott Thomasson and Susan White. Absent: Councilmember Richard Benjamin. Also present were Acting City Manager Tony Piasecki, City Attorney Gary McLean, Senior Planner Robert Ruth and City Clerk Denis Staab.

> **MOTION** was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously, to excuse Councilmember Benjamin.

CORRESPONDENCE

Wescot - Conveyor Belt Project Permit

> Acting City Manager Piasecki announced that in early March the Wescot company had applied for an Unclassified Use Permit and Shoreline Permit for the conveyor belt project. He advised that the Community Development Director reviewed the permit applications and notified the applicant that the permits were unacceptable as they were incomplete without either a signature of the property owner or a signed lease to use the property. He informed Council that a letter has been received from John Keegan, Attorney for Wescot, requesting that the City sign the application permits so that the conveyor project could proceed. Mr. Piasecki stated that he does not have the authority to sign on behalf of the City and that it would take direction by motion of the Council for him to do so.
>
> Mayor Wasson questioned whether any Councilmember wished to make a motion. There was no response from Council.
>
> City Attorney McLean advised that this meant the applications for the conveyor belt project are deemed incomplete, and the project cannot move forward.

COMMENTS FROM THE PUBLIC

> Mayor Wasson announced that due to starting the meeting late, and having a public hearing scheduled for this evening, he will take public comments for 30 minutes and allow continued public comments after conclusion of the public hearing.

Craig Spurlock, 20406 4th Avenue South

Mr. Spurlock requested Council stress clean-up of the Pacific Highway South area. He cited prostitution, tagging and graffiti among some of the problems. He suggested increased Police patrol and video cameras be considered. He advised that he and a friend are voluntarily painting over tagged sites and requested additional volunteers willing help. He suggested that perhaps when offenders are caught they be forced to perform community service hours in cleaning up tagging and graffiti.

In regards to cross-walks, Mr. Spurlock requested Council considered better signage, flags or flashing lights. He noted it is particularly hazardous for pedestrians along Marine View Drive.

Mathew Renner, 24142 17th Avenue South

Mr. Renner referenced a recent article in the *Seattle P-I* regarding Mayor Wasson meeting with Port Officials. He noted that while he opposes the 3rd Runway being built, he applauds the Mayor for dealing with reality and learning ways that the citizens can financially benefit as much as possible if and when the 3rd Runway is ever constructed.

Tom Sittlerly, 601 South 227th Street

Mr. Sittlerly reported that he has had two exceptional discussions with the City's Finance Director regarding City finances.

Mr. Sittlerly echoed comments made a couple of meetings ago deploring the nasty and hateful comments being directed at four of the City Councilmembers by some of Des Moines' citizens. He requested future comments be respectful and show common decency. He stated that he recognizes that the City Manager serves at the discretion of the City Council and if the Council does not have confidence in the City Manager then they have a duty to replace that person. He concluded by stating that Council does not have to reveal their reasons for terminating Bob Olander's contract and looks forward to the changes for the better that the City Council will bring to Des Moines.

Wayne Bader, 21938 Marine View Drive

Mr. Bader voiced the opinion that conflicts of interests exist for Councilmember Thomasson as he collects paychecks from the City of Redmond where he is employed and from Des Moines as a Councilmember, Councilmember Sheckler because his wife works for Des Moines' City Attorney and Councilmember White for meeting in coffee shop with the former City Manager.

At the request of Councilmember White, Mayor Wasson requested Mr. Bader refrain from personal attacks on City Councilmembers as Council rules prohibit such attacks.

Jeanne Moeller, 22211 Cliff Avenue South

Ms. Moeller suggested that decency and kindness are necessary to create good government. She noted that she has become ashamed of the bias that has been demonstrated in the last few months of City Council meetings. She questioned whether Des Moines has a dictatorship or is a democratic republic, and reminded everyone of a quote from Thomas Jefferson: "We shall be nation of laws and not of men".

Jerry Guite, 21317 Marine View Drive (Des Moines Business Owner)

Mr. Guite noted while he does not reside in Des Moines, he has lived in the area for the past 37 years and does own property and a business within Des Moines. Mr. Guite proceeded to name several individuals who are members of ACC and noted that they are not uninterested parties who have written recent letters to the editor trying to enforce their will on the citizens of Des Moines. Mr. Guite further stated that ACC is paying for the lawsuit to have Gary Petersen removed from the Council due to conflict of interests. He encourage citizens to attend all City Council and ACC meetings.

In conclusion Mr. Guite, cited a letter written by the City Clerk in response to a letter for public disclosure, requesting clarification of the word "contract". He pointed out that this was move evidence of stonewalling and is why he requests that the Council get rid of every department manager.

Keith Noess, 21210 4th Place South

Mr. Noess addressed Council regarding the Senior Center Dining Hall. He noted that Council will have the issue of evaluation of repairs at the April 4th study session, due to the damage received in November of 2001. Since that time the dining hall has not been used by the seniors which is creating a hardship as activities are now being held at ten different locations throughout the City. He felt this issue will present an opportunity for Council to excel by providing a solution to establish fewer places or a single place for the seniors to meet and have their activities. He called on Council to provide a plan for making the Senior Services whole again.

Len Oebser, 20724 8th Avenue South

Mr. Oebser noted he has lived in the Des Moines area for 47 years because of the quality of life. He thanked Councilmember Sheckler for his services on the fight against the 3rd runway and noted that he feels the 3rd runway can be eliminated. He also thanked Councilmembers Thomasson and White for their efforts. He called on Council to look at the concerns of citizens regarding the 3rd runway and the proposed conveyor belt project, and the negative and adverse impacts these projects would have to the quality of life in Des Moines. He pleaded with Council to work together.

BOARD & COMMITTEE REPORTS

Conveyor System

Councilmember Sheckler reported that he has received over 115 e-mails demanding that the Council not allow a conveyor system to be built in Des Moines, along with over 3 dozen phone calls. He noted that out of that group only 2 were in favor of having the 3rd runway and the conveyor system built.

In regards to a meeting Mayor Wasson had, and a second meeting of the Mayor and Councilmember Steenrod with Port of Seattle commissioners regarding the conveyor belt, Councilmember Sheckler expressed concern. He felt it raises the question of who is representing the City. These meetings, to his knowledge, were not sanctioned by the Council as a whole.

He further expressed pleasure that Council unanimously has determined that the Wescot Company has filed an incomplete application for the conveyor belt system and will be so notified.

Councilmember Sheckler cited an e-mail that applauded removal of the City Manager and called for removal of the City Attorney. The e-mail stated that thousands of citizens feel the same way. He noted that this simply has not been the case based on testimony Council has received.

Municipal Facilities Committee

Councilmember Steenrod reported that the Committee has met three times to review the Marina Master Plan and has determined that the Plan should move forward. Currently the Committee will be reviewing costs estimates.

PRESIDING OFFICER'S REPORT

Port of Seattle Meeting

Mayor Wasson acknowledged meeting with Port of Seattle regarding obtaining money to mitigate impacts of the 3rd runway if it is eventually built. He stressed that he was not representing the Council during this meeting, made no deals and made no promises or agreements. He noted that while he has always opposed the 3rd runway, there is a possibility that it will eventually be built. He feels that before that should happen the City must explore all options to find ways to minimize impacts that might occur and to do otherwise would be a disservice to the citizens of Des Moines. He reminded everyone of the budget shortfalls that are projected for the next several years. He felt as Mayor, it is his responsibility to see that Des Moines gets as much mitigation money from the Port as it can, should the runway be built.

Councilmember White commented that the currently there is a law suit pending involving the Port of Seattle and the City and any meeting should only be through legal counsel. She felt that any meeting with the Port should have been done collectively as the City Council, with perhaps one member designated to hold discussions. She holds the opinion that the Mayor has breached his responsibilities to the City and its citizens. She requested in the future Council be consulted as a whole for any such activities.

ADMINISTRATION REPORTS

Legislative Update - Representative Dave Upthegrove

Representative Upthegrove briefed Council on many legislative actions and activities, some of which were:

- Work training programs
- Extension of unemployment benefits in certain circumstances
- Unemployment insurance reduced
- Loans for Economic Development
- Voters to decide on transportation package of $7.7 billion

Representative Upthegrove concluded by noting that back-fill funds to cities most impacted by I-695, including Des Moines, may be vetoed by the Governor. He urged everyone to contact the Governor's office to encourage this funding not be cut.

Budget

Acting City Manager Piasecki informed Council that Tuesday, he held a retreat with all Department Directors to discuss budget possibilities. He advised that it was a productive day and a comprehensive list will be prepared for Council showing potential ways to cut expenses and increase revenues. He requested Council feel free to add to the list. He added that budget discussions will be scheduled for a meeting in May.

Council Retreat

Acting City Manager Piasecki requested Council confirm a date for a week-end retreat in April. Mayor Wasson advised that he will poll the Council.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of March 7 and 13, 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 #80309 through #80486 & electronic fund transfers in the total amount of $398,191.89

Payroll fund transfers in the total amount of $283,486.17

3. Motion is to authorize the Interim City Manager to sign a contract with Triathalon, Inc. for orthophotography and 2-foot contours in an amount not to exceed $28,686. The contract shall be a form as approved by the City Attorney.

4. Motion is to approve the following:

A. To purchase 2,040 square feet of land and improvements from Christopher J. and Cheryl D. Breslin in the amount of $40,076 plus closing costs and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

B. To purchase 941 square feet of land and improvements from B & D Amick Enterprises, LLC, in the amount of $19,m554 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 authorize the City Manager to sign the contract with Reid-Middleton for professional engineering services relating to the Redondo Boat Launch. The contract shall be in the amount of $135,000 and shall be in a form as approved by the City Attorney.

6. Motion is that the City Manager be authorized to sign the Interlocal Agreement between the City of Des Moines and King County for the Waste Reduction and Recycling Grant for 2002 and 2003. The grant agreement provides $23,942 for 2002 and up to $23,943 for 2003, and shall be in a form as approved by the City Attorney.

7. Motion is to approve surplusing of various used vehicles and equipment from various City departments as submitted, and authorize disposing of by auction, sale or transfer to other departments or agencies.

Consent Item 4.A and 4.B. Councilmembers Petersen and Steenrod advised that they will not be participating in the vote on this item.

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

PUBLIC HEARING

Draft Resolution No. 02-031 - Verizon Wireless, Unclassified Use Permit Application

Senior Planner Ruth described the material in Council' packet and identified the surrounding property zoning of the proposed site which will be located on the roof of an existing business, Miller Marine, located in downtown Des Moines. He advised that Verizon Wireless desires to establish a wireless communication antenna station located at the southwest corner of the intersection of 7th Avenue South and South 226th Street. He noted that Verizon needs the antenna station to provide better service coverage. The proposal calls for the antennae to be located and mounted onto the site of the roof top elevator structure. He advised Council that staff feels from a land use planning standpoint, it is not clear that the proposed site is the best long term location for this facility. Concern was expressed by Senior Planner Ruth that long-term use of the site by this telecommunication facility could create an incentive to not restore, revitalize, or redevelop the property and that the existing building does not meet updated City development standards for the DC zone. Therefore, administration believes that approval of a long term facility at the subject site would not be consistent with City efforts and objectives to revitalize downtown, and is not in the best public interest. He concluded by stating the site may, however, serve as short term facility and allow Verizon more time to study other site opportunities and give the property owner more flexibility.

Andy King, Spokesperson for Verizon Wireless

Mr. King addressed Council noting the proposed antennae will consist of panels 28 inches tall, 6.3 inches wide and 2 inches deep, to be mounted onto the side of the roof top elevator structure and will be painted to match the building. He expressed concern with staff's recommendation that Verizon be limited to a 3 year term with no extension or renewal provisions. He requested a 10 year term with an option to renew for another 10 years. He further stated that their system would not be a detriment to the existing business to rebuild as they would have the option to remain at this site. He advised that sites that City staff had proposed were not feasible for the area the company needs to improve communications. He stated the City sites such as a the Field House, or the water tank near City Hall were not viable or practicable.

City Attorney McLean read the rules for conducting the Public Hearing. He advised that this hearing is quasi-judicial in nature and therefore the Appearance of Fairness Doctrine applies. He questioned Council as to whether there were any conflicts of interest. Councilmembers Thomasson and Steenrod noted the both subscribe to Verizon Wireless service, but felt they were able to participate impartially. City Attorney McLean questioned whether there were any objections to Mr. Thomasson or Ms. Steenrod participating in the Public Hearing. There were none.

City Attorney McLean requested anyone who wish to present testimony to Council to raise their right hands and he administered an oath to those who wished to speak.

PROPONENTS

Gary Wamsley, 22529 6th Avenue South

Mr. Wamsley stated that he could see no reason to object to this request and felt Council should grant the proposed application.

Brad Bryan, 21811 12th Avenue South
Mr. Bryan advised that he is appearing on behalf of his mother who owns the property directly south of the proposed site. He noted that his mother is concerned that since she is planning on developing her property in the future, that it might interfere with the signal activity of the proposed antennae.

OPPONENTS
Dr. Martha Davis, 22517 7th Avenue South (business address)
Ms. Davis noted that she relocated her business to this area because she liked the quieter location and she express some concern that allowing this application may set a precedent for more industrial development which she would be opposed to.

Richard (?), 826 South 227th Place
Gentleman questioned whether if Verizon is allowed to place this antennae at the proposed location, would they be grandfathered in and allowed to place their installation anywhere downtown should they wish to move it.

PROPONENTS REBUTTAL
Andy King
Addressing Ms. Davis concerns, Mr. King noted that staff and City Council has control over where and how these types of facilities may be located.

In regards to grandfathering, Mr. King advised that the Unclassified Use Permit would only run with the property, so if something happened to the building or if for some reason Verizon wished to move the system, they would have to start from scratch and reapply.

Administration was asked if there were any material they wished to introduce or any misstatements of fact they wished to address.

Senior Planner Ruth addressed Mr. King requesting a 10 year term for the permit. He noted that staff feels there are other locations in the City that would be more appropriate. He also expressed concern over creating a precedent for such a long term use for this type of facility should other vendors wish to locate in the same manner. He felt that the applicant needs to demonstrate that they have thoroughly looked at alternative sites prior to any renewal process. He noted that in Title 20 of DMMC there are two priority locations before the districts zoned commercial. He also noted that this proposal would not allow for any co-location possibilities, which would allow for other vendors to locate in the site.

Upon questioning by Council, Mr. King noted that cables running along the roof will be hidden from view by the built up edge around the building. The cables enter the building at the southwest corner into the equipment located on the 2nd floor. He further advised that the panels are flushed mounted, which leads to the term of a “stealth” site.

Councilmember White commented that she cannot envision a multitude of antenna located within the downtown area, therefore would prefer a different location so as to not set a precedent.

Mr. King confirmed that there is nothing to prohibit another company from seeking to obtain the same type of lease agreement that Verizon has with the same downtown business, which would qualify as a co-location site. He reiterated that the company does not require a high site as they are only trying to improve coverage in the downtown/Kent-Des Moines Road area within the City.

10:12 p.m. Mayor Wasson called for a 10 minute break.

Councilmember Petersen questioned Mr. King as to how long it would take for the proposed system to be up and running. Mr. King responded that it would be a 30 day process.

Mayor Wasson questioned what is staff's objection to the applicant having a 10 year lease. Senior Planner Ruth responded with staff's concerns over this creating a long term use before any redevelopment of this property would occur. He also stated that a 10 year term could set a precedent for other potential companies also locating in the downtown area.

City Attorney McLean advised Council that the length of the permit is a policy decision and if Council choose a 3 year term, they can also add in an appropriate extension period or require the applicant to re-apply.

Councilmember Steenrod commented that the applicant will have rather a costly installation involved in this process and she would prefer a 5 year permit over the 3 years. She further noted that she prefers this "stealth" type of antenna system over the more standard high tower types.

Upon questioning by Councilmember Steenrod regarding the cash bond required for removal of the equipment contained within the draft resolution, Senior Planner Ruth stated it is stock language that is necessary as technology is changing rapidly, to have as enforcement tool to ensure the City is not left with obsolete equipment.

Mayor Wasson declared the Public Hearing CLOSED.

10:30 p.m. **MOTION** was made by Councilmember Sheckler, seconded and passed to extend the meeting 15 minutes.

Councilmember Thomasson requested that the draft resolution be amended to:

- contain a renewal clause mechanism
- a clause that deals with the possibility of the building being removed and replaced, and that the Council would have the right to determine where the system gets reinstalled
- allow staff during the permit process, an opportunity to pursue a more detailed screening of the system
- the term of the lease should be no more than 5 years

In regards to a policy perspective, Councilmember Thomasson noted he would rather have 5 "stealth" type systems in different locations, than to have to have a 100 foot tower with co-users.

Council's consensus was to incorporate Councilmember Thomasson's ideas into the draft resolution and bring the issue back on the April 25, 2002 agenda.

City Attorney McLean cautioned Council, speakers and the applicant, to refrain from any ex-parte communications on this issue.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Steenrod, to move Draft Resolution No. 02-031 to the April 25, 2002 agenda. Motion passed unanimously.

COMMENTS FROM THE PUBLIC CONTINUED

Response to Comments of Jerry Guite

Councilmember Sheckler wished the record to reflect that Mr. Guite's comments that private citizens serve on ACC is incorrect. He noted only elected officials of the cities and Highline School District that form the coalition are members of ACC.

He further stated that ACC is not in any manner funding the law suit against Councilmember Gary Petersen.

Brad Bryan, 21811 12th Avenue South

Mr. Bryan thanked Council for the time and effort members spend while serving on the Council. He requested that Council treat each other cordially. He concluded by cautioning Council to avoid any appearance of impropriety, to keep things above board and share information with each other and the citizens.

Jack Arends, 234 SW 200th, Normandy Park, Chairman of the 33rd District Democrats

Mr. Arends informed Council that the District caucus will be held on April 27th to discuss issues facing the 33rd Legislative District. He requested any ideas or comments be forwarded to him.

Bob Pond, 23116 30th Avenue South

Mr. Pond stated that the King Arms Motel in his neighborhood needs to be held responsible for the criminal activity that he feels is living in the establishment. He also requested help to force the property owner of the woods behind the former furniture store located on Pacific Highway South to be required to clean up the area, as it is used for people to do drugs, live and commit crimes.

10:45 p.m. **MOTION** was made, seconded and passed unanimously, to extend the meeting another 6 minutes.

Mr. Pond noted this criminal activity in his neighborhood seems to be an endless cycle. He has formed a blockwatch group, but requested more help from the City.

Councilmember Thomasson suggested perhaps the Police Department could brief the Council at a study session as to the problems in this area and how they are being addressed.

Acting City Manager Piasecki informed Mr. Pond that the Des Moines Police Department has contacted the owners of the King Arms Motel to begin a dialogue to help with the situation. He also advised that he will check with the property owner of the property behind the former furniture store, to see if they would be willing to allow the neighborhood to go in and help clean up the area.

10:48 p.m. **MOTION** was made, seconded and passed unanimously, to extend the meeting another 6 minutes.

As there were no further speakers, Mayor Wasson called for a motion to adjourn.

NEXT MEETING DATE

Mayor Wasson announced that the next meeting will be a study session on April 4, 2002.

ADJOURNMENT

Meeting was adjourned at 10:49 p.m. by motion, duly passed.

Respectfully submitted,

Denis Staab
City Clerk