REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES July 10, 2003

The regular meeting of the Des Moines City Council was called to order at 7:08 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 Councilmember Petersen.

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

City Manager Piasecki noted that a motion to excuse Councilmember Petersen from the June 26, 2003 meeting would be in order.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Councilmember Sherman and passed unanimously to excuse Councilmember Petersen from the June 26, 2003 meeting.

COMMENTS FROM THE PUBLIC

John Carroll, 24832 11th Avenue South

Mr. Carroll asked Council to approve the purchase of a divider wall for the Activity Center. He said that the money for the divider had been donated to the City through the "Raise the Sail" campaign and the "Way Off Broadway" event. Approval of the divider had been scheduled for the June 26, 2003 Council meeting but had not been addressed.

Councilmember White voiced support for Mr. Carroll's request. She recommended that the item be placed on the July 17, 2003 agenda.

Councilmember Sheckler agreed with Councilmember White and said that he would also like to see the driveway to the Activity Center paved.

City Manager Piasecki noted that Council would have an opportunity to place the item on a future agenda later in the meeting.

Brenda Anders-Larson, 2115 South 250th, Kent

Ms. Anders-Larson stated that she would like her neighborhood to annex to the City of Des Moines. As Waterland Festival Volunteer Coordinator, Waterland Pub Chair, and Bingo Chair, Ms. Anders-Larson invited Council to attend the Festival and to volunteer at the event. Individuals interested in volunteering should contact the Chamber of Commerce. Ms. Anders-Larson announced that the Waterland Festival would be conducted July 23-27, 2003.

Bob Pond, 23116 30th Avenue South

Due to the risk of damage to property and people, Mr. Pond asked Council to vote for a ban on all fireworks. He noted that the police have a difficult time differentiating between legal and illegal fireworks and said that several other cities have banned their use. Mr. Pond stated that the problem of Woodhaven Apartments was being addressed. Upon questioning, Mr. Pond clarified that he was not opposed to professional firework displays.

City Manager Piasecki briefly defined legal and illegal fireworks. He said that a report concerning fireworks' related incidents would be included in his monthly report to Council.

Mayor Steenrod asked City Manager Piasecki to also obtain information regarding firework related incidents from the fire department.

Councilmember Sherman, Sheckler and White agreed that the subject should be placed on a future agenda.

Georgie Nupen, 24816 12th Avenue South

Ms. Nupen complimented Council on the Activity Center. She said that the Senior Center participants were anxiously awaiting the installation of the divider walls in order to improve the building's acoustics. Ms. Nupen thanked Council for the facility.

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

Mr. Zielinski urged Council to approve Draft Ordinance No. 02-177, Revision of Mobile Home Park Regulations.

Ed Pina, 24219 7th Avenue South

As Co-President of the "Des Moines-Yes" Committee, Mr. Pina reported that the Supreme Court had ruled to uphold Judge Doherty's September 25, 2002 decision regarding the recall effort. The Supreme Court ruling stated that the charges needed to be more specific. Mr. Pina said that the committee would refile the recall petition with more specific charges listed.

Gary Hisel, 23003 Marine View Drive South, #B103

Mr. Hisel questioned which city services would be shortchanged in order to fund the fight against the third runway. He asked Council to set aside their vendetta against the Port of Seattle and to stop fighting.

BOARD & COMMITTEE REPORTS

Port of Seattle Meeting

Councilmember Sheckler announced that the ACC cities and the Highline School District had met with the Port of Seattle to discuss the concerns of the surrounding cities. The Port of Seattle representatives will address the concerns during a meeting scheduled for September 2003.

Army Corp of Engineers 404 Permit

Councilmember Sheckler reported that the State of Washington Attorney General's Office had issued an Amicus Curiae brief stating that the Army Corp of Engineers should have included all of the sixteen conditions identified by the state's Pollution Control Hearings Board in the Port of Seattle's 404 Permit for the third runway.

Sale of Waterland Buttons

Councilmember Thomasson announced that Waterland buttons were being sold in the City Hall courtyard.

Chamber of Commerce

Mayor Pro Tem Benjamin announced that the Chamber of Commerce's Economic Development Committee had met. Additional volunteers were needed for the Waterland Festival. Mayor Pro Tem Benjamin announced that the Chamber was sponsoring a fishing derby on August 2, 2003.

Public Safety and Transportation

Mayor Pro Tem Benjamin reported that the committee had been working with the police to develop ordinances to aid policing efforts in the Pacific Ridge area.

Upon questioning from Mayor Pro Tem Benjamin, City Manager Piasecki informed Council that the application period for the Chief of Police position would close August 11, 2003. He expected the appointment to the position to occur in mid to late September 2003.

Mount Rainier Swimming Pool Update

Mayor Pro Tem Benjamin noted that the Highline School District and the cities of SeaTac, Normandy Park and Des Moines had an interlocal agreement to support Mount Rainier Pool in order to keep it open through 2003. He explained that the Highline School District and King County had an agreement stating that in 2014 the pool would revert to the school district from the County in good working order. The two parties were now discussing their differences in opinion concerning that agreement.

City Manager Piasecki explained that the Highline School District's position was that the county or any other owner of the pool had an obligation to keep the pool open. School district representatives said that the district would not have the money to demolish or maintain the pool. Until the issue was resolved between the County and school district, any efforts to continue to keep the pool open beyond the one-year extension were out of the cities' control. City Manager Piasecki noted that King Aquatics and Northwest Center had expressed an interest in assuming or running the pool.

SR 509 Committee

Councilmember Petersen reported that the SR 509 Committee would meet later this month.

Human Services Advisory Committee

Councilmember White thanked the Human Services Advisory Committee for their work on the Community Service Directory. She noted that one applicant had applied for the vacant board position. Councilmember White stressed the importance of filling the vacancy in a timely manner.

Southwest Economic Initiative Advisory Committee

Councilmember White reported that the committee had met to discuss a business center. She thanked Community Development Director Kilgore for her contributions to the committee.

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

Due to the change in leadership at the Chamber of Commerce and their efforts to work with the City, Councilmember White said that she had decided to support Draft Resolution No. 03-176.

Finance and Economic Development Committee

Stating that Council had not acted upon the actions of the Finance and Economic Development Committee, Councilmember White requested that the subject of disbanding the Finance and Economic Development Committee be placed on a future agenda. She said that Councilmembers Sherman and Sheckler concurred.

PRESIDING OFFICER'S REPORT

Economic Development Committee

Mayor Steenrod informed Council that the Chamber of Commerce, Port of Seattle, and City of Des Moines had joined together to publish a brochure for people considering doing business in Des Moines. The brochure was available at the Chamber of Commerce office.

Finance and Economic Development Committee

Mayor Steenrod reported that several people had informed her of their difficulties in getting their permits processed. Through discussion, a lack of communication was identified as the key problem. Mayor Steenrod asked Community Development Director Kilgore to present the outcome of those discussions.

Community Development Director Kilgore displayed a new coversheet for the permit packets. The coversheet would explain the process, list specific items to be inspected, and provide a checklist. A pre-construction meeting would also be offered to permit applicants.

Mayor Steenrod complimented the Community Development Department on their efforts to develop the coversheet.

ADMINISTRATION REPORTS

Neighborhood Meetings

City Manager Piasecki announced that a Neighborhood Meeting would be conducted on July 15, 2003 at Wooton Park, followed by a Concert in the Park. In August, a Neighborhood Meeting for businesses would be conducted. Representatives from businesses, City staff, the Chamber of Commerce, utilities, the Small Business Development Center, and other agencies would be available to address concerns and questions.

Steven J. Underwood Memorial Park Opening Ceremony

City Manager Piasecki invited everyone to attend the opening ceremony for the Steven J. Underwood Memorial Park scheduled for July 25, 2003 at 5:00 p.m.

Steven J. Underwood Memorial Golf Tournament

City Manager Piasecki announced that the Second Annual Steven J. Underwood Memorial Golf Tournament would be held July 11, 2003.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. 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 #90155 through #90273 & electronic fund transfers in the total amount of $422,071.92

Payroll fund transfers in the total amount of $367,279.99

2. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of July 4, 2003 through August 6, 2003:

a. All vouchers for payment of payroll checks, including Marina payroll, and

b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the August 14, 2003 Council Meeting.

3. Motion is to approve the surplusing of the items on the list of surplus property dated July 1, 2003 and provided with this agenda item as Attachment 1. The City Manager is authorized to dispose of the surplus property by public auction, as solid waste, or by donation to a public agency or charitable organization.

4. Two motions regarding the 2003 Arterial Maintenance Program:

A. Motion is to award the construction contract for the 2003 Arterial Maintenance Program to Central Oregon Pavers, Inc. in the amount of $299,587.07 and to authorize the City Manager to sign said contract substantially in the form as submitted, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the contract amount.

B. Motion is to supplement the current contract for professional engineering services for the 2003 Arterial Maintenance Program with KPG to include construction management services in the amount of $36,038.00 bringing the total to $72,910.12, plus a 10% contingency and to authorize the City Manager to sign said supplement substantially in the form as submitted.

5. Motion is to approve the Consent Judgment & Decree of Appropriation in King County Superior Court Cause No. 02-2-33626-4 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.

6. This item has been removed by Administration.

7. Motion is to enter into the attached agreement with King County Metro for their participation in costs for the transit related improvements of the Pacific Highway South Redevelopment Project and to authorize the City Manager to sign said agreement substantially in the form as submitted.

Mayor Steenrod and Councilmember Petersen recused themselves from Item No. 5.

In regard to Item No. 4, Councilmember Sherman noted that the chip sealing process would allow the City to resurface the streets using a less expensive method.

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

At 8:02 p.m., Mayor Steenrod declared an eight minute break.

PUBLIC HEARING CONTINUED

Draft Ordinance No. 03-125 Final Assessment Roll for LID No. 1-97-9 4th Place South Right-of-Way

Assistant City Attorney Brown requested that Council continue the public hearing to the August 14, 2003 meeting in order to allow proper follow-up to one of the protest letters. The property owner needed to be allowed the opportunity to present expert testimony to Council showing that his property did not benefit from the LID.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman and passed unanimously to continue the public hearing to the August 14, 2003 meeting.

Upon questioning from Mayor Pro Tem Benjamin, Mayor Steenrod said that public comment had been taken at the prior meeting and would not be permitted at this meeting.

Councilmember Thomasson said that he thought the public hearing had been continued so that Council could continue to hear public testimony.

As the subject qualified as a quasi-judicial matter, City Attorney Marousek advised Council to not discuss the subject off the record.

OLD BUSINESS

Draft Ordinance No. 03-177 Amending 2003 Budget to Re-program MCI Funds

City Manager Piasecki introduced the subject.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman and passed unanimously to place Draft Ordinance No. 03-177 on the July 17, 2003 agenda.

Draft Resolution No. 03-176 ***[Assigned Res. No. 958]*** Authorizing 2003 Waterland Festival Beer Garden

MOTION was made by Councilmember Sheckler, seconded by Councilmember Thomasson, and passed unanimously to take the item off the table.

As Mayor Pro Tem Benjamin said that he was not comfortable with the city being in the beer business, he recommended that the city's share of the proceeds be put into a special fund for the Mount Rainier Pool.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Petersen to amend the draft resolution to provide for the City's share of the net proceeds from the Beer Garden to be contributed to the Mount Rainier Pool Fund which the city is maintaining to keep the pool open.

Councilmember Thomasson said that the purpose of collecting one third of the proceeds was to fund the police security required by the Beer Garden.

Councilmember Sheckler concurred with Councilmember Thomasson. He said that he was not opposed to the pool but felt it was important to offset the city's security costs for the Beer Garden.

Councilmember White suggested that Council not amend the proposed resolution at this time but revisit the issue next year.

Mayor Pro Tem Benjamin spoke in support of the amending motion. He said that the Mount Rainier Pool was a meaningful cause and the action would be productive for the community. He said that there was no increase in police costs from last year to this year.

VOTE ON AMENDING MOTION: Motion failed, 3-4, with Councilmembers Sheckler, Sherman, Thomasson, and White opposed.

Councilmember Sherman said that he would not support the main motion as he felt that patrons should visit local pubs and support local businesses. He also said that he was not comfortable with the police costs associated with the Beer Garden.

VOTE ON MAIN MOTION: Motion passed, 5-2, with Mayor Pro Tem Benjamin and Councilmember Sherman opposed.

Draft Ordinance No. 02-177 ***[Assigned Ord. No. 1324]*** Revision of Mobile Home Park Regulations

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to remove the item from the table.

At 8:33 p.m., Mayor Pro Tem Benjamin left the Council Chambers.

VOTE ON MOTION: Motion passed, 5-1, with Councilmember Sherman opposed and Mayor Pro Tem Benjamin not present to participate in the vote.

At 8:34 p.m., Mayor Pro Tem Benjamin returned to the Council Chambers.

VOTE ON MAIN MOTION: Motion passed, 6-1, with Councilmember Sherman opposed.

Wood/Harbinger, Inc. Agreement

Harbormaster Dusenbury introduced Peter Lekhakul from Wood/Harbinger Inc. He displayed a map of the marina and described the scope of the proposed project. As the dock decking would need to be removed to install the electrical wiring, the fire suppression system would be installed at the same time. Harbormaster Dusenbury described the fire suppression pipes. He explained that “N” dock would be done this year while the work on “K”, “L”, and “M” docks would be done over the next three years, one dock per year.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to approve the agreement with Wood/Harbinger, Inc,. providing design and engineering services for Phase 1 of the upgrades to the Electric Power Distribution Project for “N” dock and the fire suppression system on “K”, “L”, “M” and “N” docks in the amount of $81,995, plus a 5% contingency; and authorize the City manager to sign the agreement in substantially the form as approved by the City Attorney.

In response to Mayor Steenrod’s questioning, Harbormaster Dusenbury explained that the fire suppression system cost approximately $15,000 per dock. Fire suppression systems would be installed on the other docks as funding became available.

City Manager Piasecki confirmed that there was money in the budget to do the project.

VOTE ON MOTION: Motion passed unanimously.

Use of Pedestrian Overpass Crossing Over Public Air Space

Public Works Director Heydon explained that the following changes had been made to the original document as a result of Council's comments at the June 26, 2003 meeting:

1. Language was added stating that the new agreement supersedes the original 1983 agreement.
2. Language was added clarifying that the City Manager would negotiate the renewal fee after the five-year period as he does with other city fees.
3. The skybridge was to be used solely as a pedestrian passage with the exception of the two existing heating/cooling units.
4. The language clarified that the buildings on both sides of the skybridge shall remain in one ownership.
5. Finance and Public Works staff were evaluating ways to insure that the future fees are collected at the appropriate five-year intervals.
6. The owner agreed to pay the past amounts due for the ten years from 1993 to 2003. This amount is equal to $500.

MOTION was made by Councilmember Sherman and seconded by Councilmember White to approve an agreement between the City of Des Moines and William and Caryl Reese regulating the construction and use of a pedestrian overpass crossing over public air space dated 2003 and to authorize the City Manager to sign the agreement substantially in the form as attached.

In response to Mayor Steenrod's questioning, Public Works Director Heydon explained that if a seismic event occurred, the owner would be required to secure an engineer to inspect the skybridge for safety.

VOTE ON MOTION: Motion passed unanimously.

NEW BUSINESS

Draft Resolution No. 03-157 Beck Kombol Easement Request

Community Development Director Kilgore displayed an aerial photo of the area. She noted that this project qualified as a Type One land use issue. She said that the engineering, SEPA, and Community Development reviews had been completed and staff recommended approval of the easement request. Community Development Director Kilgore said that the easement would provide a gentler transition from the street to the Parkside Wetlands and would provide a thickened edge to the west side of the street. She introduced Kelly Castell, Project Manager with Duncanson and Company.

Ms. Castell explained that the easement would allow the developer to avoid constructing a retaining wall on the west side of the project. She said that a ten foot easement was sufficient but the city had felt that a twenty foot easement would be better.

MOTION was made by Councilmember Sheckler and seconded by Mayor Pro Tem Benjamin to adopt Draft Resolution No. 03-157 authorizing the City Manager to sign a temporary easement for street side slopes.

Councilmember Thomasson strongly opposed the motion. He said that he considered the request to be a gift of public funds as the city would be giving city property for public use. The developer would receive the cost savings and convenience while the city would receive nothing in return. Councilmember Thomasson said that the street could be built lower to reduce the slope. He noted that the land in question had been purchased as conservancy park to buffer the wetlands.

In response to Councilmember Sherman's questioning, Community Development Director Kilgore said the easement would provide the following benefits to the city:

- An additional ninety feet of curb, gutter, and sidewalk would be constructed.
- 26th Avenue South would be opened.
- Future plans to develop the Parkside Wetlands into an interpretive wetland area would be aided.
- The development of fourteen new duplexes would bring additional money into the city.
- A transition area into the park would be provided.
- A through-connection from South 244th Street to South 246th Street would be developed.

Councilmember Thomasson said that most of the benefits would occur without the approval of the easement. He stated that it was not necessary to impact the park.

Community Development Director Kilgore explained that staff requested the twenty foot easement to improve safety. She said that the easement landscaping requirements would be identified during the permitting process.

At 9:10 p.m., Mayor Steenrod declared a seven-minute break.

MOTION was made by Councilmember Sheckler and seconded by Councilmember White to continue to subject to the August 14, 2003 meeting.

Ms. Castell and Community Development Director Kilgore confirmed that approval of the motion would delay the project.

Councilmember Thomasson suggested that Council table the issue until later in the meeting. He mentioned that he would not be at the July 17, 2003 meeting.

Substitute motion was accepted by Councilmember Sheckler and seconded by Councilmember White to table the subject until later in the meeting.

VOTE ON MOTION: Motion passed, 6–1, with Mayor Pro Tem Benjamin opposed.

Pacific Highway South Project - Award of Bid

Assistant City Engineer Andrews informed Council that the Pacific Highway South Project had been readvertised. All of the bids received were under the engineer's estimate. She explained that the project included the widening of the roadway to seven lanes with curbs, gutters, sidewalks, undergrounding of utilities, landscaping and gateway treatments. Construction was scheduled to begin later this month and the project would be completed in early 2005. Assistant City Engineer Andrews said that staff was still negotiating the utility agreements.

MOTION was made by Councilmember Sheckler and seconded by Mayor Pro Tem Benjamin to award the construction contract for the Pacific Highway South Improvement Project to Ceccanti, Inc., in the amount of $10,678,380.95 and further to authorize the City Manager to sign said contract substantially in the form as submitted, plus authorize the City Manager or his designee to approve change orders up to an amount of 15% of the contract amount.

Councilmember Thomasson said that he understood the need for a contingency but preferred a lower percentage. He noted that there would be several meetings available for Council to approve additional funds if necessary.

Assistant City Engineer Andrews identified driveway locations and utilities as outstanding issues.

Public Works Director Heydon said that staff wished to react quickly to conditions and minimize the affects of construction on local businesses.

Mayor Pro Tem Benjamin noted that the bid and requested change order amount was collectively equal to the original bid and its contingency.

Councilmember Sherman voiced concern about the glare created by the sail. He said that using several different sail colors might prove distracting to the drivers.

Mayor Steenrod voiced agreement with Councilmember Thomasson's comments regarding the 15% change order request. She questioned the proposed contractor's ability to perform the work for the listed bid amount.

Assistant City Engineer Andrews informed Council that the City of Kent had been very impressed by the contractor's work and project management skills.

Councilmember Thomasson stated his preference for the change order amount to be set at 5%. Staff could then provide periodic reports and request an additional 5%.

City Manager Piasecki confirmed that the status of the contingency amount would be provided in his monthly report. He said that staff would be comfortable with the amount being set at 10%.

MOTION was made by Councilmember Thomasson to amend the change order amount to 10%.

Councilmember Sheckler and Mayor Pro Tem Benjamin **accepted the motion** as a **friendly amendment**.

Councilmember Thomasson said he would support the motion with the proviso that staff kept Council informed of the change order status.

VOTE ON MAIN MOTION: Motion passed unanimously.

Redondo Boat Launch - Award of Bid

MOTION was made by Councilmember White and seconded by Councilmember Sherman to award the construction contract for the Redondo Boat Launch Improvements to Ohno Construction, in the amount of $843,962.60 and further to authorize the City Manager to sign said contract substantially in the form provided in the construction documents, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the contract amount.

In order to keep the project within the scope of the budget, City Manager Piasecki said that Council would need to change the change order amount from 10% to 1%.

Assistant City Manager Loch said that, ultimately, additional funding would be needed for the project.

Councilmember White and Councilmember Sherman **accepted** changing the 10% to 1% **as a friendly amendment**.

Councilmember Thomasson noted that the issue was not a cash flow problem but a budget issue. He said that the project would likely go over budget and Council would need to deal with it later.

Mayor Steenrod agreed with Councilmember Thomasson. As it was a visible project, she stated her preference for a 10% contingency.

Councilmember White and Councilmember Sherman agreed to **change their motion** back to 10%.

City Manager Piasecki said that he would provide a status report of the project as part of his monthly report to Council.

VOTE ON MOTION: Motion passed unanimously.

Easement for Fiber-Optic Cable Through City-owned Tidelands

Assistant City Manager Loch stated that Comcast has requested an easement for a fiber-optic cable through the tidelands owned by the City of Des Moines. An electrical cable owned by Puget Sound Energy was currently in the area but not activated. The cable would be buried three to five feet deep in the beach area. Assistant City Manager Loch displayed an aerial view of the area.

Councilmember Sheckler said that he hoped to see Comcast cooperate in the undergrounding of utilities in the Pacific Highway South improvement project.

MOTION was made by Councilmember Sheckler and seconded by Councilmember White to approve the easement for Comcast's fiber-optic cable and to authorize the City Manager to sign the easement substantially in the form as provided.

City Attorney Marousek introduced Hans Hechtman, Director of Government Relations for Comcast. She informed Council that the Pacific Highway South agreement for undergrounding of overhead cable lines was not yet written but terms had been discussed.

Mayor Steenrod and Councilmember Sherman said that they wanted security that Comcast would cooperate on the Pacific Highway South project prior to approval of the tidelands easement.

Councilmember Thomasson commented that the form of the easement was written more like a lease. He noted that a legal description was not attached.

Regarding compensation for any renewal of the easement, Assistant City Manager Loch said that Comcast preferred a locked in rate but staff recommended that a future Council should determine the rate based upon information and condition that existed at that time.

Councilmember Thomasson suggested that the renewals be subject to complete negotiation of the agreement.

Mr. Hechtman said that Comcast would need the fiber-optic cable beyond thirty years. In regard to the Pacific Highway South project, Mr. Hechtman said that Comcast was committed to participate in the project at the same level AT&T had agreed to participate in it last year.

City Attorney Marousek and Mr. Hechtman concurred that tentative agreement had been reached on the following items:

- Comcast would contribute approximately $161,000 toward the cost of a joint trench for undergrounding the utilities.
- Comcast would accept the plans submitted by AT&T as Comcast's plans.

For the Highway project, Mr. Hechtman said that a memorandum of understanding identifying the responsibilities of both parties would be developed and signed.

City Attorney Marousek clarified that Comcast had negotiated with the city for an easement across the tidelands in order to apply for the necessary permits. The Shoreline Permit process was a separate matter and Council should remain unbiased.

Mr. Hechtman displayed a sample of the cable and explained its burial process. He introduced Terry Davis and Ik Icard.

In response to Councilmember Thomasson's questioning regarding the lack of a legal description for the requested easement, Assistant City Manager Loch explained that a preliminary legal description had been submitted. It requested a three-foot wide easement with access rights. The legal description would be looked at in more detail once Council provided direction to staff. He explained that the environmental impacts would be studied and mitigated through the permitting process and SEPA.

VOTE ON MOTION: Motion passed unanimously.

Draft Resolution No. 03-109 - Amend Council Rules 5, 9, 10 and 20

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sherman to place Draft Resolution No. 03-109, amending Council Rules 5, 9, 10, and 20 of the Des Moines City Council Rules of Procedure on the August 14, 2003 agenda.

Mayor Steenrod said that she would reserve her comments for the August 14, 2003 meeting.

Councilmember Sheckler noted that the city had a Council/City Manager form of government and the appointment to the position of Mayor was a privilege. As the privilege had been abused on several occasions, Councilmember Sheckler said that the issue was being addressed through the proposed resolution.

Councilmember Sherman encouraged Council to consider the proposed resolution with an open mind. He said that it would bring the Council rules into compliance with state law and protect both the majority and minority. He asked Council to consider the item in terms of providing a greater protection for all.

VOTE ON MOTION: Motion passed unanimously.

Draft Resolution No. 03-157 Beck Kombol Easement Request, Continued

Community Development Director Kilgore informed Council that the Engineering Department had required an extension of the radius of the intersection at South 244th Street and 26th Avenue South. This requirement caused the development's sidewalk to be shifted 7.5 feet west. Through the easement, the developer was trying to gain back that area. If the radius requirement was removed, the need for the easement would be eliminated.

As right-of-way would be created on city property, Councilmember Thomasson questioned whether fifty feet of right-of-way was required.

Public Works Director Heydon explained that a house that was not part of the development had already been constructed in the area.

Ms. Castell informed Council that the developers had met a year ago with the Engineering Department to discuss the project. Based upon the direction provided in those meetings, they had moved forward. In March 2003, the easement had been requested.

At 10:28 p.m., **MOTION** was made by Mayor Steenrod and seconded by Mayor Pro Tem Benjamin to extend the meeting ten minutes. *(Editor's Note: A vote on this motion was not conducted prior to the meeting's expiration.)*

Mayor Steenrod recommended that Council meet July 31, 2003 to further consider the easement request.

Councilmember Sheckler and Mayor Pro Tem Benjamin **agreed to amend their previous motion** to table the issue to July 31, 2003. *(Editor's Note: Action had already been taken on the previous motion. Council treated the proposal for amendment as an original motion.)*

As Councilmember Thomasson was not available on that date, Mayor Pro Tem Benjamin suggested that Councilmember Thomasson participate via conference call.

VOTE ON MOTION: Motion passed unanimously.

NEXT MEETING DATE - Regular Meeting July 17, 2003

ADJOURNMENT

The meeting expired at 10:30 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

Action Items from 7/10/03 Council Meeting

- Potential Fireworks Ban
  Include a report of firework related incidents, including those handled by the fire department, in the City Manager's Monthly Report.
  Place the subject on a future Council agenda.

- Potential Elimination of the Finance and Economic Development Committee
  Place the subject on a future Council agenda.

- Pacific Highway South Project
  Include a change order status report in the City Manager's Monthly Report.

- Redondo Boat Launch
  Include a status report of the project in the City Manager's Monthly Report.