REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES March 27, 2003

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

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

INVOCATION was led by Father Bryan Hersey of St. Philomena Catholic Church.

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Scott Thomasson, and Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Public Works Director Tim Heydon, Park and Recreation Director Patrice Thorell, Assistant City Engineer Maiya Andrews, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Leslie Perry, 22001 9th Avenue South

As principal of Des Moines Elementary School, Ms. Perry urged Council to support the school replacement levy. Ms. Perry said that the following cuts were anticipated should the levy fail:

- Reading club for 1st through 3rd graders,
- Lunch math program,
- 17 Staff positions from the elementary schools,
- 105 coaching positions from the high schools,
- One hour of education instruction per day, and
- No facility usage for after-school programs and meetings.

Ms. Perry said that the effects of these cuts would be long lasting and devastating.

Brett Fish, 801 SW 168th, Normandy Park

Mr. Fish encouraged Council and the public to attend the Department of Ecology's public hearing regarding the Port of Seattle's new five-year 402 NPDES Permit. The hearing was scheduled for March 31, 2003 at 7:30 p.m. at the Criminal Justice Training Center. A workshop concerning the issues would be conducted at 4:00 p.m. Mr. Fish explained that the Port of Seattle was asking for permission to have their industrial waste be subject to the general permitting process. Mr. Fish stressed the need for end of pipe testing as once the water became mixed with other sources, the source of the pollutants could not be determined. Mr. Fish noted that the Department of Ecology would accept written comments regarding the permit until April 15, 2003.

Gene White, 28742 Redondo Beach Drive

Mr. White encouraged Council and the public to view the Public Disclosure Commission tape to see how local government could be influenced and purchased.

Bob Pond, 23116 30th Avenue South

Mr. Pond voiced concern regarding the reopening of the Kings Arm Motel. He informed Council that in a nine month period, the Police had responded to 240 calls related to the motel. Mr. Pond said that he did not know if the proposed ordinance would solve the problem. On behalf of the eighty signers of a petition previously presented to Council, Mr. Pond asked council for help.

Mayor Steenrod explained that Council's actions were intended to regulate an industry rather than a particular business.

Mysty Beal, 22628 16th Avenue South

Ms. Beal stated that she was seeking Council's endorsement of the school levy. She said that her children currently participate in the City of Des Moines Before and After School Program conducted at their school. It gave her great peace of mind to be able to have her children remain at one place until they were picked up. If the levy failed, Ms. Beal said that the Before and After School Program would no longer be held at the school and program revenues would be affected. In closing, she said that the levy was an indicator of a community's commitment to its schools and children.

Sheila Wicklund, 1035 south 224th

Ms. Wicklund informed Council that she has two children enrolled in Des Moines Elementary School. She voiced concern that failure of the upcoming school levy would result in a lack of outdoor lighting and gym space for sporting events and practices. She asked Council to support the levy.

Valerie Constantino, 1141 Apple Lane

Ms. Constantino urged Council to support the Highline School District levy. She stated that Des Moines had many long-time residents who created connections. Ms. Constantino said Des Moines Elementary was part of the heart of the City. By supporting the levy, Council would be showing support for children. If the levy failed, Ms. Constantino said that fine teachers would be lost to other school districts, class sizes would be increased, the music program would be cut, and after school meetings would be jeopardized.

Gary Ohrt, 1855 South 216th

Mr. Ohrt addressed Council regarding the proposed traffic impact fees. He said that the proposed fees were extremely high and would discourage development. He encouraged Council to study the fees further and compare them to other city's fee schedules.

Marie Rosenberg, 22222 Dock Avenue South, #1-C

Ms. Rosenberg informed Council that she had received a letter from Representatives Shay Schual-Berke and Dave Upthegrove. She quoted the letter stating that the lawsuits against the construction of the third runway have paid off and the permits the Port has obtained for the project cannot be used. Ms. Rosenberg said that the Port of Seattle was now petitioning the legislature to bypass the rules. In regard to the dry stack storage project, Ms. Rosenberg said that she was amazed that the City had purchased bonds without a plan in place. She felt that the placement of the dry stack storage facility was inappropriate as it was within a multi-family area. Ms. Rosenberg listed the various permits that were required for the project and said that she had seen no indication that the City was complying with the permit requirements. Ms. Rosenberg informed Council that she had visited three dry stack storage facilities. She encouraged Council to visit the facility at the north end of Lake Union.

As Ms. Rosenberg's time expired, Mayor Steenrod asked her to submit any further comments in writing to the City Manager.

BOARD & COMMITTEE REPORTS

Highline School District 401 Levy

Councilmember Sheckler voiced his support for the levy issue.

Agenda Revision

Referencing the addition of an invocation to the agenda, Councilmember Sheckler requested that, in the future, Mayor Steenrod contact Councilmembers prior to the meeting to inform them of agenda revisions.

Department of Ecology's Port of Seattle NPDES Permit Public Hearing

Councilmember Thomasson recommended that Council send an official delegate for the City to comment during the NPDES permit hearing. He also encouraged Mayor Steenrod to attend the hearing.

MOTION was made by Councilmember Thomasson, seconded by Mayor Steenrod and passed unanimously to appoint Councilmember Sheckler as a designated speaker on behalf of the City of Des Moines for the NPDES permit hearing.

2003 Waterland Festival

Councilmember Thomasson asked the City Manager to provide a report regarding the current status of the 2003 Waterland Festival discussions during his Administration Report.

Mount Rainier Pool

Mayor Pro Tem Benjamin asked City Manager Piasecki to inform Council of the status of the Mount Rainier Pool during his Administration Report.

Chamber of Commerce

Mayor Pro Tem Benjamin said that the Chamber of Commerce had been attacked by a vocal minority. Cancellation of the 2003 festival would be due to politics rather than for a valid reason. Mayor Pro Tem Benjamin encouraged Council to keep the issues focused on the subject matter rather than on politics.

Pacific Ridge Article

Councilmember Petersen read a paragraph from an article regarding the condition of businesses in the Pacific Ridge area. As a businessman, he said that he has done his best to make his business presentable to others. Councilmember Petersen said that the letter did not fairly represent the good businesses on Pacific Highway South.

Highline School District 401 Levy

Councilmember White voiced her support for the levy issue.

Public Disclosure Commission (PDC) Facts and Findings

Councilmember White read the PDC's stipulation of facts, violations and penalty in the matter of enforcement action against Don Wasson (Attachment A).

When Councilmember White read Page 3, Line 1 of the report, Mayor Pro Tem Benjamin called for a point of order and said that there had been a ruling by the PDC stating that there had been no charges against other Councilmembers.

Mayor Steenrod called for order and said that she would allow Councilmember White to continue reading the PDC's report.

Councilmember White resumed reading the stipulations of facts, violations and penalty. Upon completion of the reading, Councilmember White said that she believed the community deserved to know the findings of fact and the results of the investigation.

Mayor Pro Tem Benjamin said that he believed it was a "cheap shot" and that he believed that the community needed to hear of Councilmember White's connections with the political action committee.

Mayor Steenrod called for order.

Mayor Pro Tem Benjamin and Councilmember Sheckler continued a dialogue.

At 8:20 p.m., when order was not restored, Mayor Steenrod called for a ten-minute break.

PRESIDING OFFICER'S REPORT

Finance and Economic Development Committee

Mayor Steenrod reported that the committee would be identifying their top priorities to staff. A presentation to Council would be scheduled for mid-April.

Municipal Facilities Committee

Mayor Steenrod appointed Councilmember Sheckler to the Municipal Facilities Committee.

Upon Mayor Steenrod's request, Park and Recreation Director Thorell informed Council that the Des Moines Activity Center would be open for full operation on April 1, 2003. She invited everyone to attend the facility's dedication luncheon on April 17, 2003 at 11:30 a.m. Volunteers, donors, and workers would be recognized during the event.

Mayor Steenrod thanked the Masonic Lodge for providing space for senior programs while the Senior Center was unavailable.

Councilmember Thomasson noted that the 10-Year Anniversary for the Big Catch Plaza was approaching. He questioned whether a celebration was planned.

Public Disclosure Commission Recommendations

Upon Mayor Steenrod's request, City Attorney Marousek summarized the following results of the PDC hearing:

- Mayor Steenrod – Charges dismissed.
- Mayor Pro Tem Benjamin and Councilmember Petersen – PDC staff recommended dismissal of the charges but the Commission has put them on hold.

- Mike Foote – One charge involving the 2001 election process was dismissed.
- Joseph Coomer – Charges forwarded to the Attorney General's office.
- Hank Hopkins – Charges forwarded to the Attorney General's office.

Councilmember Sheckler noted that Wescot Corporation had been fined $43,000 for their actions during the 1999 election year. The charges against them concerning the 2001 election have been referred to the Attorney General's office.

ADMINISTRATION REPORTS

2003 Waterland Festival

City Manager Piasecki informed Council that no formal request to conduct the 2003 Waterland Festival has been received yet but informal discussions have begun.

Mount Rainier Pool

City Manager Piasecki announced that Puget Sound Energy had donated $2,000 to the pool fund. Private citizens and groups have donated $33,283 toward the effort. He informed Council that Northwest Center has offered to take title of the pool if the surrounding cities are willing to assist with the funding of it. King County has agreed to transfer title but the Highline School District has voiced concerned regarding the potential impacts to them if Northwest Center is unable to obtain adequate financial backing. The school district has requested that an escrow fund be established for improvements to the pool or for the demolition of the pool. It is anticipated that the County will pass a "placeholder ordinance" contingent upon an acceptable deal being worked out between the parties. Council will review the issue within the next few weeks.

10th Avenue Culvert Bids

City Manager Piasecki reported that several bids lower than the engineer's estimate had been received for the 10th Avenue Culvert project. Staff will conduct a formal review of the bids and submit their recommendation to Council for approval.

Status of the Bill Regarding Port of Seattle Fill

City Manager Piasecki reported that the bill regarding Port of Seattle's fill testing process for the third runway had died in the House Rules Committee. Since the bill passed in the Senate however, it would now move to the Agriculture and Environmental Committee in the House. A hearing for the bill was scheduled for April 1, 2003 at 10:00 a.m. in Hearing Room B.

Dry Stack Storage Request for Qualifications

City Manager Piasecki announced that a request for qualifications for engineering and design of the dry stack storage facility had been advertised. He confirmed that the project would be properly permitted. Current cost estimates were based upon consultant and engineer estimates.

Mayor Steenrod noted that the remodel of the Senior Activity Center had also been properly permitted.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty

1. Motion is to approve the regular meeting minutes of March 6, and the special and regular meeting minutes of March 13, 2003.

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 and payroll transfers included in the above list and further described as follows:

Claim checks #84548 through #84687 & electronic fund transfers in the total amount of $560,441.17

Payroll fund transfers in the total amount of $327,958.04

3. Draft Ordinance No. 03-070 ***[Assigned Ord. No. 1319]*** - Title: An Ordinance of the City of Des Moines, Washington, relating to boards and committees; establishing a lodging tax advisory committee; providing for appointment, membership, and scope of duties of the committee; and codifying this ordinance as a new chapter 4.52 DMMC.

MOTION is to approve Draft Ordinance No. 03-070 on 2nd reading.

4. Draft Ordinance No. 01-192 ***[Assigned Ord. No. 1320]*** - Title: An Ordinance of the City of Des Moines, Washington, providing for the licensing of overnight lodgings in order to ensure the safety of citizens, providing for severability, establishing an effective date, and adding a new chapter to Title 5 of the Des Moines Municipal Code.

MOTION is to approve Draft Ordinance No. 01-192 on 2nd reading.

5. Draft Resolution No. 02-237 ***[Assigned Res. No. 949]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, amending Rule 12 of the Des Moines City Council Rules of procedure for City Council meetings to add a specific identification action item section to the City Council minutes, and amending Rule 12 of section 1 of Resolution No. 525.

MOTION is to approve Draft Resolution No. 02-237.

6. Motion is to approve the surplus and disposal of the house, structures, and personal property located at 2458 South 220th Street in Des Moines which were purchased as part of the Pacific Highway South Redevelopment Project.

~~7. Motion is to confirm the City Manager's appointment of the firm of Driscoll & Hunter as the Hearing Examiner for the City of Des Moines for a one year term beginning March 1, 2003, and to ratify and confirm any acts consistent with the authority granted by this appointment which occurred prior to the date of this confirmation.~~

~~8. Motion is to approve the lease agreement with Classic Yachts, Inc., with the modifications as shown and authorize the City Manager to sign the lease substantially in the form as submitted.~~

9. Motion is to authorize the City Manager to sign the 2003 LHWMP contract No. D32773D between the City and the Seattle-King County Department of Public Health.

10. 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 $39,000 and shall be in a form as approved by the City Attorney.

~~11. Motion is to enter into the supplemental agreement for professional engineering design services and for construction management for the Pacific Highway South Project with CH2M Hill for an additional $1,922,249, plus authorize the City Manager or his designee to approve change orders up to an amount of 10%, and further to authorize the City Manager to sign the contract substantially in the form as submitted.~~

12. Motion is to award the contract for professional engineering design services for the 2003 Arterial Maintenance Program to KPG in the amount of $36,872, and authorize the City Manager or his designee to approve change orders up to an amount of 10%, and further to authorize the City Manager to sign said contract, substantially in the form as submitted.

~~13. Motion is to confirm Mayor Steenrod's appointment to the Planning Agency of Donald Riecks to a vacant four year term, to expire on December 31, 2006.~~

Councilmember Sheckler removed Item No. 13. In regard to Item No. 1, he asked that the following wording be added to Page 10 of the regular meeting minutes of March 13, 2003:

> "After clarification of the intent of the motion, Councilmember Sheckler stated that he would like to change his vote to "Yes"."

Item Nos. 7 and 8 were removed by Councilmember Thomasson.

Mayor Steenrod removed Item No. 11. She recused herself from voting on Item No. 6.

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

REMOVED CONSENT CALENDAR ITEMS

Confirmation of Hearing Examiner Appointment

Councilmember Thomasson questioned how the issue of "pro tem" would be handled as the proposed agreement for hearing examiner services was with a firm rather than with an individual.

City Attorney Marousek explained that the firm would provide available staff to perform the duties. In order to address Councilmember Thomasson's concern, she recommended that Council appoint Mr. Hunter as the primary hearing examiner and Mr. Driscoll and Ms. Drevecky and Dykema as deputy hearing examiners.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to confirm the City Manager's appointment of Theodore P. Hunter as hearing examiner and James Driscoll, LeAnna Drevecky and Ms. Dykema as deputy hearing examiners.

Modification of Lease Agreement with Classic Yachts

Since the City was in the process of implementing the Marina Master Plan, Councilmember Thomasson asked that staff negotiate contract language that would not prevent them from reconfiguring the Marina.

Mayor Steenrod agreed that the flexibility of the City should be protected.

Harbormaster Dusenbury referred council to Section 3 of the proposed agreement. He noted that no major work was planned for Docks L and M.

Mayor Steenrod directed staff to revise the agreement and bring it back to Council.

Contract for Engineering Services on the Pacific Highway South Project

In response to Mayor Steenrod's question regarding the requested contingency amount, Assistant City Engineer Andrews explained that the agreement was for construction management of the project. She said the City needed to be able to react quickly to changing conditions once construction began. Council had approved $1,299,500 with a ten percent contingency for the design portion of the project on October 8, 1999. The first supplement to the contract was approved last year.

Councilmember Thomasson explained that, in keeping with State law, the proposed agreement was basically an hourly contract for professional engineering services based on a specific number of estimated hours. Councilmember Thomasson stated that he did not like the ballooning of the contingency funds for the project. He said that some design issues could be covered under the prior contracts.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to enter into the supplemental agreement for professional engineering design services and for construction management for the Pacific Highway South Project with CH2M Hill for an additional $1,922,249, bringing the total to $3,547,178, plus authorize the City Manager or his designee to approve change orders up to a maximum amount of $150,000, and further to authorize the City Manager to sign said contract, substantially in the form as submitted. The previous authorization for contingency funds would be superceded.

Upon questioning, Assistant City Engineer Andrews noted that approximately $5,000,000 of the $18,000,000 project had been spent. She noted that the funding for the project included a $5,000,000 Public Works Trust Fund loan.

Public Works Director Heydon said that Council had previously approved the loan. He did not anticipate needing the full $5,000,000 but staff would not know for sure until the project was in progress. Staff hoped to advertise for construction bids within a few weeks.

City Manager Piasecki anticipated the bid being presented to Council for approval by early June.

Regarding measures to minimize business impacts during construction, Assistant City Engineer Andrews explained that driveways will be kept clear, "business open" signs will be posted, significant construction will be done during off-hours, weekly meetings will include the submittal of the next two weeks' construction schedule, and construction schedules will be posted on the City website.

Mayor Steenrod and Councilmember Petersen recused themselves from the subject.

VOTE ON MOTION: Motion passed unanimously.

At 9:34 p.m., Mayor Steenrod declared a six minute break.

Mayor's Appointment to Vacancy on Des Moines Planning Agency

Councilmember Sheckler reviewed Mr. Riecks' responses listed on his application for the Planning Agency. He asked Mr. Riecks to explain why he had applied for the position and what his qualifications were.

Mr. Riecks informed Council that Mayor Steenrod had asked him to apply for the position. He stated that he has been active in the North Hill Community Club for several years. Mr. Riecks said that he had provided a listing of his qualifications to Council.

Mayor Steenrod said that she did not know the three people who were eligible for re-appointment to the Planning Agency and that she was uncomfortable appointing people she did not know. She also noted that Council was currently considering changing the duties of the agency. Mayor Steenrod said that Mr. Riecks worked well with others, was studious, provided thoughtful, measured responses, and had some previous planning experience. Since the list of Mr. Rieck's qualifications had just been distributed to Council, she suggested that the issue be continued to the next meeting.

City Attorney Marousek informed Council that the Zenith Market Project has been waiting for a hearing before the Planning Agency since July 2002.

As the previous members of the Planning Agency had already completed extensive training, Councilmember Thomasson suggested that they plus one new member be appointed to the Agency.

Councilmember Sheckler voiced agreement with Councilmember Thomasson's recommendation.

Community Development Director Kilgore informed Council that Sven Kalve, Kristi Drebick Brown, and John Colvard were eligible for reappointment.

City Manager Piasecki confirmed that the four vacant terms would expire December 31, 2006.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to confirm Mayor Steenrod's appointment to the Planning Agency of Donald Riecks, Sven Kalve, Kristi Drebrick Brown, and John Colvard to the four vacant four year terms to expire December 31, 2006.

NEW BUSINESS

Vacant Council Position - Appointment Process

Mayor Steenrod distributed a draft application form to Council.

Council discussed process and schedule recommendations.

At 10:27 p.m., **MOTION** was made by Councilmember Sheckler, seconded by Councilmember Thomasson, and passed unanimously to extend the meeting by ten minutes.

At 10:39 p.m., **MOTION** was made by Councilmember Sheckler, seconded by Mayor Steenrod, and passed unanimously to extend the meeting by five minutes.

Mayor Steenrod summarized the following process discussed by Council:

Advertisement of Vacancy – Publish twice.

- Seattle Times
- Tacoma News Tribune
- King County Journal
- Des Moines News
- Web Site

- Local Government Access Channel (Channel 21)
- Official Posting Locations

Required Application Paperwork
- Application form (approved by Council as submitted)
- Resume outlining work experience and community service
- PDC form

Application Submittal Deadline – April 25, 2003, 2:00 p.m.

Submittal Location
- Delivered to 21630 11th Avenue South, Suite D **or**
- Mailed to the attention of the City Clerk at 21630 11th Avenue South, Suite A, Des Moines, WA 98198.

Interviews – May 1, 2003, 7:30 p.m.

MOTION was made by Councilmember White, seconded by Mayor Steenrod and passed unanimously that the process as summarized by the Mayor be implemented.

Draft Resolution No. 03-097 ***[Assigned Res. No. 950]*** Highline School District 401 Education Programs and Operations Levy

MOTION was by Councilmember Thomasson, seconded by Mayor Pro Tem Benjamin and passed unanimously to adopt Draft Resolution No. 03-097 supporting the Highline School District's Educational and Operation Levy, which will be on an April 22, 2003 ballot to the voters.

NEXT MEETING DATE - Study Session April 3, 2003

ADJOURNMENT

At 10:43 p.m., **MOTION** was made by Councilmember Thomasson, seconded by Councilmember Sheckler, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEMS FROM 3/27/03 COUNCIL MEETING

Consent Calendar
- Revise the minutes of March 13, 2003.

Modification of Lease Agreement with Classic Yachts

- Revise the agreement to insure City flexibility throughout the Marina Master Plan process.

Vacant Council Position - Appointment Process

- Advertise vacant City Council position.