PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES June 5, 2003

At 7:30 p.m. Assistant City Manager Loch announced that the executive session would last approximately another 5 minutes.

The regular study session of the Des Moines City Council was called to order at 7:45 p.m. by Mayor Steenrod in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF AGLLIANCE to the Flag was led by Councilmember Thomasson.

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, Assistant City Engineer Maiya Andrews and City Clerk Denis Staab.

DISCUSSION ITEMS

Contract for Police Chief Recruitment

City Manager Piasecki announced that effective June 15, 2003, Police Chief Donald Obermiller will be retiring after serving 34 years with the City of Des Moines. He invited everyone to an open house to honor Chief Obermiller on June 13th at 1 p.m. at the Police Service Center, and wish him well.

City Manager Piasecki noted that the Police Chief is the most visible and well-known department head, if not the most visible and well-know employee of the City. The Chief oversees the largest portion of the City's budget (over $5 million) and sets the tone and attitude of the Police force. He felt that the City's residents expect that the City will look for and choose the best person, the best fit, for the community. Therefore, after much thought, he has decided that an external process, rather than in house, would be the best method to use for recruitment for the position. He recommended Waldron and Company be awarded a contract. He stated that they are familiar with the City as they have worked with the City in the past and have conducted several chief of police searches in the last few years. He further noted that in-house staff does not have the experience of recruiting for this position.

Upon questioning by Council, City Manager Piasecki advised that using this firm would not preclude appropriate City staff from applying for the position.

MOTION was made by Councilmember Sheckler, seconded by Councilmember White, to approve the contract with Waldron and Company to conduct the recruitment for the position of Chief of Police substantially in the form as submitted. Motion passed unanimously.

Waterland Festival Beer Garden

Mayor Steenrod stated that due to the number of items on the Agenda and the need to interview Council candidates, she would suggest moving this discussion item to the June 12th Council agenda.

MOTION was made by Mayor Steenrod, seconded by Councilmember Petersen, to move this agenda item to the Council Agenda of June 12, 2003.

Mayor Steenrod and Councilmember White acknowledged that they will be absent from the June 12th Council meeting.

VOTE ON MOTION: Motion failed 3 to 3 with Councilmembers Sheckler, Thomasson and White voting NO.

Mayor Steenrod advised that Council will discuss this item later this evening.

Reconsideration: Draft Ordinance No. 03-075 Right-of-way & Park Use Permits

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to place Draft Ordinance No. 03-075 on the September 11, 2003 agenda. Motion passed unanimously.

Executive Session

At 7:58 p.m. at the request of Mayor Steenrod, City Attorney Marousek announced that the Council will convene into 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.

At 8:12 p.m. Assistant City Manager Loch announced that the Council will continue in executive session for approximately 10 minutes.

At 8:27 p.m. Assistant City Manager Loch announced that the Council will continue in executive session for approximately 5 minutes.

No formal action was taken.

The executive session concluded at 8:31 p.m.

At 8:31 p.m. City Clerk Staab announced that the Council will reconvene in to open session in approximately 5 minutes.

8:39 p.m. Council reconvened to open session.

Agenda Revision

Mayor Steenrod announced that interviews of Council candidates would be held now, and other Agenda items will be addressed later in the meeting.

Interview of Finalists for Vacant, Unexpired Council Position #2 & Potential Section of Candidate to Fill the Position

At the request of Mayor Steenrod, City Clerk Staab read the following letter into the record from two King County Councilmembers:

"Dear Honorable Councilmembers:

We are writing you today to encourage the appointment of a city councilmember to the vacant seat on your council. We understand that the 90-day deadline is fast approaching (June 12th) and that you may be deadlocked on making the appointment.

We believe in local control. You, as the local city officials, are the best ones to choose your temporary colleague and are in the best position to understand the complex dynamic within your city government.

If a majority of you are unable to agree upon a temporary appointment to your council, under state law this matter falls to the King County Council and you permanently lose the power to make any appointment to the vacant seat. In the event this should happen, we will conscientiously advocate on behalf of the citizens in Des Moines and recommend a qualified candidate to the full King County Council within 180 days from the date of vacancy.

Please understand that this recommendation may or may not be to the liking of a majority on your council, and our recommendation may or may not be drawn from the pool of applicants who applied for the position. This is another reason why it is in the City Council's best interest to make this appointment.

As elected officials, it is incumbent upon us to serve those who have placed us in office. Please take the necessary time which is needed to find a candidate acceptable to the Des Moines community so as not to abdicate your responsibility to the King County Council. We will support your decision and make every effort to reach out to your new member.

It is an honor and a privilege for us to serve you. Thank you for taking the time to consider our request.

Sincerely,

Councilmember Pete von Reichbauer
Vice Chair, King County Council, District 7

Councilmember Julia Patterson
King County Council, District 13"

City Manager Piasecki read the following memorandum from Jon Scholes, Legislative Aide to King County Councilmember Julia Patterson to City Attorney Marousek, into the record regarding clarification of the Council vacancy deadline:

"This memo services to clarify King County Councilmember Julia Patterson and Pete von Reichbauer's understanding of the deadline for the Des Moines City Council to fill its vacant council position. The deadline is midnight on June 11, 2003.

The letter sent from Councilmembers Patterson and von Reichbauer to Des Moines City Councilmembers on May 30, 2003 may have been unclear."

Mayor Steenrod advised that she had received a telephone call from Julia Patterson's office on May 27^{th} asking for the name of the candidate from "our side", so that that individual could be interviewed by Ms. Patterson in preparation for the selection process for the King County Council. Mayor Steenrod expressed surprise by the telephone call since Council is in the process of interviewing finalists, and that a member of the King County Council thinks Des Moines Council is deadlocked almost 2 weeks before tonight's meeting. The purpose of further interviewing is to allow Des Moines Councilmembers to make the most informed decision possible in choosing an appropriate candidate. She noted that should Des Moines Councilmembers not be able to make a decision, King County Council will defer to Julia Patterson's choice to fill the vacant position as Des Moines is her District, and she is the ranking Democrat. She further noted that City Manager Piasecki has advised her that the main issue in selecting a candidate will hinge on their position on fighting the 3^{rd} runway, which would lead to a deadlock and no individual being appointed. She expressed concern that the 3^{rd} runway is not the only issue that faces the Council or Des Moines. She felt it is up to Councilmembers to arrive at a consensus of the best Councilmember to fill the vacant Council position.

Special Meeting

Mayor Steenrod announced, that in case the Council cannot make a decision this evening, that a special meeting will be held 24 hours from now (Friday, June 6, 2003, at 9:15 p.m.) and Councilmembers should consider this official notification of the special meeting. She further announced that if no decision is made by tomorrow night, she intends to hold special meetings each evening until Midnight, June 11^{th} in order to reach a consensus on a individual to fill the vacant position.

Individuals not currently being interviewed, were asked to wait in the City Hall Conference Room until being called. The following individuals were interviewed by City Councilmembers:

LEW ANDERSON
ROB BACK
EDWINA MARTIN-ARNOLD

9:53 p.m. Mayor Steenrod called for a 10 minute break.

Agenda Revision

Mayor Steenrod announced that candidate interviews will continue after the next agenda item.

Pacific Highway South Project - Construction Contract

Mayor Steenrod and Councilmember Petersen announced that they will not be participating in any discussion or voting on this issue.

Assistant City Engineer Andrews noted that the purpose of this agenda item is to award the contract for the Pacific Highway South Project which will include a multitude of improvements. She pointed out a model boat in the Chambers that will be used at the gateway sites and will be mounted on poles so that they will actually spin in the wind. She advised that the project is being funded through many different sources including federal, state, metro and Des Moines. She introduced Matt Collins from CH2M Hill, the City's Design Consultant.

Mr. Collins announced that the apparent low bidder is SCI Infrastructure, LLC and he noted that there is an irregularity in their bid proposal that does not effect the bid amount. He advised that the City is permitted to waive bidding irregularities. The specific irregularity involves a dollar amount to be applied towards the Disadvantaged Business Enterprise goal. He stated that SCI has reconfirmed their commitment to the total DB as shown in the bid document, meeting the contract requirement.

City Attorney Marousek advised that there was a bid protest submitted by the second low bidder and Council needs to respond to that protest by either waiving the bid irregularity or, not waiving it and awarding the bid to the second low bidder. It is her opinion, that the Council has the authority to waive the bid irregularity because it was a transcription error of a mathematical line item. She advised that it is what is called an insubstantial variance and it does not confer a substantial competitive advantage on the apparent low bidder because it is enforceable and it is in compliance with the required total percentage for Disadvantage Business Enterprises, and further, it does not change the total bid.

MOTION was made by Councilmember White, seconded by Councilmember Thomasson, to waive any bid irregularity in the transcription of the mathematical line items in the Disadvantaged Business Enterprise portion of the bid submitted by SCI Infrastructure LLC for the pacific Highway South Improvement Project as an insubstantial variance, which does not confer a substantial competitive advantage on SCI Infrastructure LLC because the mathematical total committed to in the SCI Infrastructure LLC bid is enforceable and is in compliance with required total bid percentage for Disadvantaged Business Enterprise, and because any bid irregularity in the transcription of the mathematical line items in the Disadvantaged Business Enterprise portion of the bid does not change the bid total. Motion passed unanimously, 4 to 0.

MOTION was made by Councilmember White, seconded by Councilmember Thomasson, to award the construction contract for the Pacific Highway South Improvement Project to SCI Infrastructure, LLC, in the amount of $10,986,022.90 and to authorize the City Manger to sign said contract substantially in the form as submitted, and to authorize the City Manager or his designee to approve change orders up to an amount of 10% of the contract amount. Motion passed unanimously, 4 to 0.

Continuation of Interviews of Finalists for Vacant, Unexpired Council Position #2 & Potential Section of Candidate to Fill the Position

SCOTT McCARTY

10:27 p.m. **MOTION** was made and seconded to extend the Council meeting to 11 p.m. Motion passed 5 to 1 with Mayor Pro Tem Benjamin voting NO.

Notice of Cancellation of Special Meeting and Calling for Special Meetings

Mayor Steenrod officially announced that the special meeting set for 9:15 p.m. on Friday, June 6, 2003 is cancelled.

Mayor Steenrod announced that she is calling for special meetings to be held on Monday June 9th, Tuesday June 10th and Wednesday June 11th all beginning at 7:30 p.m., for the purpose of continuing with the process of selection of an individual to fill the vacant position on the City Council.

Continuation of Interviews of Finalists for Vacant, Unexpired Council Position #2 & Potential Section of Candidate to Fill the Position

BRENDA SIEGRIST

10:52 p.m. **MOTION** was made by Councilmember Sheckler, seconded by Councilmember Thomasson and passed to extend the Council meeting until 11:10 p.m.

DAN SHERMAN

ADJOURNMENT

11:10 p.m. **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk