PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES June 26, 2003

At 7:30 p.m., City Manager Piasecki announced that the City Council would remain in executive session for an additional five minutes.

The regular meeting of the Des Moines City Council was called to order at 7:42 p.m. by Mayor Steenrod in the City Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Benjamin.

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Bob Sheckler, Dan Sherman, Scott Thomasson and Susan White. Absent: Councilmember Gary Petersen (work). Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, Assistant City Attorney Richard Brown, Public Works Director Tim Heydon, Finance Director Paula Henderson, Community Development Director Judith Kilgore, and Deputy City Clerk Angela Chaufty.

Mayor Steenrod announced that Councilmember Petersen would arrive late to the meeting due to work commitments. *(Editor's Note: Councilmember Petersen did not arrive at the meeting prior to the meeting's expiration. There was no motion to excuse his attendance during the June 26, 2003 meeting. A motion to excuse Councilmember Petersen from the June 26, 2003 meeting was approved at the July 10, 2003 Council meeting.)*

COMMENTS FROM THE PUBLIC

Steve Zielinski, Sound Vista Mobile Home Park (Owner), 22018 28th Avenue South

Mr. Zielinski thanked Council for reconsidering the proposed mobile home park regulations. As he did not believe it was feasible for a developer to develop his property now, he wished to stay in business and provide a clean environment for his mobile home park.

Gordon Gray, 21814 Pacific Highway South

As a managing member of Pine Terrace Trailer Village, Mr. Gray urged Council to support Draft Ordinance No. 02-177 regarding mobile home park regulations. He said that the administrative procedures identified in the proposed ordinance were necessary for the management of this type of residential community.

Bob Pond, 23116 30th Avenue South

Mr. Pond asked for a greater police presence in the parking lot of Woodhaven Apartments. He said that the majority of the tenants, owners, and neighbors supported a more intense approach to the problems surrounding the complex.

Mayor Steenrod said that the City Manager would respond to Mr. Pond's concerns during his administration report.

Joe Feuerstein, 702 South 281st

Mr. Feuerstein urged Council to take the following actions:

- Allocate $250,000 to the Airport Communities Coalition;
- Increase cost savings and efficiencies by eliminating the police officer presence at the Council meetings; and
- Restructure or cancel the Finance and Economic Committee.

Mr. Feuerstein said that he had attended eight meetings of the Finance and Economic Committee and felt that most of the time was spent with staff educating Council. He said that staff's time would be better spent doing other tasks.

Scott McFarlane, 26906 10th Avenue South

Mr. McFarlane stated his belief in fair government and that elected officials should listen to the voters and follow the voters' wishes. He said that the voters did not need to be right but needed to be followed. Mr. McFarlane filed an application for an initiative petition and the filing fee with the clerk. The initiative petition asked that the following question be put before the voters:

> "Shall the City of Des Moines be prohibited from spending city taxes or other resources trying to stop the third runway?"

Rick Edwards, 909 South 278th

Mr. Edwards asked Council to reconsider his building permit for a gate. He gave a copy of the Hearing Examiner's findings, conclusions and decision regarding the issue to the clerk for distribution to Council. Mr. Edwards said that he would file an appeal for damages if Council did nothing. He asked Council to review the materials and contact him if they did not agree with his position.

City Manager Piasecki suggested that Council place the item on a future agenda, possibly the agenda of July 17, 2003. He noted that staff was currently developing options and criteria for the issue and identifying associated impacts. City Manager Piasecki informed Council that the City Attorney was attempting to contact Mr. Edwards' attorney. He noted that Council could declare a moratorium to allow them time to develop a thoughtful solution to the issue.

In response to Councilmember Sherman's questioning, Assistant City Attorney Brown confirmed that Mr. Edwards could file a place-holding appeal. He noted that two distinct issues, contractual and legislative, were identified in the Hearing Examiner's findings.

Denny Burhou, 26826 15th Avenue South

Mr. Burhou asked that a fish scale and a board to record the biggest catch of the day be installed on the Marina fuel dock. Mr. Burhou informed Council that individuals had volunteered to provide the scale and the board. The board would generate community spirit and create good will.

City Manager Piasecki asked Mr. Burhou to meet with the Harbormaster to arrange for the installation of the equipment.

Jeanne Moeller, 22211 Cliff Avenue South

Ms. Moeller stated that she was pleased with the manner in which Council had solved problems and encouraged them to continue to work together. In regard to the proposed Waterland Festival resolution, Ms. Moeller asked that the music stage be turned so that the music was projected toward the water rather than toward the residences.

BOARD & COMMITTEE REPORTS

Port of Seattle Commissioners Meeting

Councilmember Sheckler said that tapes of the Port of Seattle Commissioners' meeting were available from Brett Fish. Mr. Fish can be contacted by calling (206) 878-0807. The Port Commissioner's reported that the estimated cost of the third runway was now over $1,000,000,000.

Association of Washington Cities Annual Convention

Councilmember Sheckler stated that the AWC Annual Convention had allowed elected officials to discuss and share creative ideas regarding budget, finance, and the economy.

Councilmember White said that the convention provided valuable networking opportunities to move forward in economic development.

PRESIDING OFFICER'S REPORT

Association of Washington Cities Annual Convention

Mayor Steenrod agreed that the convention was well done and provided valuable information. She announced that staff was working to make the convention's materials available to the public on the city's website.

ADMINISTRATION REPORTS

Update on Highline Community College (HCC) Activities & Projects

City Manager Piasecki introduced Michael Allen, Chairman of HCC's Board of Trustees.

Mr. Allen informed Council of HCC's enrollment demographics. He noted that the renovation of the Redondo Pier had been completed and the facility would be open to the public on weekends. The facility would provide touch tanks, displays and information regarding the marine environment. The college would soon begin construction on a new Early Childhood Development Center, Student Union Building and Higher Education Center. The Higher Education Center project was done in conjunction with Central Washington University. When complete, the center would offer primarily engineering related degree programs. He noted that the college and the Highline School District had received a Gates Grant to develop an information technology high school program. Mr. Allen said that the college was looking forward to collaborating with the City in the redevelopment of the Pacific Ridge Area. He thanked Mayor Pro Tem Benjamin and Councilmembers Sherman and White for their support of the HCC Foundation. Mr. Allen also thanked Park and Recreation Director Thorell and Harbormaster Dusenbury for their support of various programs. Mr. Allen gave HCC's "Report to the Community" to the Clerk for distribution.

Steven J. Underwood Memorial Park – Volunteer Opportunities

City Manager Piasecki announced that volunteers were needed on July 12, 2003 to lay pavers at the Steven J. Underwood Memorial Park.

Des Moines Youth Football

City Manager Piasecki announced that Des Moines Youth Football would use Parkside Elementary School's field this year.

Steven J. Underwood Golf Tournament

City Manager Piasecki reported that the Steven J. Underwood Memorial Golf Tournament would be conducted July 11, 2003.

Response to Comments from the Public – Bob Pond

City Manager Piasecki informed Council that Interim Chief of Police Tucker had met with Mr. Pond regarding his concerns and had discussed the issues with the apartment owners. Interim Chief of Police Tucker would continue addressing the issues.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the special and regular minutes of June 5, the special minutes of June 9, 10 and 11, and the special and regular minutes of June 12, 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 #90000 through #90154 & electronic fund transfers in the total amount of $445,459.62

Payroll fund transfers in the total amount of $369,207.13

~~3. Draft Resolution No. 03-172 – Title: A Resolution of the City Council of the City of Des Moines, Washington, fixing a time for a public hearing to consider vacation of a portion of public right-of-way in the City of Des Moines.~~

~~MOTION is to approve Draft Resolution No. 03-172 setting a Public Hearing for August 14, 2003.~~

4. Motion is to confirm Mayor Steenrod's appointment of Debbie Malo to a vacant position on the Des Moines Senior Services Advisory Committee expiring December 31, 2003.

5. Motion is to approve the Interlocal Cooperative Agreement to Provide Law Enforcement Mutual Aid and Mobilization between the Cities of King County, University of Washington Police and King County, and to authorize the City Manager to finalize and sign the Interlocal Agreement substantially in the form as submitted.

~~6. Motion is to approve the agreement with Wood/Harbinger, Inc. for providing design and engineering services for the Upgrades to the Electric Power Distribution Project, in the amount of $81,995, plus a 5% contingency, and authorize the City Manager to sign the agreement in substantially in the form as approved by the City Attorney.~~

7. Motion is to approve the "Consent Judgment & Decree of Appropriation" in King County Superior Court Cause No. 02-2-33124-6 KNT and to authorize the City's retained counsel to approve said Judgment and Decree and present it to the court, for approval and entry, substantially in the form as submitted.

~~8. Motion is to approve an Agreement between the City of Des Moines and William and Caryl Reese regulating the Construction and Use of Pedestrian Overpass Crossing Over Public Air Space dated 2003 and authorize the City Manager to sign the agreement substantially in the form as submitted.~~

Councilmember Thomasson removed Item Nos. 6 and 8. He questioned whether the address for Item No. 3 should be 11th Avenue South rather than Des Moines Memorial Drive.

As there was a question about Item No. 3, Mayor Steenrod removed it.

Councilmember Sherman recused himself from Item No. 3 due to the appearance of fairness doctrine.

Mayor Steenrod recused herself from Item No. 7.

Councilmember Thomasson said that he would support Item No. 5, but asked staff to brief Council regarding indemnity issues in August or September.

City Manager Piasecki said that staff would either brief the Council or distribute a memorandum regarding indemnity issues.

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

REMOVED CONSENT CALENDAR ITEMS

Draft Resolution No. 03-172 ***[Assigned Res. 957]*** – Street Vacation

Councilmember Thomasson asked that "Des Moines Memorial Drive" be changed to "11th Avenue South" as the right-of-way did not abut Des Moines Memorial Drive.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to pass Draft Resolution No. 03-172 with the textual change.

Councilmember Thomasson noted that half of the parcel was in Des Moines while the other half was in SeaTac. He questioned why the east 30 feet of 11th Avenue South was included in the proposal. Councilmember Thomasson asked staff to address these issues during the public hearing process.

VOTE ON MOTION: Motion passed unanimously.

Agreement with Wood/Harbinger, Inc. for Providing Engineering and Design Services for the Marina's Upgrades to the Power Distribution System Project – Phase 1

Councilmember Thomasson said that he was not willing to approve the agreement as he had never been briefed on the subject. As the City would buy power as a wholesaler and then sale it to the tenants, he questioned whether a power utility would need to be formed. Councilmember Thomasson said that Council should discuss this prior to moving forward with the agreement.

At 8:50 p.m., Mayor Steenrod announced a ten-minute break.

Harbormaster Dusenbury informed Council that the goal of the proposed agreement was to identify the future location, projections, and capacity needs of the Marina's electrical system. He displayed a map of the Marina's existing power system and of the proposed system. He explained that the recommendation was to replace the existing system with a loop system. The proposed system would address distribution, fire protection, and capacity concerns as well as allow for future growth. Harbormaster Dusenbury explained that the Marina Electrical Upgrade Study compiled potential projects and provided cost estimates for those improvements. He confirmed that the consultant was qualified to provide power and fire suppression design services.

Councilmember Thomasson questioned whether the power utility should pay for the construction.

City Manager Piasecki said that, if desired, Council could establish a new utility fund and set up the utility during the budget process.

MOTION was made by Councilmember Thomasson and seconded by Mayor Pro Tem Benjamin to table the subject until the July 10, 2003 meeting.

Councilmember Thomasson asked that staff clarify the scope of the package at that time.

VOTE ON MOTION: Motion passed unanimously.

Committee Reports

As she was not comfortable with the current level of communication provided by committee reports, Mayor Steenrod said that she would distribute a memorandum to the Councilmembers recommending that committee meeting be conducted at a time that Councilmembers and the public can attend. She said that the committee chairs needed to do a better job communicating the work of their committees during the Board and Committee Report section of the meeting.

Update Agreement for Use of a Pedestrian Overpass Crossing Public Air Space (Des Moines Square)

Councilmember Thomasson said that he had pulled the item as he felt Sections 11 and 12 needed more work. He recommended that the right-of-way language also be updated. Councilmember Thomasson questioned what assurance Council had that the agreement would be renewed in five years. He asked whether the City could collect a payment for the back fees. Councilmember Thomasson recommended that Council table the issue. He suggested that the item go through the Public Safety and Transportation Committee.

City Manager Piasecki announced that staff would remove the item from the agenda. The Public Works Director and City Attorney were directed to address the identified issues and bring the item back to Council in a few weeks.

OLD BUSINESS

Draft Resolution No. 03-176 Authorizing 2003 Waterland Festival Beer Garden

In keeping with Council's prior direction, City Manager Piasecki stated that the proposed resolution required the Chamber of Commerce to contribute one-third of the net proceeds from the Waterland Pub to the city to help defray the overall costs for policing the event and encouraged them to begin examining alternative events to the beer garden for future festivals.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Sheckler to adopt Draft Resolution No. 03-176, amending Resolution No. 951 and permitting the Chamber of Commerce to conduct the "Waterland Pub" during the 2003 Waterland festival, subject to conditions set forth in the resolution; requiring the Chamber to give one-third of the net revenue from the Waterland Pub to the City to cover the City's overall costs; and strongly encouraging the Chamber to seek alternative activities to substitute for the Waterland Pub in future Waterland Festivals.

Councilmember White said that she would not support the motion as she felt the Waterland Festival was a family event and there were better ways for the Chamber of Commerce to earn money.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to table the subject until action was taken on New Business, Item No. 2.

VOTE ON MOTION: Motion passed, 4-2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

Draft Ordinance No. 02-177 Mobile Home Park Regulations - 1st Reading

Community Development Director Kilgore introduced the subject. She noted that the site plan due date had been changed from September 2003 to January 2004.

Councilmember Sheckler said that Councilmember Petersen had a strong interest in this subject. In order to allow Councilmember Petersen to participate in the discussion, he recommended that Council postpone discussion of the item until Councilmember Petersen arrived at the meeting or table it to the next meeting.

Mayor Steenrod said that city business could not stop just because a councilmember was not present.

Councilmember White said that she did not wish to perpetuate a use that would impair the vision for the Pacific Ridge area.

Mayor Pro Tem Benjamin said that he understood the long term vision and needs of the community. He said that until it was economically viable for developers to buy property, the mobile home parks provided affordable living in a good environment. He voiced support for the proposed ordinance.

Councilmember Sherman stated that mobile home parks were given the opportunity to register as legal non-conforming uses in 1992 and they did not do so. The proposed ordinance was offering the same opportunity again. Councilmember Sherman said that passage of the ordinance would perpetuate what the city already had in the Pacific Ridge area. He said that he did not want to cut off the possibility of economic growth in the area. Councilmember Sherman proposed that Council limit the number of replacement units by the size of the property. He noted that a replacement for low income housing had been provided for in the Pacific Ridge Plan.

Mayor Steenrod said that the proposed ordinance would allow businesses to operate until there was an opportunity to develop the property. She felt it was important to keep businesses viable and not put them out of business. Mayor Steenrod said that the current development process was too prohibitive.

Councilmember Sherman noted that Council had completed the environmental element of the Pacific Ridge plan to streamline the permitting process.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Mayor Steenrod to adopt Draft Ordinance No. 02-177.

Councilmember Thomasson said that he had asked the Mayor to revise the agenda to allow Council to handle New Business, Item No. 2 first.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to table the subject until action was taken on New Business, Item No. 2.

Mayor Pro Tem Benjamin said that New Business, Item No. 2 was important but just one issue before Council. He asked Council to not hold the other business of Council hostage.

Councilmember Thomasson responded that his intent was to insure that the full business of Council was addressed.

VOTE ON MOTION: Motion passed, 4-2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

PUBLIC HEARING

Final Assessment Roll for LID No. 1-97-9 - 4th Place South Right-of-Way

Public Works Director Heydon displayed a map of the LID area.

Assistant City Manager Loch distributed copies of the previous related agenda packets to Council.

Public Works Director Heydon informed Council that the street had been developed under King County. It was a dirt road that experienced considerable flooding during the winter. An LID had been formed to improve the street. The LID included the paving of 28' of the street, the formation of 5' gravel shoulders and the installation of a trunk line to reduce flooding. The cost of the LID improvements was split between twelve properties. The final cost was less than the initial estimate.

Finance Director Henderson informed Council that the City intended to finance the debt internally at approximately a 4.1% interest rate. There was a thirty-day pre-payment period in which owners could pay the total assessment and avoid interest. She noted that three protest letters had been received and staff was seeking resolution to them. She recommended that Council continue the hearing to the July 10, 2003 meeting.

Finance Director Henderson distributed the protest letters.

Mayor Steenrod opened the public hearing and read the rules for conducting a hearing. She noted that the hearing was a quasi-judicial matter and explained that the Appearance of Fairness Doctrine applied. She inquired of Council as to whether any potential conflicts existed.

No potential conflicts were identified.

Mayor Steenrod administered an oath to the speakers to testify to the truth.

SPEAKERS

Alyssa Flores, 20222 4th Place South
Ms. Flores informed Council that she and her husband had purchased their home four years ago. At that time, the road improvements were already complete. They had not been aware of the LID until they received the public hearing notice. Ms. Flores said that they had installed drainage along the front and back of their property to relieve flooding but the residents on the east side of the road still experienced flooding.

Jack Benner, 20209 4th Place South
Mr. Benner stated that he had moved into his house in 1998. He said that he had heard that the City had purchased the street with the promised improvements. He asked Council to research whether the comments were true. Mr. Benner informed Council that the shoulders were beginning to shrink. Mr. Benner said that he enjoys the fact that the street is paved and that he would not protest paying the assessment if it was a correct assessment.

Mayor Steenrod noted that the public hearing would remain open for the next meeting.

Alexandro Flores, 20222 4th Place South
Mr. Flores questioned who owned the street. He stated that his disclosure showed that he had bought the house only, not the street. He noted that he did not own the property when the improvements were done. Mr. Flores asked for clarification of the LID process.

Assistant City Attorney Brown explained that staff was currently checking with the title company regarding the LID notification. He said that he would meet with Mr. Flores privately to explain the LID process.

Councilmember Thomasson suggested that staff distinguish between the LID formation and the final assessment processes.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to continue the public hearing to July 10, 2003.

AGENDA REVISION

Mayor Steenrod pulled New Business Item, Nos. 2 and 3 from the agenda as they had not gone through committee.

MOTION was made by Councilmember Sherman and seconded by Councilmember Sheckler to appeal the decision of the chair to pull Item No. 2.

Upon the request of Mayor Steenrod, Assistant City Attorney Brown read section 24 of Roberts Rules of Order which allow for an appeal of the decision of the chair.

Mayor Steenrod said that she was relying on Council Rule 9 when she had pulled the items. She said that councilmembers were holding everything hostage to ACC funding.

Councilmember Sheckler stated that it had become apparent that the issue of ACC funding might not be addressed during the meeting. The motions to table were done in order to bring the ACC issue forward so that it might be addressed with the intention of returning to the tabled items later in the same meeting. Councilmember Sheckler said that the appeal was legitimate. He felt that the issue had been delayed too long. He noted that the first discussion with the Port of Seattle would occur July 9, 2003 and he felt that it was imperative that Des Moines be represented.

Councilmember Thomasson stated that the Council Rules were adopted as a supplement to Roberts Rules of Order. He noted that the Council Rules state that if three Councilmembers desire an issue to be placed on the agenda, it became part of the agenda. Councilmember Thomasson said that his intent was not to stop business but to insure that all business was addressed. He said that he had asked the Mayor prior to the meeting to address the ACC funding issue first in order to avoid a public confrontation.

At 10:15 p.m., **motion** was made by Councilmember Thomasson and seconded by Councilmember Sheckler to extend the meeting to midnight in order to insure New Business, Item No 2 was dealt with.

VOTE ON MOTION: Motion failed, 4 – 2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed. *(Editor's Note: Motion to extend the meeting requires a ¾ majority.)*

Mayor Pro Tem Benjamin said that the City had a number of issues before them and the proper context was required. As a councilmember, he promised to look out for all issues. He said that the ACC issue has been divisive to Council.

Mayor Steenrod said that when someone tells her to vote for something so that her attorney fees will be paid, it is extortion. She stated that she votes her conscience without regard for personal impacts. Since an initiative regarding the issue had been filed, Mayor Steenrod felt it was premature to take action. Mayor Steenrod said that she had met with the Port and understood that there would be no lawyers present nor any negotiations discussed at the July 9, 2003 meeting. She questioned why the City should be present. Mayor Steenrod said that Council had voted to cut funding, not withdraw from the ACC. She questioned why Des Moines was unable to participate in the ACC since the Highline School District was allowed to. Mayor Steenrod said that the Tukwila City Council had recently turned down a request by ACC for $50,000 of additional funding. *(Editor's Note: On June 27, 2003, Mayor Steenrod provided information stating that Tukwila had in fact approved the request for $50,000. She asked that her misstatement be corrected in the minutes.)*

Mayor Steenrod informed Council that the Port of Seattle had indicated that it was okay for a Des Moines' representative to attend the discussions. She said that a meeting was not a good reason to pass the issue.

Councilmember White said that ACC funding was more than just a political issue as the third runway would affect the quality of life for Des Moines' residents. Councilmember White said that she had ran for office while supporting the efforts of the ACC. She stated her belief that the City should not have broken the coalition and that it was important for Des Moines to be at the negotiation table. Councilmember White voiced support for restoring ACC funding.

VOTE ON MOTION TO APPEAL: Motion passed, 4 – 2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler to reinstate $150,000 funding to ACC from the general fund ending balance as represented in Exhibit A.

At 10:28 p.m., **motion** was made by Councilmember Thomasson and seconded by Councilmember Sheckler to extend the meeting to 10:45 p.m.

VOTE ON MOTION: Motion failed, 4 – 2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed. *(Editor's Note: Motion to extend the meeting requires a ¾ majority.)*

Councilmember Thomasson called for the question.

ADJOURNMENT
At 10:30 p.m., the meeting expired.

NEXT MEETING DATE - Regular Meeting July 10, 2003

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEMS FROM 6/26/03 COUNCIL MEETING

- Interlocal Cooperative Agreement to Provide Law Enforcement Mutual Aid and Mobilization
  Prepare a memorandum regarding indemnity issues.

- Draft Resolution No. 03-172 – Street Vacation
  During the public hearing, explain why the east 30 feet of 11th Avenue South was included in the proposal and what the impacts of half of the parcel being in Des Moines while the other half was in SeaTac would be.

- Update Agreement for Use of a Pedestrian Overpass Crossing Public Air Space (Des Moines Square)
  Update the right-of-way language.
  Revise sections 11 and 12.