REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES September 19, 2002

The regular meeting of the Des Moines City Council was called to order at 7:30 p.m. by Mayor Wasson in the City Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was observed.

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin (arrived at 8:03 p.m.), Councilmembers Gary Petersen, Maggie Steenrod, Scott Thomasson and Susan White. Absent: Councilmember Bob Sheckler. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Finance Director Dick Scott, Public Works Director Tim Heydon and City Clerk Denis Staab.

> **MOTION** was made by Councilmember White, seconded by Councilmember Petersen and passed unanimously, to excuse Councilmember Sheckler and Mayor Pro Tem Benjamin. [Ed Note: Mayor Pro Tem Benjamin arrived at 8:03 p.m.]

COMMENTS FROM THE PUBLIC

Tim Stiles, 903 SW Granite Lane, North Bend, WA

> Mr. Stiles addressed Council regarding comments at the September 12, 2002 Council meeting where he spoke representing the Moss family. He stated for the record that he had not been manipulated by members of the City Council. He advised that shortly after speaking to Mayor Pro Tem Benjamin, he received a telephone call from Clarice James, representing the Chamber of Commerce. He reported that the Chamber never personally contacted the Moss family in regards to sponsoring a beer garden for a fund raiser for the family.

BOARD & COMMITTEE REPORTS

Finance & Economic Development Committee

> Councilmember Steenrod reported that the Committee met last Monday. She noted that an Economic Development Program was presented by Community Development Director Kilgore. She advised that the Committee will continue reviewing the proposed Program and will bring the final proposal to Council as whole at a later date.

Suburban Cities Dinner Meeting

> Councilmember White reported that the meeting held last night was very informative on upcoming ballot issues. She noted that Referendum 51 is extremely important for relieving the traffic congestion on the region's freeway system. She felt that traffic problems must be dealt with in order to keep businesses here, and to attract new businesses to the area.

Moss Family Trust Fund

> Councilmember White reported that anyone who would like to donate money to assist the Moss family who were seriously injured a few weeks ago, may donate through Washington Mutual Bank to a Trust Fund set up in the Moss family name.

PRESIDING OFFICER'S REPORT

Des Moines Beach Park/Des Moines Creek Work Party

Mayor Wasson advised that last Saturday, the National Association of Industrial Office Properties sponsored a group of about 250 individuals, who built a rail fence along both sides of the Des Moines Creek to protect the fish habitat, and did native plant restoration. He noted that it was an extremely impressive effort. A short video will be provided by the group that will be broadcast on Des Moines government access channel 21 and possibly shown at a future Council meeting.

ADMINISTRATION REPORTS

New Finance Director

City Manager Piasecki announced that he has hired a new Finance Director, Paula Henderson, who will begin employment on September 30th.

Follow-up on Citizens Comments

City Manager Piasecki reported the following on requests/questions raised under comments from the public or Councilmembers, during recent Council meetings:

- Ban on Razor Wire - Staff is preparing a proposed ordinance which is scheduled for a Public Hearing on October 10th.
- Midway Park Safety Improvements - Parks and Recreation Director Thorell is preparing a report to bring back to Council. Most items requested are currently not in the budget.
- Seat Belt Law - City Attorney Marousek noted that the old statute authorized ticketing only as a secondary infraction. Statute was amended in the 2002 Legislature, with effective date of June 13, 2002, repealing the secondary infraction. Failure to wear seat belts is now considered a primary offense.

OLD BUSINESS

Continued Discussion: Resolution No. 753 Policies Governing City Council Participation in Public Contracts - Proposed Revisions

City Attorney Marousek advised that a citizen had raised the question regarding a potential conflict of interest for Councilmembers on this issue. She noted the following:

- Possible Pacific Highway South property purchases - Councilmembers Petersen and Steenrod, owning property in this area, have consistently recused themselves from voting and will continue to do so.
- Contracts in Regards to Councilmember Petersen - The proposed amendments do not cause the City to enter into any contract. This legislation is a City management rule and the roll of the City Manager and is not specific to any benefit of individual Councilmember.

Finance Director Scott proceeded to review the results he received from eight cities of a survey he sent out. Items covered were general levels and contract change orders and the approval threshold granted to the City Manager. He concluded by noting eight cities responded to the survey regarding the proposed Council review process compared to other cities as follows:

Interlocal Agreement & Franchise Agreement:

1st CM takes to Council for Discussion

Yes - 7

No - 1

Public Works Small Works Roster:

1st : "All" presented to Council for Discussion & Committee Referral

Yes - 0
No - 8

Public Works Project Subject Bid:

1st: Result of bid given Council Committee for review & recommendation

Yes - 4
No - 4

Purchase of Supplies, Matl's, Equip & Non-Professional Services

If not budgeted:
"All" to Council for discussion

Yes - 0
No - 8

If budgeted:
No approval by Council but must follow appr. guidelines

Yes - 6
No - 2

Architect/Engineering Services "All" no matter value:

1st: CM must get Council approval before advertising

Yes - 0
No - 8

2nd: CM must discuss with Council the responding firms

Yes - 0
No - 8

If budgeted & less than $5,000 CM can approve
If budgeted & greater than $5,000, then Council Action
If not budgeted, then take to Council for Action

Lease/Purchase/Sale of Real Estate:

1st: "All" to Council for discussion & possible Council Committee

Yes - 8
No - 0

Professional Services (non-architect & non-engineering)

If Previously Budgeted:
1st: CM must notify & then discuss with Council "each" need & discuss CM's research of qualified vendors providing such services before advertising.

Yes - 0
No - 8

If less than $5,000, CM can enter into contract

Yes - 0
No - 8

If over $5,000, a Council agenda & action needed

Yes - 0
No - 8

If not budgeted:
"All" presented to Council for action before executing contract
Yes - 0
No - 8

Administrative Contracts (routine or recurring):
"All" budgeted must be presented to Council before CM can execute.
Yes - 0
No - 8

8:03 p.m. Mayor Pro Tem Benjamin joined the meeting.

Finance Director Scott concluded by advising that long term policies of other city governments can help provide guidance as to what is considered acceptable levels of authority and practices that are working and provide a balance of control. He felt there is a fine line between control and allowing management of the organization to make decisions. He noted that corporations of any significant size have a policy making board as well as chief executive to run operations. Policies are usually set by the board to obtain the greatest efficiency and productivity. He felt that too much control can often hinder operations, bringing ineffectiveness, and therefore inefficiency. He reminded Council that cities are municipal corporations and he suggested that Council is the policy making entity, and the City Manager is the chief executive in charge of the operations. He suggested that there may be some good alternatives to obtain some of the levels of Council involvement. He encouraged Council to consider other measures, such as extra levels of communications throughout the year by departments, by the City Manager, on-going reports on a monthly or quarterly basis, to help Council see and understand what is going on and what direction is being taken by the City Manager in conjunction with the established budget. He also suggested that perhaps when preliminary budgets are submitted to Council, more detailed information be included to help Council understand and provide guidance to the City Manager.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Steenrod, to remove this subject from the table. Motion passed unanimously.

Public Works Director Heydon, using the 10th Avenue South Culvert Replacement Project as an example, reviewed the process involved applying the proposed process. He advised that he selected this project due to its moderate complexity. Items brought out were as follows:
Consultant Design - Additional 2-3 weeks
2 Utility Interlocal Agreements - Additional 4-6 weeks
2 Land Purchases - Same
Construction - Additional 4-6 weeks
Construction Management - Additional 6-9 weeks

Public Works Director Heydon concluded by advising this would require a total of additional time of 22 to 33 weeks to this project. He advised that potential delay costs, assuming 5% inflation in construction for a $1,00,000 project for 22 to 33 weeks, would be $21,000 to $32,000 and that actual delay costs during the course of construction could be substantially higher.

City Manager Piasecki cautioned Council that the proposed revisions could require more Council meetings to keep items moving, and the more steps will involve more staff time. He also expressed concern that there are no provisions in the draft to respond to emergency situations, such as the last earth quake and the City needed to hire professionals to evaluate structural damage to the 16th Avenue South bridge.

City Attorney Marousek called Council's attention to the State Attorney General's opinion contained in Council's packet. She noted that it is not appropriate for the City to use price or cost in awarding contracts. She advised that the key is "the most qualified" firm. Only after the most qualified firm has been determined then there is negotiation of a fair and reasonable price.

City Manager Piasecki stated while he is now providing a monthly report to Council, this could be done every two weeks. Also each department could provided Council a quarterly 15 minute report at Council meetings noting major projects and activities.

Councilmember Steenrod commented that she had been unaware of resolutions up until now and questioned their purpose.

It was noted that resolutions are available at the City Clerk's office, who maintains a log of all resolutions that effect policies and procedures. This will be distributed to Councilmembers.

Councilmember Thomasson noted that resolutions are more formal, but carry the same force as a motion. He noted many resolutions are for a short time frame, such as approval of the Waterland Festival or the Nibble of Des Moines. He noted that conditions contained in these types of resolutions would be too long and wordy to be contained in a motion.

City Attorney Marousek reminded Council that statutory authority is granted to the City Manager to run the affairs of the City. Resolution No. 753 defines the details of how the City Manager should carry out duties in regards to public contracts.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Mayor Wasson, to remand the issue to the Finance and Economic Development Committee for further study and to bring back recommendations to the Council as whole.

Councilmember Thomasson felt this is a very important policy issue with many things to consider. He advised that he is comfortable with current dollar amounts and is not in favor of taking up additional Council meeting time to handle small "housekeeping" agreements and contracts, such as jail services. He also noted that some language could be modernized, but the majority of proposed changes would just needlessly take up Council's time.

Councilmember White commented that perhaps the only change that needs to be made is to update the financial figures to higher amounts. She was of the opinion that Council's job is not to "micro-manage" the City's business, but to provide guidelines and allow staff to do their jobs. She advised that she is opposed to the draft as proposed.

Councilmember Steenrod stated that councilmembers are elected to guard the citizens interests and it is Council's duty to spend taxpayer money wisely. She questioned where the City Manager has authority to grant employee contracts containing "golden parachutes".

City Attorney Marousek assured Council that the new City Manager has not given any golden parachutes in executing department head contracts, such as her own.

Mayor Pro Tem Benjamin stated that it is a huge challenge to oversee the City's finances, but this is part of what people are elected to public office for.

VOTE ON MOTION: Motion passed 4 to 2 with Councilmembers Steenrod and White voting NO.

Draft Resolution No. 02-201 ***[ASSIGNED RESOLUTION NO. 939]*** Regarding Referendum 51 - Continued Discussion

Mayor Wasson introduced the subject.

Metropolitan King County Councilmember Rob McKenna addressed Council in requesting that Councilmembers approve the draft resolution. He stressed the following:

- Transportation is a state-wide problem, but especially in the Puget Sound area. Goals are improved safety and freight mobility, reduce congestion and benefit transit and the ferry system.
- In regards to accountability if the referendum is approved: Mandatory quarterly audits will be required and reported to taxpayers, along with the status of projects and expected dates of completion

Mr. McKenna voiced the opinion that if the referendum fails, travel times may take twice as long and companies such as Boeing and other high-tech companies will leave the region, further hurting the economy. He urged Council to join dozens of other cities in supporting Referendum 51.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Thomasson and passed unanimously, to remove the item from the table.

MOTION was made by Councilmember Thomasson, seconded by Councilmember White, to approve Draft Resolution No. 02-201.

Councilmember Thomasson read the resolution by title into the record.

Potential Conflict of Interest: Mayor Wasson announced that since he could financially benefit if SR-509 is built, he will abstain from participation on this item.

Councilmember Thomasson noted that normally he would prefer Council not take action on referendum type issues, this one is important to Des Moines residents and their ability to rely on the transportation system to even get home from their jobs.

Mayor Pro Tem Benjamin agreed with Councilmember Thomasson that normally he would not want to endorse various initiatives or referendums as this is ultimately the voters responsibility. However, with near grid lock on local streets and freeways, feels it is important to take a stand on the issue of funding transportation problems and projects. He noted that we cannot afford to lose businesses and there is a great need to lure new businesses to the region. He felt this may not be the perfect answer, but it is the best we have right now for the future of the State.

VOTE ON MOTION: Motion passed 5 to 0, with Mayor Wasson not participating.

9:08 p.m. Executive Session

City Attorney Marousek announced that the City Council will hold an Executive Session for approximately 15 minutes 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.

9:28 p.m. City Manager Piasecki announced that the Executive Session will continue another 5 minutes.

9:35 p.m. City Manager Piasecki announced that the Executive Session will continued for approximately 10 more minutes.

At 9:45 p.m. the Council adjourned the Executive Session with no formal action being taken, and reconvened into open session.

NEW BUSINESS

City Manager Evaluation Committee

City Manager Piasecki advised that the Des Moines Municipal code requires that each year between July 1st and November 1st a committee of 3 Councilmembers appointed by the Mayor, shall meet with the City Manager to conduct a performance evaluation. He also noted that his employment agreement also requires that his performance shall be evaluated at three month intervals.

Mayor Wasson requested volunteers to serve on the City Manager Evaluation Committee. Councilmembers Thomasson and White, and Mayor Pro Tem Benjamin indicated they would be willing.

Mayor Wasson advised that he will take the issue under advisement announce his appointments at the next Council meeting.

City Manager noted that part of the process will be a questionnaire regarding his skills, abilities and include specific items including special projects such as Highway 99, budget, etc. He further requested that general employees be allowed to contribute in this process.

Draft Resolution No. 02-168 Supporting An Amendment to King County Charter Reducing King County Council from 13 to 9 Members

Councilmember Thomasson announced that he is cautious about addressing this issue as he does not feel there is a great impact to our citizens. He suggested that this question needs to be looked at in a greater context such as a full charter review.

MOTION was made by Councilmember Petersen, seconded by Councilmember White, to table the decision on Draft Resolution No. 02-168 to a subsequent meeting to allow for review of additional alternatives and/or recommendations.

Councilmember Petersen referenced the letter of Councilmember Julia Patterson contained in Council's packet and the proposal she will be presenting to the King County Council for taking a comprehensive look at the structure of the County government.

Councilmember Thomasson advised that he is against this draft resolution and therefore will be voting no as he feels this is not something the Council should be taking a stand on.

VOTE ON MOTION: Motion passed 4 to 2 with Councilmembers Thomasson and White voting NO.

Future Agenda Item - Council Compensation

Councilmember Steenrod requested that the topic of reducing Councilmember's and Mayor's compensation be placed on a future agenda. She was of the opinion that being an elected official is in reality a "community service job" and in light of increasing financial difficulties it is important for elected officials to "set the tone" and consider accepting a large monetary reduction in salary.

Mayor Wasson acknowledged that he will arrange to have this item placed on a future agenda.

NEXT MEETING DATE

Mayor Wasson noted that the next regular meeting will be on September 26, 2002.

ADJOURNMENT

MOTION was made by Councilmember Steenrod, seconded by Councilmember White, at 10:01 p.m. to adjourn the meeting. Motion passed unanimously.

Respectfully submitted,

Denis Staab
City Clerk