PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES June 12, 2003

The regular meeting of the Des Moines City Council was called to order at 7:35 p.m. by Mayor Pro Tem Benjamin in the City Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Dan Sherman and Scott Thomasson. Absent: Mayor Maggie Steenrod and Councilmember Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Public Works Director Tim Heydon, Assistant City Engineer Maiya Andrews, Finance Director Paula Henderson, Parks and Recreation Director Patrice Thorell and City Clerk Denis Staab.

Mayor Pro Tem Benjamin announced that Mayor Steenrod will arrive late. [ED NOTE: Mayor Steenrod arrived one minute after adjournment.]

MOTION was made by Councilmember Sherman, seconded by Councilmember Thomasson and passed unanimously, to excuse Councilmember White.

COMMENTS FROM THE PUBLIC

Joe Feuerstein, 702 South 281st Street

Mr. Feuerstein complimented Council for the long hours of deliberation, and their unanimous wise choice of appointing Dan Sherman to the vacant position on the City Council.

Mr. Feuerstein encouraged Council to rejoin the Airport Communities Coalition in the fight against the 3rd runway. He felt that there is a good chance ACC will prevail and even if the worse happens, if Des Moines is not a major player in the fight, it will lose out on any mitigation negotiations.

Dave Robinson, Theresa Anderson & Cindy Robinson, Representing Des Moines Jr. Football and Cheer Leading

Mr. Robinson informed Council that the Jr. Football and Cheer Leading youth program has been in Des Moines since 1952. He announced that they learned April 1st that the group can no longer use the Mt. Rainier High School field and their purpose tonight is to appeal to the City for help in finding a place for the kids to play.

City Manager Piasecki noted that the City has made arrangements for the use of the Zenith Park for 2 weeks in August. He stated that the Parks & Recreation Department is checking on other possible options. He further advised that he has been in contact with Highline Public School officials and is optimistic that arrangements can be made to facilitate the continuation of the Program.

Ms. Anderson stated that the group will be meeting this coming Monday with the Highline School District to see what other fields may be available.

Pat Murray, 29641 61st Avenue South, Des Moines Chamber of Commerce President

Mr. Murray introduced himself as the new President of the Des Moines Chamber of Commerce. He acknowledged the past rough relationship between the City, the City Council and the Chamber. His stated that his goal is to mend the relationships to work together productively and in a positive manner, founded on trust and integrity. He assured Council that the Chamber intends on taking care of all past and any future obligations. He announced a new committee the board has established, Government Affairs Committee. This Committee will provide an opportunity for City officials, Councilmembers and Chamber Members to meet on a regular basis to discuss community issues needing solutions. He advised that the Chamber's mission is to enhance a positive economic climate for business and to promote the Waterland community as a quality place to live, work and play. He extended an invitation to Councilmembers to attend the Chamber's monthly luncheons. In conclusion, Mr. Murray requested Council to allow a beer gardens at this years Waterland Festival.

ADMINISTRATION REPORTS

I-695 Backfill Funding

City Manager Piasecki announced that the Legislature passed the budget last week, and in that budget they did include a small amount of I-695 backfill money. He noted that Des Moines will receive $137,500 for 2004, and $91,700 for 2005.

Sales Tax Streamling Bill

City Manager Piasecki corrected a comment made last week regarding this Bill. He noted that it was stated that if, for example, someone bought a washer at South Center and had it delivered to their home in Des Moines that the sales tax would go to Des Moines, not Tukwila, but if you took it home yourself, the sales tax stayed in Tukwila. Mr. Piasecki advised that this portion of the bill, called the "sourcing rule" did not pass but that a study of the issue was put in its place in the bill.

American Heart Association - Heart Walk on Sept. 20th

Casey Mizzoni, of the American Heart Association, informed Council that the American Heart Walk will be held September 20th. She advised that by this time next year over 4,000 families will have lost someone to heart disease or stroke. She noted that heart disease is the number one killer in the United States, claiming more 953,000 lives annually. She stated that the two primary functions of the American Heart Association are research and education, and their mission is to reduce heart disease and stroke by 25% by the year 2010. She challenged the City to enter a team in the Heart Walk to help raise funds for the American Heart Association.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the regular meeting minutes of May 8, 2003 and the special and regular meeting minutes of May 22, 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 #85442 through #85768 & electronic fund transfers in the total amount of $1,088,742.77
Payroll fund transfers in the total amount of $345,503.71

3. Motion is to approve the Contract for Des Moines Field House Site Improvements Project construction services with R. L. Alia Company in the amount of $63,000.00 plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted, and to authorize the City Manager to approve change orders in amounts not to exceed 10% in total.
4. Motion is to approve the Interlocal Agreement with the City of Tukwila for video jail services and to authorize the City Manager to sign the agreement substantially in the form as submitted.
5. Motion is to approve the Addendum to the Interlocal Agreement for temporary custody of the inmates before transfer to Yakima County Jail and to authorize the City Manager to sign the agreement substantially in the form as submitted.
6. Motion is to approve the Contract for Public Defender Services and to authorize the City Manager to sign the contract substantially in the form as submitted.
7. Motion is to approve the expenditure of $3,750 to be used as the City of Des Moines' match to the Economic Development Administration's Trade promotion grant and authorize the City Manager to transfer these funds to King County based on the approved scope of work from EDA and the King County's agreement to Attachment 1.
8. Motion is to approve the Consent Judgment & Decree of Appropriation in King County Superior Court Cause No. 02-2-19397-8 KNT and to authorize the City Attorney to approve said Judgment and Decree and present it to the court, for approval and entry substantially in the form as submitted.
9. Motion is to approve the Contract with Central Construction Fence and Deck for fencing in the amount of up to $36,398.20 plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted.

Councilmember Petersen noted that he is recusing himself from participation on Consent Item #8.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sherman and passed unanimously, to approve the Consent Calendar as read.

PUBLIC HEARING

Draft Resolution No. 03-154 ***[ASSIGNED RESOLUTION NO. 954]*** 6 Year Transportation Plan 2004-2009

Public Works Director Heydon informed Council that all cities and counties in Washington are required to submit a Six-Year Transportation Improvement Plan (TIP) to the State each year. He noted that the purpose of the Plan is to provide a planning tool for the individual agencies and to provide a consistent method of coordinating inter-agency needs and funding requirements. He proceeded to review the top 12 priorities, and noted that number 17 could be moved up should funding become available, as follows:

1. Arterial Maintenance Program
2. Pacific Highway South Redevelopment Project
3. Marine View Drive Bridge Project
4. 16th Avenue South Improvement - Phase I
5. Kent-Des Moines Road Improvement - Phase I
6. South 216th Street Sidewalk Project
7. Neighborhood Traffic Control Program

8. 216th & 24th Intersection Improvements
9. North Twin Bridge Project - Seismic Retrofit
10. South 216th Street Pedestrian Signal at Wesley Gardens
11. Des Moines Memorial Drive Improvement
12. Saltwater Bridge Repairs
17. Block Grant Projects (Pedestrian Improvements in Pacific Ridge)

Mayor Pro Tem Benjamin declared the Public Hearing open and called for speakers three times. As there were no public speakers, he declared the Public hearing closed.

Upon questioning by Council, Public Works Heydon advised that a Supreme Court case is still pending regarding the Motor Vehicle Excise Taxes, but in the meantime they are being collected and held in a special fund.

City Manager Piasecki advised Council that, hopefully, we will have a decision from the Court by budget time whether the City will receive any of these tax funds.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson and passed unanimously, to adopt Draft Resolution No. 03-154 which covers the Six-Year Transportation Improvement Program for the City of Des Moines.

8:12 P.M. Mayor Pro Tem Benjamin called for a 5 minute break.

Agenda Revision

Mayor Pro Tem Benjamin announced that he will be taking agenda items out of order.

NEW BUSINESS

Draft Resolution No. 03-175 ***[ASSIGNED RESOLUTION NO. 956]*** Terminating the Pacific Highway South Construction Contract Award to SCI Infrastructure, LLC

City Manager Piasecki reminded Council that last week a contract was awarded to SCI Construction Co. for the Pacific Highway South Project. At that time it was noted that there was what staff considered to be a small irregularity in a small portion of the contractor's bid document dealing with the Disadvantage Businesses Enterprises form. There is a requirement for a certain percentage of their bid made up of "DBEs" because a large portion of the funding is Federal funds. Council did waive the irregularity and awarded the Contract, and the Contract was executed. He advised that shortly after that, the City heard from the Washington State Department of Transportation and the Federal Highways Administration that Federal Highways may have a problem with the issue of how the DBE information was filled out, serious enough that they were considering pulling their money out of the project. He stated that this would stop the project as the City simply could not afford to do it. He advised that yesterday he, the City Attorney, the Public Works Director and the Transportation Engineer went to Olympia and spent time with individuals from WSDOT, Federal Highway Administration and the Attorney General's office and laid out why the City felt the actions Council took were appropriate. However, the Federal Highway Commission has informed staff, late this afternoon, that they have decided that they will not participate in the Project if we go forward with the Contract as it is currently bid and awarded. In order to protect our Federal money and to make sure we can get this project started this year, staff recommends that Council adopt Draft Resolution No. 03-175, which terminates the Contract with SCI. He noted that staff will immediately put out a 2nd bid with a two week window to get bids back. Hopefully, staff will bring back a new contract within 3 to 4 weeks.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Petersen, to adopt Draft Resolution No. 03-175, terminating the contract with SCI Infrastructure, LLC, for construction of the Pacific Highway South Improvement Project, for public convenience. Motion passed unanimously.

Redondo Boat Ramp - Rejection of Construction Bids

Assistant City Manager Loch stated that the bids for the Redondo Boat Launch were opened on April 30, 2003. The bids included a base bid and two additive items. He noted that bid results are contained in Council's packet and that even the low bidder, Ohno Construction, contained values higher than were expected. He advised that staff is recommending that all bids be rejected. He stated that the goal will be to re-bid immediately so as to still be in time for this years construction target. He further advised that the new bid documents will call for a reduced scope of the base bid with an increase in the number of additives. Staff expects to have the contract ready for Council to award in July.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously, to reject all bids for construction of the improvements at the Redondo Boat Launch.

Draft Ordinance No. 03-160 ***[ASSIGNED ORDINANCE NO. 1323]*** Interim Financing for Pacific Highway South Redevelopment Project - 1st Reading

Finance Director Henderson explained that the draft ordinance will provide for a $3,700,000 non-revolving Line of Credit with Keybank for 12 months, to provide interim financing for the City's portion of the Pacific Highway South Redevelopment Project. She advised that this will provide a cash flow to pay contracts in a timely manner until we receive reimbursement form our grantor agencies.

Upon questioning by Council, Finance Director Henderson advised that the interest rate will be 2.14% and the term will be for 12 months from the date of closing. She noted that draws will occur only as needed to fund cash shortfalls and there is no fee or penalty for prepayment. She stated the term of the loan is only for 12 months because the Public Works Trust Funds money, authorized earlier by Council, should be available in February.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to suspend Council Rule 16(b) in order to enact the draft ordinance on 1st reading. Motion passed 4 to 1 with Mayor Pro Tem Benjamin voting NO.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously, to adopt Draft Ordinance No. 03-160 providing for a $3,7000,000 non-revolving Line of Credit with Key bank to provide interim financing for the City's portion of the Pacific highway South Redevelopment Project.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sherman and passed unanimously, to amend the Draft Ordinance No. 03-160, Section 2, second paragraph to strike "on ___, 2004" and insert "within 12 months of date of issuance."

Steven J. Underwood Memorial Park Phase 1-B Ballfield Construction - Award of Contract

Parks and Recreation Director Thorell stated that this contract is for ballfield construction work to include: site earthwork, erosion control, concrete work, installation of drainage, irrigation and electrical work, to complete a third softball field adjacent to the first two fields. She noted the additional project construction such as fencing and installation of field turf will be provided by other sources. She stated that the intent is to begin construction of the field immediately so that the field will be playable for the 2004 baseball and softball seasons. She advised that the field will be used as a tournament site for youth baseball and softball which will provide economic benefit by bringing people into the community. She concluded by noting that Administration recommends approval of the contract with Grant's Landscape Services in the amount of $129,411.74, plus tax.

Upon questioning by Council, City Manager Piasecki stated that although much of the site has been excavated, it is necessary to keep the contingency at 10%. This work will be done in the southwest corner of the site where there may be unknowns in the soil.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson, to approve the Contract for Steven J. Underwood memorial Park Phase I-B construction services with Grant's landscape Services, in the amount of $129,411.74, plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted. And to authorize the City Manager to approve change orders in amounts not to exceed 10% of the Contract amount contingency.

Councilmember Sherman expressed concern regarding the retention ponds and the potential threat from the West Nile virus.

City Manager Piasecki advised that typically this time of the year is the dry season and there is no standing water, but assured Council that the ponds will be monitored and appropriate action will be taken if necessary.

VOTE ON MOTION: Motion passed unanimously.

Draft Resolution No. 03-167 ***[ASSIGNED RESOLUTION NO. 955]*** Recognition of Retiring Police Chief Donald Obermiller

City Manager Piasecki read the draft resolution in its entirety, recognizing Police Chief Donald R. Obermiller for 34 years of outstanding service to the Des Moines Police Department and the citizens of Des Moines

City Manager Piasecki presented Chief Obermiller with a framed Des Moines employees motto of "Sails With Pride", noting that the Chief is the model of that motto.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson and passed unanimously, to approve Draft Resolution No. 03-167.

Chief Obermiller received a standing ovation from the Council, staff and audience members.

9:12 p.m. Mayor Pro Tem Benjamin called for a 10 minute break.

Waterland Festival Beer Garden

Councilmember Sheckler announced that he has given the idea of allowing a beer garden a lot of thought. He stated that he is encouraged with the changes that have occurred within the Chamber of Commerce and is impressed with the new President, Pat Murray and the idea of a Government Affairs Committee. However, he is unwilling to compromise on the request for the Chamber to share financial information regarding the Festival and the beer garden in particular. He strongly encouraged the Chamber to explore other methods for fund raising instead of a beer garden for the future. He noted that other organizations pay the City to offset City costs such as the Haunted House.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson, to direct staff to prepare a draft resolution to allow the beer garden at the Waterland Festival for 2003. Language shall be included to require that the Chamber of Commerce give one-third of the net proceeds from the beer garden to the City to off-set City costs. Furthermore, language should also be included to encourage the Chamber to seek activities other than a beer garden to raise funds.

Councilmember Thomasson noted he has other issues besides just the cost for City services in regards to the beer garden. He stated that a carnival and a beer garden, while they may be enjoyed by Des Moines citizens, attract others not as desirable to the community. He does not feel it is appropriate to show children that we need a beer garden to have fun. He remarked that several years back the Chamber had said that they would find a more positive way to raise funds. While requiring the Chamber to give the City 1/3 of the net proceeds solves the costs for City services, he would prefer strong language in the new resolution to encourage the Chamber to look for new ways to raise funds.

Councilmember Sherman remarked that 10 years ago a report from the Police department recommended the beer garden be discontinued. He also felt that having a beer garden at the Festival hurts local businesses and he will not support the resolution as he would prefer no beer garden.

Councilmember Petersen advised that he has always enjoyed going to the Festival and having a hamburger or sandwich with a cold beer. He noted that he has never seen a problem that required the Police Department to act. He stated he will support the resolution.

Mayor Pro Tem Benjamin remarked that the Waterland Festival is a wonderful event which allows outsiders to see what a wonderful community Des Moines is. He noted that he has never seen any problems associated with the beer garden.

VOTE ON MOTION: Motion passed 4 to 1 with Councilmember Sherman voting NO.

NEXT MEETING DATE - Regular Meeting June 26, 2003

ADJOURNMENT

At 9:40 p.m. **MOTION** was made by Sheckler, seconded by Councilmember Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM 6/12/03 COUNCIL MEETING

- Staff to prepare draft resolution authorizing the Chamber of Commerce to have a beer garden at the 2003 Waterland Festival.