



Press Release  
Contact: Gene Achziger, 253-941-3785  
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## Des Moines Legacy Foundation Disputes City Version of State Auditor's Report

Gene Achziger  
President

Patricia V. Clark  
Vice President

Sue Padden  
Secretary

Hallie Marks  
Gary McNeil  
Co-Treasurers

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Lori Clark  
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Alena Rogers  
Brian Snure  
Patrice Thorell

The City's public response to the State Auditor's Report reflects a continued failure by the City to accept responsibility for its own actions and be honest, truthful, and responsible.

Since 1999, the Des Moines Legacy Foundation and the City of Des Moines enjoyed an almost 17-year history of working cooperatively to serve people in need in our community. The Legacy Foundation is, and always has been, an independent 501c3 non-profit organization governed by a board of community volunteers with a mission of supporting our community's youth, seniors, parks, and the arts by providing tools to assist the changing needs of our community.

Unfortunately, current City Manager Michael Matthias deliberately poisoned the relationship between the Foundation and the City by his misguided attempts to control the Legacy Foundation and confiscate its funds.

At no time during the City's multiple investigations, including the State Auditor investigation, has the Legacy Foundation been afforded a meaningful opportunity to respond to any of the City's allegations.

Regardless, the results of those investigations remain the same: All investigations have documented that funds raised by the Legacy Foundation have been used or remain available to use for the purposes intended by the donors. The State Auditor, we note, only investigated the City and its findings are against the City, not the Legacy Foundation.

Instead of working with the Legacy Foundation -- a group of community volunteers -- to identify and address any of the City's issues identified by the Auditor, the City Manager, with the collaboration of the City Council, has chosen to continue its efforts to defame the Legacy Foundation and its board members while ignoring some simple facts:

1) All of the contributions Mr. Matthias claims should have gone to the City were monies donated to fund specific needs. Legacy has either already spent or earmarked those particular funds in a manner consistent with the donors' intent. And when the donors' intent requires payment of funds to the City, we have paid and will pay those

P.O. Box 13582, Des Moines, WA 98198

P.O. Box 13582, Des Moines, WA 98198  
Tel. (206) 870-6527 Fax (206) 870-6587

funds once the proper documentation.  
City submits the

2) Instead of acknowledging that Legacy had correctly used the funds per the donors' intent, Mr. Matthias decided it would be in the taxpayers' best interest to spend more than \$100,000 to attempt to seize direct control of Legacy Foundation assets. He did this to avoid continuing to have to comply with the Legacy Foundation funding process.

3) The investigations and actions of the City Manager have created divisions in this community and have damaged the Legacy Foundation's reputation and those of its volunteer board members but have provided no benefit to the donors or the City's taxpayers

4) The Legacy Foundation remains open and transparent about all of its financial affairs, and we are proud to continue serving our community with or without the support of the current City administration.

The City's press release also included the following misleading statements, which we respond to as follows:

The City claims that *"negotiations with the DMLF for the return of funds that should have originally been received by the City have been unsuccessful."*

The Legacy Foundation disagrees that we are negotiating over funds that *"should have originally been received by the City."* The funds were meant to be received by Legacy and were never to have been received directly by the City.

Legacy has been negotiating to resolve whether the Foundation should continue to hold monies designated for the City's Bench Program. The same is true regarding certain funds designated to fund Arts Commission programs. These negotiations only became necessary when the City chose to deviate from past practice in applying for funds and instead threatened civil and criminal prosecution. As a result of these threats, an Agreement was necessary prior to the release of funds.

The negotiations in drafting an Agreement are delayed due to the City's efforts to misconstrue the facts and its attempt to receive the funds in an unrestricted manner contrary to the donors' wishes. Legacy's donation of these funds requires that the City use the funds consistent with the donors' intent before Legacy will transfer the monies.

The City states a *"third-party investigation identified that 'funds and resources designated for the City .... have been misappropriated to the DMLF'."*

As the City has previously admitted, it does not have any legal basis to support this third-party conclusion, which was made without providing the Legacy Foundation any meaningful input or

ability to respond. The inclusion of this reference in the City's press release only further defames the Legacy Foundation's reputation and its Board members. There was not and never has been a "*misappropriation of funds.*"

Legacy Foundation records document that all funds questioned by the City and all funds identified in the Auditor Report have been used or are earmarked for use consistent with the donors' intent. Unfortunately, this fact is not compatible with the City Manager's narrative.

Instead of working with Legacy to document the proper use of the questioned funds and instead of providing Legacy with any semblance of due process in the investigative process, City Manager Matthias chose instead to waste taxpayer money in his efforts to undermine the value that the Legacy Foundation has provided to this community for more than 20 years.

The City's refusal to be fair, objective, and truthful in reporting on this matter demonstrate that Mr. Matthias's intent in initiating and conducting this investigation was never about the City's claimed intention to "safeguard the public trust." If the City had genuinely cared about the public, it would have worked with the Legacy Foundation cooperatively and productively to address any issues.

The Legacy Foundation remains committed to acting as a conduit for neighbors to help neighbors, particularly in light of situations such as the current pandemic.

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