REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES December 19, 2002

The regular meeting of the Des Moines City Council was called to order at 7:34 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 Sheckler.

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 City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Finance Director Paula Henderson, Finance Manager Peggy Watson, Assistant City Engineer Loren Reinhold and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Lew Anderson, 1650 South 244th Place

Mr. Anderson played a cassette tape of his comments from a 1999 Council meeting. Through the tape, he encouraged Council to exercise prudence when considering the budget. He asked Council to stop allocating money toward the fight against the third runway and to cut or remove the utility tax funding the fight. Mr. Anderson gave the complete text of his comments to the Deputy City Clerk for distribution. He then asked Council to adopt the following revisions to the 2003 proposed budget:

- Reduce the park flower fund,
- Cut one-half of the street sweeping budget,
- Delay highway and overlay projects,
- Delay depreciation of rolling stock,
- Reduce the free garbage collection events to one per year,
- Reduce storm surface fund, and
- Reduce Council's wages.

Don Reicks, 22121 5th Avenue South

Mr. Reicks said that he opposed the construction of the third runway. He said that, in 1992, Council had proposed a 2% utility tax to fight the third runway. Later, the tax was reduced to 1%. Mr. Reicks felt that the Airport Communities Coalition provided little accounting for their actions and finances. He said that the citizens were never given an opportunity to state whether they wanted money to be spent toward the airport fight. Mr. Reicks said that the city did not have any spare money at this time.

Scott McFarlane, 26906 10th Avenue South

Mr. McFarlane stated that the third runway at the airport would be built and the fight was over. He said that the Airport Communities Coalition (ACC) had prolonged the construction of the runway and had doubled its construction costs. Mr. McFarlane said that the former Council had given money to the ACC and had missed opportunities to gain $20,000,000 for the City by cooperating with the Port of Seattle. He asked the current Council to amend these issues.

ADMINISTRATION REPORT

Activity Center Remodel

City Manager Piasecki reported that the remodel of the Activity Center was progressing. The contractor for the project had donated $14,000 for doors and labor. The project was expected to be completed in January, 2003.

Introduction of Jackie Marousek

City Attorney Marousek introduced her mother, Jackie Marousek.

EXECUTIVE SESSION

Councilmember Sheckler asked that Council recess into executive session to discuss potential litigation regarding costs incurred by legal expenses incurred through a lawsuit filed against specific Councilmembers.

City Attorney Marousek read RCW 42.30.100(i) into the record.

At 7:52 p.m., Mayor Wasson announced that Council would hold an Executive Session for approximately twenty minutes to discuss with legal counsel representing the City, litigation or potential litigation to which the City was, or was likely to become, a party and about which public knowledge regarding the discussion was likely to result in an adverse legal or financial consequence to the city.

At 8:20 p.m., City Manager Piasecki announced that the Council would continue in Executive Session for approximately another ten minutes.

At 8:30 p.m., Assistant City Manager Loch announced that the Council would continue in Executive Session for approximately another ten minutes.

At 8:40 p.m., Council returned to open session.

CONSENT CALENDAR

Mayor Wasson removed the last three warrants from the listing made available to Council in their packet materials. [***Editor's Note**: The Mayor's intent was for the last three items covered by warrant #83550 to be the only warrant removed.]*

Deputy City Clerk Chaufty read the consent calendar as follows:

1. Motion is to approve the minutes of December 5, 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 42.24.090, have been recorded on a listing which has been made available to the City Council.

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

Claim checks #83482 through #~~83550~~83549 & electronic fund transfers in the total amount of $~~334,727.42~~305,922.08

3. Motion is to approve the rental agreement between the City of Des Moines Parks, Recreation and Senior Services Department and Charles Marr and to have the agreement signed by the Director of Parks and Recreation substantially in the form as submitted.

4. Draft Resolution No. 02-273 ***[Assigned Res. No. 945-A]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, thanking the Des Moines Masonic Temple Association for providing assistance throughout the years whenever there has been a disruption of services at the Des Moines Senior Center located in the Beach Park.

MOTION is to approve Draft Resolution No. 02-273.

5. Motion is to approve the increase in the scope of repairs to the Public Fishing Pier and to authorize the City Manager to sign an addendum to the City's contract with Global Diving and Salvage that would increase the contract amount by $40,570 plus Sales Tax. The addendum shall be in a form approved by the City Attorney.

6. Motion is to purchase the west 50 feet of Tax Parcel #0822049037 at 21022 13th Avenue South from Kisham Singh in the amount of $15,000 plus certain closing costs as specified in the agreement and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

7. . Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of December 20, 2002 through January 2, 2003:

a. All vouchers for payment of payroll checks, including Marina payroll, and

b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the January 9, 2003 Council Meeting.

8. Motion is to approve the King County Special Projects Contract-2002 in the amount of $134,325.00 and to authorize the City Manager to sign the contract substantially in the form as submitted.

In response to Councilmember Thomasson's question regarding Item No. 6, City Attorney Marousek said that the Purchase and Sale agreement would be amended to request a deed of dedication rather than a statutory warranty deed.

In regard to Item #2, City Manager Piasecki explained that Council would have opportunity at the next meeting to consider whether to place the removed warrant on a future agenda.

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

AGENDA REVISION

Mayor Wasson announced that Council would consider New Business, Item No. 1 at this time.

NEW BUSINESS

Draft Ordinance No. 02-249 ***[Assigned Ord. No. 1313]*** - 2002 Budget Amendments

Finance Director Henderson informed Council that the purpose of the proposed budget amendments was to formally incorporate Council decisions and staff recommendations during 2002 into the final budget. She noted that the Mount Rainier Pool funding contribution and the consolidation of the Local Improvement Districts (LID) had been included in the proposed amendments.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, and passed unanimously to suspend Council Rule 26(b) to consider Draft Ordinance No. 02-249 on the first reading.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to adopt Draft Ordinance No. 02-249 relating to municipal finance, amending the 2002 budget adopted in Ordinance No. 1292.

Councilmember Thomasson read the title into the record.

City Attorney Marousek clarified that the last word in the title, "establishing", should be deleted from the proposed ordinance.

VOTE ON MOTION: Motion passed unanimously.

At 8:55 p.m., Mayor Wasson declared a ten-minute break.

OLD BUSINESS

Draft Resolution No. 02-247 ***[Assigned Res. No. 946]*** - Adopting Capital Improvement Plan for Years 2003-2008

City Manager Piasecki noted that Council had discussed the Marine View Drive Bridge Project at the previous meeting. He said that he and the Public Works Director had meet with each of the new Councilmembers to review the history of the project. City Manager Piasecki addressed the following concerns identified during the previous discussion:

Interlocal Agreement Signing – City Manager Piasecki noted that the signing of the interlocal agreement had been delayed due to Washington State Department of Transportation's funding difficulties due to recent legislation and SeaTac's preference for all of the Des Moines Creek Basin projects to be handled through one interlocal agreement. He said that staff believed that the interlocal agreement would be signed by the end of 2003.

Public Works Trust Fund Loan - City Manager Piasecki explained the terms of the loan and noted that the city was not required to allow the other entities to use it. He said that Des Moines could either require the other entities to provide their funding up front or another entity could be given the lead role in the project. If not in the lead role, he noted that the City would lose some control of a major project taking place within its boundaries.

Traffic Congestion – City Manager Piasecki explained that construction terms would require two lanes to be open to traffic at all times.

City Manager Piasecki informed Council that David Masters, Manager of the Des Moines Creek Basin Projects, was available for questions. He voiced staff's recommendation that the Marine View Drive Project remain in the CIP.

MOTION was made by Mayor Wasson to continue the item in the CIP but to rescind the Public Works Trust Fund Loan and to return the money to the State.

Mayor Wasson confirmed that his motion was to cancel the loan and to restrict it's use to funds already expended. He said that the motion would require the other entities to provide the money up front.

City Manager Piasecki noted that the City's funding for the project was included in the loan. He suggested that the motion allow Des Moines use of the loan to fund its portion but not allow the other entities to draw from it.

SUBSTITUTE MOTION was made by Mayor Wasson and seconded by Mayor Pro Tem Benjamin to keep the Marine View Drive Project in the CIP, to allow the City to draw a maximum of $350,000 (or the amount already drawn) from the Public Works Trust Fund Loan, and to notify the State that the remainder of the loan was being returned and was now available for other projects.

City Manager Piasecki confirmed that the City's portion was listed as $369,400 in the budget and that the city had already drawn $352,200.

Assistant City Engineer Reinhold explained that the projected interest amount was based upon $2,000,000. He said that the City was already making payments on the first draw of the loan.

City Manager Piasecki recommended that Council increase the use of Surface Water Management CIP funds by $79,257 in order to balance the project's budget.

Mayor Wasson **amended his motion** to also increase the use of Surface Water Management CIP funds by $79,257. The **seconder of the motion agreed**.

VOTE ON MOTION: Motion passed unanimously.

City Manager Piasecki informed Council that the motion to adopt Draft Resolution No. 02-247 was now on the table.

In response to Mayor Pro Tem Benjamin's questioning, City Manager Piasecki explained that $30,000 for the development of an on-site record storage site was not listed as a project in the CIP as staff was not yet satisfied with the estimates received. He confirmed that the description for the City Hall North Wing Facility Upgrade project should be amended to read "To provide funding for the upgrade of the City Hall north wing."

City Manager Piasecki said that the upgrade of the sound system would, hopefully, be included in the AT&T franchise agreement.

Councilmember Sheckler suggested that interested councilmembers arrange to talk with the City Manager to learn the details of the AT&T franchise agreement negotiation process.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Thomasson to move $108,500 from the 2003 Arterial Street Budget for the Marine View Drive Pedestrian Improvement project to the Arterial Street Fund for pavement and to direct the engineers to find ten cities with similar concerns, to identify measures they took to correct them, and to present the options to Council within the next thirty days.

Councilmember Thomasson said that he would prefer to take the project's money for both years as, based upon his experience, unless the City placed stoplights at every intersection, the only solution was to educate pedestrians of their environment. He mentioned the City's liability issues involved. Councilmember Thomasson said that he had heard that a pedestrian does not have the right-of-way until he steps off the curb. He said that he would be interested in a legal opinion regarding this subject at some time.

City Manager Piasecki informed Council that the CIP project reflected the design and installation costs for one pedestrian activated crosswalk light on Marine View Drive. He said that staff could present a list of options to Council.

VOTE ON MOTION: Motion passed unanimously.

In regard to the Marina Depreciation and Improvement Fund, Mayor Pro Tem Benjamin said he did not like the location selected for the dry shed storage. Instead, he suggested that a second story be added to the existing dry shed storage facility. He asked for further evaluation of the project by all parties.

Councilmember Thomasson identified the following two options:

1) Remove the money from the CIP and bring the Marina Master Plan back to council **or**
2) Keep the money in the CIP and bring the Marina Master Plan back to council.

Councilmember Steenrod stressed that safety was a priority of the Marina Master Plan project and identified the electrical upgrade as it's top priority.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Thomasson to move the $25,000 designated for the South Marina Restroom Upgrade project from 2004 to 2003. **VOTE ON MOTION**: Motion passed, 6 – 1, with Councilmember Sheckler opposed.

MOTION was made by Mayor Wasson to make the following revisions to the Playground and Play Equipment Repair and Replacement Project:

- Reduce the allocation to Parkside Park by $10,000
- Reduce the allocation to Zenith Park by $20,000
- Reduce the allocation to Wooton Park, Field House Park, and Cecil Powell (collectively) by $50,000
- Reduce the allocation to Beach Park by $15,000
- Reduce the contingency by $10,000
- Increase the allocation to Midway Park to a total of $170,000.

Councilmember Thomasson suggested that Council address the subject during the Park and Recreation Master Plan process as the equipment details would be identified at that time.

City Manager Piasecki noted that the Master Plan Ad Hoc Committee was scheduled to provide a preliminary report of their efforts to Council on January 9, 2003 and the Master Plan should be ready for review by the end of the first quarter of 2003.

Mayor Wasson **withdrew his motion** and said that he would follow Councilmember Thomasson's suggestion.

VOTE ON MAIN MOTION: Motion passed unanimously.

Draft Ordinance No. 02-246 ***[Assigned Ord. No. 1314]*** - Adopting 2003 Budget

MOTION was made by Councilmember Thomasson and seconded by Councilmember Steenrod to adopt Draft Ordinance No. 02-246 with Appendix A (Option 1 with Marine View Drive Bridge).

Finance Manager Watson noted that $25,000 needed to be added to Fund 404, the Marina Depreciation and Improvement Fund, for the south restroom remodel project.

Councilmember Thomasson confirmed that the increase to Fund 404 was included in his motion.

City Manager Piasecki read the title of the proposed ordinance into the record.

Upon questioning from Councilmember Sheckler, Finance Director Henderson said that $1,000 had been allocated for Council travel.

MOTION was made by Councilmember Sheckler and seconded by Councilmember Thomasson to allocate funds for travel expenses for the four new councilmembers to attend the National League of Cities Conference on March 7-11, 2003.

City Manager Piasecki estimated that travel expenses would be $1,500 per councilmember.

Mayor Pro Tem Benjamin voiced support for the motion as long as attendees provided a report back to Council regarding the various seminars attended.

Councilmember Steenrod recognized the value of the conference but questioned the timing. She suggested that the City work on economic development and then send the councilmembers to the conference next year.

VOTE ON MOTION: Motion passed, 6 – 1, with Councilmember Steenrod opposed.

MOTION was made by Mayor Wasson and seconded by Mayor Pro Tem Benjamin to remove the airport defense funding from the budget.

Councilmember Sheckler informed Council that an injunction had been issued within four hours of the 404 issuance. The preliminary hearing was scheduled for mid-January. Councilmember Sheckler urged Council to not give up the fight yet.

Councilmember Thomasson agreed with Councilmember Sheckler's comments. He said that the Port of Seattle had not stopped fighting and he felt that the City should not stop either as just as much principle was involved on the City's side.

Mayor Pro Tem Benjamin said that the third runway has been a political battle. He said that the ACC had been unable to obtain the support of the governor. Mayor Pro Tem Benjamin stated his belief that the ACC would not win in the courts ultimately.

At 10:25 p.m., Mayor Wasson declared a two-minute break.

At 10:27 p.m., **MOTION** was made by Councilmember Thomasson and seconded by Mayor Pro Tem Benjamin to extend the meeting to 11:00 p.m. **VOTE ON MOTION:** Motion passed, 6 – 1, with Councilmember White opposed.

Mayor Pro Tem Benjamin recommended that Council invest its resources in its own community.

Councilmember White urged Council to continue fighting the third runway. She noted that neighboring cities were still supporting the cause.

Councilmember Steenrod suggested that Council cut a portion of the $172,070 allocated toward the effort and continue through the injunction process.

City Manager Piasecki informed Council that the ACC agreement would be reviewed and amended in January. The agreement had a quarterly billing cycle. He explained that the line item included $150,000 for the ACC and $22,000 for the City Attorney's salary. He suggested that Council allow the ACC chair and attorneys an opportunity to present their position to Council prior to eliminating the funding.

MOTION was made by Councilmember Steenrod and seconded by Councilmember Petersen to reduce the ACC line item to $50,000 and to schedule a meeting with the ACC attorneys.

Councilmember Thomasson said that he would not support the motion as he felt that all the money should remain in the budget. He said that Council could deal with the expenditure issue later.

VOTE ON MOTION: Motion failed, 2 – 5, with Mayor Wasson, Mayor Pro Tem Benjamin and Councilmembers Sheckler, Thomasson, and White opposed.

Mayor Wasson stated his opinion that the ACC has been a poor expenditure of funds as it has not resulted in stopping construction of the third runway. Instead it has run up costs. Mayor Wasson felt that any future funding would be a waste of the taxpayers' money.

Councilmember Sheckler urged Council to not base their decision upon two false premises: 1) the ACC has lost and 2) the majority of the people want to stop funding the fight against the third runway.

In regard to local economic development, Councilmember Thomasson informed Council that a State study indicated that there will be nothing left to develop if the project goes through. He said that the issue would be decided in Court. He felt that if Council chose to withdraw from the process, they have done a disservice to the city.

VOTE ON MOTION: Motion passed, 4 – 3, with Councilmembers Sheckler, Thomasson, and White opposed.

City Manager Piasecki said that the $22,000 for the City Attorney's salary would be moved to the Legal budget.

VOTE ON MAIN MOTION: Motion passed, 4 – 3, with Councilmember Sheckler, Thomasson, and White opposed.

ADJOURNMENT
At 10:46 p.m., **MOTION** was made by Councilmember Sheckler and seconded by Councilmember Petersen to adjourn the meeting. **VOTE ON MOTION**: Motion passed, 6 – 1, with Councilmember Thomasson opposed.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk