

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

April 11, 2002

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

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

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod, Scott Thomasson and Susan White. Also present were Acting City Manager Tony Piasecki, Assistant City Attorney Linda Marousek, Public Works Director Tim Heydon, Finance Director Scott McCarty, Assistant City Engineer Maiya Andrews, and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Mayor Wasson noted that he will allow comments from the public for 30 minutes and then if there are still citizens wishing to address Council, those comments will be taken after Council's regular agenda items have been disposed of.

Al Patterson, 3206 South 133rd Street, Tukwila, Executive Director of Love, In The Name of Christ

Mr. Patterson read a letter thanking the City Council for financial support through a Human Services grant for the Family Reach program. He noted that there has been a favorable impact of the three families completing the program. He noted that currently five families are in the program and are learning new budget principles that will help them in future decisions about money. He concluded by noting that the program is a tool that helps empower people to make healthy financial choices.

Barbara Just, 815 South 216th

Ms. Just stated that she has been ashamed of recent Council meetings and citizen and Council comments. She stated that closed door, secret meeting of some Councilmembers creates a cloud of suspicion. She requested everyone pullback and instill some peace and tranquility to the City.

Robert Pond, 23116 30th Avenue South

Mr. Pond informed Council that his neighborhood has been in crisis for the last decade. He expressed particular concern with the King's Arms Motel and the woods behind the former furniture store for most of the criminal activity. He felt until the City can clean-up the area it is discouraging future improvements and development of the area. He requested Council take some aggressive action to stop the criminal activity. Mr. Pond submitted a signed petition for "permanent Change of the King Arms Motel and the Woods".

Acting City Manager Piasecki advised that Council is scheduled in the next month or so to receive a briefing from the Police Department on the area in question.

Councilmember Benjamin stated that he had participated in a Police ride-along last Saturday and has a greater understanding of the problems and the enormous job our Police Department faces. He assured Mr. Pond that the problems are the utmost concern to himself and Council as a whole.

Councilmember Steenrod noted that she had visited the wooded area in question and agrees that cleaning up this area is a high priority.

Don Connell, 22925 21st Avenue South

Mr. Connell advised that he has lived in the area since 1964. He spoke in support of stopping the fight against the 3rd runway. He felt that the expansion of Sea-Tac Airport is necessary and felt that the taxpayer money being spent on fighting the 3rd runway could be better spent in a positive manner for Des Moines' residents.

Mysty Beal, 22628 16th Avenue South

Ms. Beal expressed disappointment in recent Council behavior. She questioned their feeling of a mandate to "clean house" and ignoring their own legal counsel. She noted that secret meetings with the Port of Seattle has created distrust by the citizens. She concluded by noting she is a part of the citizens group to restore decency to Des Moines.

Cliff McNeal, 28120 Beach Drive South

Mr. McNeal questioned whether the motives and ethics of recent actions by Council were healthy. He suggested Council and citizens alike work on good manners and common courtesy.

Tom Sitterley, 601 South 227th

In regards to the City's budget, and next year's short fall of revenues, Mr. Sitterley encouraged Council to look at the 2002 Budget before it is too late to fix it. He suggested Council be reluctant to approve any new spending including a new Senior Center facility or purchase of any more property. In conclusion, Mr. Sitterley requested that when citizens ask for information that the information be true and complete.

Jerry Guite, 21317 Marine View Drive, Normandy Park

Mr. Guite requested the following:

- a list of all lawsuits and claims filed against the City,
- contracts with City employees and consultants, and
- list of all employees wages and benefits.

In regards to Des Moines News reporter not being able to identify who is involved with "Citizens of Des Moines", he suggested using the Secretary of State's web site. He advised that they are listed as a "for profit corporation" headed up by Al Furney of RCCA.

Acting City Manager Piasecki requested Mr. Guite submit his request for public records in writing.

Clarice James, 23459 27th Avenue South, Executive Director of Greater Des Moines Chamber of Commerce

Ms. James distributed a copy of the newly printed Chamber Resident and Visitors Guide. She noted that the Chamber will be bringing a request for the 2002 Waterland Festival to Council at the April 25, 2002 Council meeting. She concluded by inviting everyone to the Chamber's Spring Fling Fair" currently being held.

Del Rivero, 1228 South 230th

Mr. Rivero updated Council on recent efforts for cleaning up graffiti and tagging in the City. He thanked the Chamber of Commerce for their help. He requested Council consider passage of an ordinance which would have convicted offenders facing significant penalties. He concluded by asking for volunteers to help with clean-up efforts and for citizens to report any of this type activity that they may witness.

BOARD & COMMITTEE REPORTS

Municipal Facilities Committee

Councilmember Steenrod reported that the Committee will meet Wednesday, April 24th to review finance figures for the Marina Master Plan and the Senior Center dining hall.

Public Safety & Transportation

Mayor Pro Tem Benjamin reported that he participated in a Police Department “ride-a-long”. He advised that this gave him a greater appreciation for the job that they do and the services that they provide. He noted he will be meeting with Police Chief Obermiller to determine what Council may be able to do to assist in reducing crime and increasing safety for all of Des Moines. He concluded by applauding Mr. Rivero for the program he and the Chamber are developing to reduce graffiti in Des Moines.

Des Moines Chamber of Commerce

As Liaison to the Chamber, Mayor Pro Tem Benjamin advised Council of the following items:

- Has doubled membership in the last four years
- New office and visitor Center
- Memberships in King County Economic Development, South King County Technology Group, South County Chamber Coalition and the Washington Festival and Events Association

He reported the following activities in March as follows:

- Community Open House and Business Fair
- Membership Luncheon
- Business After Hours Meeting

In April the Chamber will be launching a membership drive, holding its Spring Fling Fair, business After Hours meeting on April 18th and a breakfast meeting on April 25th.

Des Moines Economic Council

Mayor Pro Benjamin advised that the Council is made up of members of the Chamber, City staff, Port of Seattle staff and members of the local business community. The purpose of the group is to lay ground work and identify retail space available, land for development, etc., for economic benefit to the City.

Town Hall Forum

Mayor Pro Tem Benjamin announced he will hold a one on one informal meeting April 23rd from 10 a.m. to 11:30 a.m. in Stanton Hall, located at Wesley Gardens. He encourage citizens to participate on a one to one discussion with him on issues of their choosing.

Citizen Concerns Regarding a Proposed Conveyor Belt

Mayor Pro Tem Benjamin requested Acting City Manager Piasecki explain and help clear up misunderstanding regarding his and Council's position of a proposed dirt hauling conveyor belt system in Des Moines.

City Manager Piasecki noted that he will respond appropriately under the Administration Reports

Written Statement

Mayor Pro Tem Benjamin read into the record a statement to help clear up some of the confusion, accusations and speculation concerning his intentions as a newly elected Councilmember. He advised that he campaigned on a promise to protect tax dollars from wasteful spending, to develop a strong economic tax base through business development and to increase public safety. He noted that his support for the fight against the 3rd runway has not wavered, however he expressed concern that the city is not prepared with a plan on how to deal with the Airport should the permits be issued. He further stated that fighting off attacks from a vocal minority has consumed much time and energy of the Council that should be spend toward the business of building the City, and on dealing with the shortfall of the City budget being forced on us by the State's economic problems. He questioned why a small group has engaged in a conspiracy to overturn the election because they fear the loss of power. He noted that ACC does not run the City. He stated that the 3rd runway must be kept in perspective as a real concern, but not the only issue that faces Des Moines.

Mayor Pro Tem Benjamin concluded by reading a following proclamation containing some of the following:

To the Citizens of our community - not Burien or Normandy Park or others - I believe this Council is working hard for your interest. I will not be intimidated or run out of office, and I believe other Councilmembers feel the same way. Our concern must be for all the people of Des Moines, not just those who may fill the Council Chambers.

To other local politicians - If you are against the 3rd runway make your voices and votes count in Olympia. Take a stand against big business & labor behind the runway construction. If you can't, then stay out of our Council Chambers.

To the local press - To have a conversation with this Councilmember, then give up tabloid journalism. Stop threatening Councilmembers as you have a responsibility to the people of Des Moines who elected us, to treat us with dignity.

He advised that Councilmembers must quickly tackle the issues facing the City and bring Council and staff together to get on with the business of governing the City.

Human Services Advisory Board

Councilmember White, Liaison to the Board, informed Council that applications by agencies to be considered for Block Grant funding, are due in by April 22nd.

ADMINISTRATION REPORTS

Council Retreat

Acting City Manager Piasecki informed Council that retreat facilitator, Mike Ragsdale, will be contracting Councilmembers individually to help form an agenda for the upcoming retreat.

Neighborhood Meetings

Acting City Manager Piasecki advised that the first of the summer neighborhood meetings will be held on Tuesday, April 16th at Cecil Powell Park from 6 p.m. to 7:30 p.m. He noted this is an opportunity for citizens to meet and talk with City officials on any topic in an informal setting. He encouraged all Councilmembers to attend.

Proposed Dirt Conveyor Belt - History

Acting City Manager Piasecki outlined the history of the proposed dirt hauling conveyor belt system as follows:

- 3 years ago a request was made by Wescot to amend the City's Comprehensive Plan and after proper hearings, the request was denied.
- Wescot appealed to the Growth Management Hearing Board, but a settlement was reached between the City and Wescot.
- Settlement agreement allowed for Wescot to bring back the request for Comp Plan amendments within 3 years.
- February 2002, Wescot appeared before Council saying they wished to invoke the settlement agreement. However, they stated that they believe they did not need the Comp Plan amendments and advised they felt they could simply file for permits. They asked if the City would process the permits and they were told they would be treated the same as any other applicant.
- Wescot did apply for the permits, and they were denied by the City as City Code requires that the permit can only be applied for by the property owner, or with the property owners permission. The owner is the City and permission was not and has not been given.

CONSENT CALENDAR

Prior to the Calendar being read by City Clerk Staab, Acting City Manager advised that Councilmembers Petersen and Steenrod would not be participating in Items #3.A and B. and Item #5.

1. Motion is to approve the minutes of March 14 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 #80487 through #80663 & electronic fund transfers in the total amount of \$605,796.62

Payroll fund transfers in the total amount of \$291,116.10

3. Motion is to approve the following:
 - A. Purchase of a 1969 Van Dyke mobile home from Christine Young located in Pine Terrace Trailer Park, on Pacific Highway South, in the amount of \$7,488.49, plus closing costs, and to authorize the Acting City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
 - B. Purchase of a 1974 Flamingo mobile home from Vince Colletti located in Pine Terrace Trailer Park on Pacific Highway South, in the amount of \$8,678.00, plus closing costs, and to authorize the Acting City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

~~4. Motion to award the contract for professional engineering design and construction management/inspection services for the 2002 Arterial Maintenance Program to KPG in the amount of \$34,428.85, plus authorize the Acting City Manager or his designee to approve change orders up to an amount of 10%, and to authorize the Acting City Manager to sign said contract, substantially in the form as submitted.~~ (ED NOTE: Item removed at the request of Councilmember Steenrod.)

~~5. Draft Ordinance No. 02-065 Title: An Ordinance of the City of Des Moines, Washington, relating to the acquisition by eminent domain of certain property in the City of Des Moines; describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation and taking of such land, including the mode of payment of cost of acquisition; and directing the city attorney to prosecute such action in King County Superior Court.~~

~~TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 02-065.~~ (ED NOTE: Item removed at the request of Mayor Wasson.)

Councilmember Steenrod requested that Item #4 be removed from the Consent Calendar.

Mayor Wasson requested that Item #5 be removed from the Consent Calendar.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Steenrod, to approve the Consent Calendar as read, minus Item #4 and Item #5. Motion passed unanimously.

REMOVED CONSENT ITEMS

Item #4 - 2002 Arterial Maintenance Program

Councilmember Steenrod questioned Exhibit C-2, page 2, item 5 Management Reserve Fund and whether this is in fact going to be established.

Public Works Director Heydon advised that this is standard language contained in all State Contracts and that the City will not be establishing such a fund.

MOTION was made by Councilmember Steenrod, seconded by Mayor Wasson and passed unanimously, to award the contract for professional engineering design and construction management/inspection services for the 2002 Arterial Maintenance Program to KPG in the amount of \$34,428.85, plus authorize the Acting City Manager or his designee to approve change orders up to an amount of 10%, and to authorize the Acting City Manager to sign said contract, substantially in the form as submitted.

Item #5 - Draft Ordinance No. 02-065 [ASSIGNED ORDINANCE NO. 1302] Acquisition of Property by Eminent Domain for Pacific Highway South Project

Upon questioning by Mayor Wasson, Public Works Director Heydon explained that the project is meant to improve vehicular and pedestrian safety, and as an economic development project, it will improve capacity on Pacific Highway South. He advised to continue with Council's and staff's plan and vision, additional right-of-way is needed for the project. He noted the process is lengthy with at least 2 appraisals obtained. He noted in the case of the property listed in the draft ordinance, 3 offers have been made, but with no agreement. He stated in order to keep the project on schedule this tool is necessary.

MOTION was made by Councilmember Thomasson, seconded by Mayor Wasson and passed, to suspend Council Rule 26(b). (ED NOTE: Councilmembers Petersen and Steenrod did not participate.)

MOTION was made by Councilmember Thomasson, seconded by Councilmember White and passed, to approve Draft Ordinance No. 02-065. (ED NOTE: Councilmembers Petersen and Steenrod did not participate.)

NEW BUSINESS

Pavement Management Briefing

Public Works Director Heydon advised that last year, due to the importance and value of the City's assets in streets, the City of Des Moines hired Paul Sachs of Nichols Consulting Engineers to begin implementing a formal Pavement Management System. He noted that the briefing is for the purpose of giving the City Council a summary of the results. He stated that staff is requesting a study of the needs of the yearly Arterial Maintenance Program be remanded to the Public Safety and Transportation Committee to bring back to the full Council a suggested pavement condition goal and suggested funding plan for accomplishing said goal. He introduced Mr. Sachs.

Mr. Sachs proceeded to brief Council, noting the purpose of the report is to assist policy making decisions. He noted the report links the Pavement Management System recommended repair program costs to Des Moines' current and projected budget to improve overall maintenance and rehabilitation strategies. Further, the report assesses the adequacy of current and project revenues to meet the maintenance needs as recommended by the program. Mr. Sachs proceeded to review the following:

- Costs to maintain pavements over time
- Current Pavement Mileage 2001
- Pavement condition summary 2001
- Street network area by condition
- Future expenditures for pavement maintenance
- Present cost to repair the road network
- Cost effectiveness of treatments
- Budget scenarios
- Pavement condition index by year
- Deferred maintenance per scenario by year

In conclusion, Mr. Sachs advised that program outputs show that it would cost the City about \$4.8 million over the next 6 year period to maintain a Pavement Condition Index of 75 and this cost exceeds the City's current funding levels. He noted that additional revenues must be obtained to enable the City to devote adequate resources to pavement repair in order to prevent steady deterioration of the road network.

MOTION was made by Councilmember Sheckler, seconded by Councilmember White, to remand to the Public Safety and Transportation Committee to study the needs of the yearly Arterial Maintenance Program and to come back to the full Council with a suggested pavement condition goal and suggested funding plan for accomplishing said goal. Motion passed unanimously.

9:03 p.m. Mayor Wasson declared a 10 minute recess.

2001 Financial Evaluation of the City's Operating Funds

Finance Director McCarty advised Council that this information is intended to provide an overview of the 2001 financial activity for the City's operating funds, General and Streets. Although accounted for as two separate funds, they are managed and evaluated as one fund. He reviewed the operating funds financial analysis for the year ended 2001 as follows:

	Revised Budget	Actual	Variance
REVENUES	\$12,920,936	\$13,013,726	\$92,790 101%
EXPENDITURES	\$14,240,508	\$13,490,396	\$750,112 95%
Net Activity	(\$1,319,572)	(\$476,670)	\$842,902

1/1/01 Unrestricted, Undesignated Fund Balance = \$ 1,349,461
12/31/01 Fund Balance = \$ 872,791

Less Designations:

Software Replacement - (\$23,750)
Gifted Property - (\$7,701)
Telephone Replacement - (\$10,000)
Total Designations - (\$41,451)
12/31/01 Unrestricted, Undesignated Fund Balance - \$831,340 "Savings"

7% Reserve Per Council Policy - \$900,000
Percentage Funded - 92%

With the use of various charts and graphs, Finance Director McCarty proceeded to review the following:

- 2001 Total Operating Revenues
- 2001 Total Operating Revenues, Less One-Time Revenues of \$343,430
- 2001 Total Charges for Services, Less One Time Revenues of \$343,430
- 2001 Total Operating Revenues, Less One Time Revenues of \$343,430, Budget to Actual \$12.7 M
- Building Permits and Fees 1993 through 2001
- Sales Tax, Budget to Actual at December 31, 2001
- Retail Sales Tax Revenue 2000 vs. 2001
- 2001 Sales Tax Revenue of \$1,623,369
- 2001 Operating Expenditures
- 2001 Operating Expenditures by Type
- 2001 Personnel Expenditures Only, Budget to Actual
- 2001 Operating Expenditures (Excluding Personnel), Budget to Actual
- 2001 Operating Expenditure Differential \$750,000
- 2001 Operating Expenditures, by Function and Budget to Actual

In conclusion, Finance Director McCarty commented that overall, staff is pleased with the budget to actual performance as all material variances have been researched and explained. Evaluating the 2001 performance now allows staff to complete a review of the 2002 budget and

create the five year planning model, which are scheduled to be discussed with Council at a meeting in early May.

Preliminary Injunction Order

Councilmember Petersen read a "Preliminary Injunction Order" from the Superior Court of the Kent Justice Center dated April 10, 2002, in part which read:

The matter heard a motion for a temporary injunction, restraining Des Moines Councilmember Gary Petersen from violation any applicable provisions of RCW 42.23.030. The Court has ordered "That Gary Petersen, be and hereby is, enjoined during the pendency of this case before the Judge, for taking any action as a Des Moines City Councilman which would perceptively violate the provisions of RCW 42.23, specifically, as a City Councilmember. He shall not be beneficially interested in directly, or indirectly, any contract which may be made through or under his supervision as a City Councilmember, in whole or in part, or which may be made from the benefits of his office, or accept directly, or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person beneficially interested therein. Additionally, Gary W. Petersen shall abstain from voting on any issue that may come before the Des Moines City Council involving automotive towing. Mr. Petersen shall also be restrained from speaking with other Des Moines City Councilmembers regarding automotive towing issues, unless he is consulted by them on the record, on automotive towing matters as a resource to them in the event that the Des Moines City Council undertakes the drafting, or consideration of legislation regarding automotive towing for the City. Further, Mr. Petersen is restrained from voting on non-management employment matters coming before the City Council with regard to employees who have a roll in drafting any contract for automotive towing or supervising, any such contract for automotive towing. This order is not a finding or a determination that there has been, or that there is, a conflict of interest on the part of Mr. Petersen that is violative of RCW Chapter 42.23. It is the intent of this order to preserve the status quo and prevent any conflict of interest during the pendency of this action. This order shall not be construed to preclude Mr. Petersen from exercising the full powers and authority of his office as a Des Moines City Councilmen, including his right to vote on all matters brought before the Des Moines City Council as set forth in this order.

10:02 p.m. Executive Session

Assistant City Attorney Marousek announced that Council will recess into an Executive Session to discuss with legal counsel litigation or potential litigation to which the City is, or is likely to, become a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the City. She noted that the session will last approximately 20 minutes and will reconvene. She further advised that Council may take action on the agenda item.

10:23 p.m. Council reconvened from Executive Session.

Possible Separation Agreement of City Manager

MOTION was made by Mayor Pro Tem Benjamin, seconded by Mayor Wasson, to approve the Employment Separation and Release Agreement between the City of Des Moines and City Manager Bob Olander, and to authorize the Mayor to sign such agreement substantially in the form as submitted.

Councilmember Thomasson advised that he cannot support the motion. He stated that he will be sorry to see Bob Olander leave, however his reasons for not supporting is from a financial point of view. He advised that the City Manager's contract contained a severance clause providing for a six months termination package, he noted the proposed Separation Agreement substantially increases that monetary compensation. He does not feel it is fiscally responsible to vote to spend the extra hundred thousand dollars, so he cannot support the agreement.

Councilmember Sheckler stated that he cannot vote for the agreement. He noted that to him, this is the blackest day in his six plus years on the City Council. He advised, that for no good reason, the finest City Manager in the State is about to be fired. He questioned why this is happening and what is to be gained from this action. He felt that four of the current Councilmembers owe the citizens an answer as to why. He concluded by stating that Bob Olander is a personal friend, a friend to all former Councilmembers, staff and all of Des Moines citizens.

Councilmember White expressed agreement with Councilmember Sheckler and noted that any vote on her part will be in protest. She agreed that an explanation for this action is due from those Councilmembers responsible. She also agreed that it is unconscionable and fiscally irresponsible action.

Councilmember Steenrod stated that this is a significant amount of money and that she will vote to approve because of Mr. Olander's service, and as an accommodation in trying to make things as easy as possible. However, she noted that she stands by her original statements that she believes the City needs a new City Manager.

ROLL CALL VOTE: Motion passed by the following roll call vote: YES: Councilmembers White, Steenrod, Petersen, Mayor Pro Tem Benjamin and Mayor Wasson. NO: Councilmembers Thomasson and Sheckler.

10:28 p.m. MOTION was made, seconded and passed to continue the meeting another 10 minutes.

CONTINUED COMMENTS FROM THE PUBLIC

Stephen Zielinski, Owner Sound Vista Mobile Home Park in Des Moines

Mr. Zielinski informed Council that in November 1999, he purchased 3 new mobile homes. After receiving move-on permits, the City issued a Stop Work Order on their installation. He noted in order to facilitate action, he signed an agreement with the City that he would agree to having the property developed per the new Pacific Ridge development regulations. He requested the Council allow him to rescind the agreement and issue him move-on and set-up permits as needed to continue operations as a mobile home park until the land is sold for redevelopment. He noted he does not feel the redevelopment is anywhere in the near future. He concluded by noting that the mobile home park is a safe environment and he has spent almost \$200,000 in the last six years upgrading with sewer, water, paving, security lighting and landscaping among other items. He noted that he is willing to fully comply with future development, but needs to be able to operate in the present time.

Mr. Zielinski offered to move the mobile homes onto his property that the Council approved for purchasing on the Consent Calendar earlier in the meeting.

NEXT MEETING DATE

Mayor Wasson announced that the next regular meeting will be April 25, 2002.

ADJOURNMENT

MOTION was made by Councilmember White, seconded by Councilmember Thomasson and passed unanimously, to adjourn. The meeting adjourned at 10:33 p.m.

Respectfully submitted,

Denis Staab
City Clerk