

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

August 22, 2002

At 7:29 p.m., City Manager Piasecki announced that the Council would continue in Executive Session for approximately another fifteen minutes.

At 7:45 p.m., City Attorney Marousek announced that the Council would continue in Executive Session for approximately another ten minutes.

The regular meeting of the Des Moines City Council was called to order at 8:02 p.m. by Mayor Wasson in the City Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod, and Susan White. Absent: Councilmember Scott Thomasson. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Commander John O'Leary, Court Resource Advocate Kristen Gabel, and Deputy City Clerk Angela Chaufty.

MOTION was made by Councilmember White, seconded by Councilmember Sheckler and passed unanimously to excuse Councilmember Thomasson from attendance.

COMMENTS FROM THE PUBLIC

Phil Emerson, 18403 2nd Avenue South, Burien

On behalf of the Regional Commission on Airport Affairs (RCAA), Mr. Emerson said that he had heard that discussion pertaining to the City of Des Moines' funding of the RCAA was scheduled for meeting. He noted that the City had signed a contract for services with RCAA for this year but the RCAA Board had decided not to bill the City until the new Council had settled its direction and completed its re-organization. He said that the recent ruling of the Pollution Control Hearing Board will protect the environment and may stop the construction of a third runway. In light of budget constraints, Mr. Emerson explained that RCAA had converted their printed newsletter to an electronic format. He asked for an opportunity for Council, staff and the RCAA Board to discuss the direction RCAA should be taking. He distributed "No Third Runway" buttons to the audience.

Ramona Wood, 21413 15th Avenue South

Ms. Wood said that she was representing 400 individuals and distributed a list of their names. Ms. Wood informed Council that she had participated as a vendor for the Waterland Festival for six years. She said that she was concerned with the behavior of the Chamber of Commerce during the recent Festival. Ms. Wood related two incidents, one regarding the collection of fees for her face painting work and the other regarding the use of carts to transport vendors to their vehicles. The later incident resulted in a confrontation between herself and a Chamber of Commerce representative.

City Attorney Marousek informed Ms. Wood that her three minutes had expired.

Mayor Wasson ruled that any further comments from Ms. Wood would be out of order.

Tom Sitterley, 601 South 227th Street

Mr. Sitterley addressed Council regarding the City's finances. He said that he had analyzed the City's budget and had presented his findings to Council in March and April. Mr. Sitterley encouraged Council to take drastic action to solve the problems. He said that government should tighten its belt like other citizens were being forced to do.

BOARD & COMMITTEE REPORTS

"Save the Pool" Committee

Mayor Pro Tem Benjamin announced that he had been appointed chairman of the "Save the Pool" Committee. The committee had met Tuesday to begin their project.

South County Area Transportation Board

Councilmember White announced that the Board had met to review Referendum 51. Councilmember White felt it was important to educate the public regarding the issues surrounding Referendum 51 and asked that the item be placed on a future agenda.

Chamber of Commerce

Councilmember White said that she was disturbed by the complaints surrounding the Waterland Festival. She suggested that next year there be an event that was beneficial to both the Chamber and the City.

Finance Committee

Councilmember Steenrod reported that the Finance Committee was continuing review of the City Manager's proposals to reduce the budget.

Municipal Facilities Committee

Councilmember Steenrod reported that the Municipal Facilities Committee was waiting for the architects to provide their estimates for the Senior Center Activity Center.

New Seatbelt Law

Councilmember Steenrod distributed a memorandum to Council regarding the ticketing of first offense violators of the new seatbelt law. She asked that the issue be placed on the agenda.

City Attorney Marousek stated that she would prepare a response to Councilmember Steenrod's memorandum.

ADMINISTRATION REPORTS

September 11th Anniversary

City Manager Piasecki informed Council that the City would host an event to commemorate the anniversary of September 11th. Employees would be asked to wear red, white, and blue on that day. He also announced that the Senior Services Committee had invited Council to attend a memorial service that would be conducted during the lunch program at the Masonic Lodge.

Tragic Events – Update

Commander O’Leary detailed the known facts concerning the August 19 and 21, 2002 pedestrian/vehicle accidents which occurred in Des Moines. He thanked the Fire and Public Works crews for their assistance in responding to the emergencies. Commander O’Leary also thanked the Federal Way Department of Public Safety for the use of their equipment to survey the scenes.

Councilmember White asked staff to inform Council of any community efforts to assist the affected families.

CONSENT CALENDAR was read by Deputy City Clerk Chaufy.

1. Motion is to approve the minutes of July 25 and August 1, 2002.
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 #82091 through #82287 & electronic fund transfers in the total amount of \$673,589.88

Payroll fund transfers in the total amount of \$348,588.73

3. Three motions:
 - A. Motion is to purchase a 1974 Champion mobile home from Mr. and Mrs. Delgado in the amount of \$8,751.05 plus closing costs, and to authorize the City Manager to sign the purchase and Sale Agreement substantially in the form as submitted.
 - B. Motion is to purchase a 1964 Marlette mobile home from Mr. Glaefke in the amount of \$5,790.34 plus closing costs, and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
 - C. Motion is to purchase a 1972 Fleetwood mobile home from Mr. Cordoba and Ms. Ruiz in the amount of \$8,467.70 plus closing costs and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

MOTION was made by Councilmember Petersen, seconded by Councilmember Steenrod and passed unanimously to approve the consent calendar as read.

For the record, City Manager Piasecki announced that Councilmembers Petersen and Steenrod recused themselves from consent calendar Item No. 3.

PUBLIC HEARING

Law Enforcement Grant for Domestic Violence Advocate Program

City Attorney Marousek introduced Court Resource Advocate Kristen Gabel. She explained that the Court Resource Advocate assists in the prosecution of persons charged with domestic violence-related crimes and serves as a liaison between victims and the criminal justice system. City Attorney Marousek noted that the City of Des Moines was eligible to receive funds from the Local Law Enforcement Block Grant to finance the position through December 2003. The city’s ten percent matching fund requirement would be taken from the domestic violence probation costs collected from each case as it was resolved.

City Attorney Marousek called for speakers three times.

None responded.

Mayor Wasson closed the public hearing.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Steenrod and passed unanimously to accept the Local Law Enforcement Block Grant to continue the Domestic Violence Advocate Program and to authorize the City Manager or his designate to execute the papers to exercise said grant.

PUBLIC HEARING, CONTINUED

Draft Ordinance No. 02-107 Regulations for Secure Community Transition Facilities (SCTF) - 1st Reading

Editor's Note: Councilmember Thomasson was not present for the discussion and Councilmember Steenrod left the meeting at 9:20 p.m.

City Manager Piasecki introduced the subject.

Assistant City Manager Loch explained that the hearing was a continuation of the August 1, 2002 hearing. He introduced Department of Social and Health Services (DSHS) Special Commitments Centers Community Programs Manager Alan Ziegler and described the hearing's public notice procedures. Assistant City Manager Loch noted that if the City did not adopt land use regulations for SCTF's by October 1, 2002, DSHS may preempt all of Des Moines' zoning, permitting, and inspection requirements when siting a facility. He voiced staff's recommendation that Council adopt land use regulations for these facilities.

Mr. Ziegler explained that a SCTF was a confinement facility for sexually violent predators who had completed their prison sentence, but were considered highly likely to re-offend. There were currently 171 individuals confined at the Special Confinement Center on McNeil Island, six individuals in a less restrictive setting, and three individuals in a secured transitional site. Mr. Ziegler listed the following characteristics of a SCTF:

- High degree of security,
- One to one offender to staff ratio,
- Alarm system,
- Monitoring system,
- Personal panic devices for staff, and
- Close work with local law enforcement for transport purposes.

Mr. Ziegler said that an escort must always be present when a Level III offender left a SCTF.

Assistant City Manager Loch said that no facilities were currently proposed for the Des Moines area. He stated staff's recommendation that an unclassified use permit process be implemented to permit the facilities. Assistant City Manager Loch informed Council that the State requires that two public hearings be conducted when a site is being considered. An additional hearing must be held once a site is under consideration. Assistant City Manager Loch displayed a map and aerial view of the PR-C2 zone. He explained that Christian Faith Center was scheduled to

vacate their current building within two years and relocate to Federal Way. Assistant City Manager Loch noted that an SCTF must be sited away from residential areas and risk potential facilities.

Councilmember Sheckler asked whether DSHS was satisfied with the proposed siting.

Mr. Ziegler commended staff's efforts. He said that DSHS had previously had some major concerns but staff had adequately responded to them and addressed them in the proposed ordinance. He said that DSHS staff had unfortunately overlooked two issues, both of which he felt were somewhat minor. He has since discussed them with the Assistant City Manager and was provided with the rationale behind both issues. Mr. Ziegler said that the only caveat DSHS has given to all communities is that if any ordinances are more restrictive than state law or DSHS' siting criteria, then a jurisdiction may be out of compliance. Mr. Ziegler acknowledged that there were few viable locations in Des Moines for a SCTF. On the face of things, right now, Mr. Ziegler said that he does not see preclusiveness.

Assistant City Manager Loch described the following options before Council:

- Allow a SCTF in the PR-C2 zone.
- Allow a SCTF in other zones or areas of the city.
- Take no action and allow preemption.

He displayed a chart listing the actions taken by surrounding communities.

Upon questioning, Mr. Ziegler said that land costs would be a consideration in DSHS' siting decision. He informed Council that DSHS was planning to site a three-bed facility in another county and a twelve-bed facility in King County. He felt these facilities would meet the need for the next five to six years. Mr. Ziegler said that in 2007, DSHS was to reexamine the issue and provide recommendations to the legislature. He confirmed that an escort was required to be with an offender at all times when he was away from the SCTF, even in a work situation.

Mayor Wasson questioned whether the city could contract with another county to house the SCTF instead of having it located in Des Moines.

Mr. Ziegler said that the state would probably consider that action as preclusive and would consider some sort of preemption relative to it.

At 9:20 p.m., Mayor Wasson declared a ten-minute recess. Councilmember Steenrod left the meeting.

Mayor Wasson opened the public hearing.

Harold Worden, 21326 24th Avenue South

Mr. Worden informed Council that he was one of the nine homeowners in the PR-C2 zone. He said that the presentation was helpful in explaining why the particular area was selected but said that the map did not show that approximately thirty homes were located to the north of the area in SeaTac. He also said that there were approximately thirty apartment units on South 216th Street. Mr. Worden expressed concern that a SCTF would affect his property value. He questioned whether the siting of a SCTF would only be considered after the nine residences had sold and the property had been converted to commercial zoning. Mr. Worden also asked if there

was any state assistance available for residents who were unable to sell their property due to the siting of a SCTF.

Alan Ziegler, P.O. Box 45322, Olympia

On behalf of DSHS, Mr. Ziegler distributed a letter in response to the proposed ordinance. He said that DSHS had reviewed the proposed code changes. In regard to contract and mitigation agreements, Mr. Ziegler said that DSHS hoped that contract and mitigation agreements would be in place by the certificate of occupancy rather than having them delay the permitting process. Mr. Ziegler said that DSHS' concern that dealt with conditions of approval had been clarified by Assistant City Manager Loch and was now a mute point.

Mayor Wasson called for additional speakers three times.

None responded.

Mayor Wasson closed the public hearing.

Mr. Ziegler and Assistant City Manager Loch said that they were not aware of any compensation available to the property owners.

Mr. Ziegler said that he would research the question and provide the answer to staff.

City Attorney Marousek obtained permission from Mr. Worden to give his address to DSHS.

Councilmember Sheckler stated that it was with great reluctance and yet in recognition of the fact that the City must take action or DSHS could preempt City of Des Moines' zoning and permitting regulations that he **made a motion** to waive Council Rule 26(b).

City Attorney Marousek explained that State law gave two dates that were applicable to the issue. September 1, 2002 was the deadline to enact zoning ordinances and October 1, 2002 was the deadline for preemption.

Mayor Wasson stated his opinion that an issue this important should be decided by the full Council.

Out of respect for the missing Councilmembers, Councilmember Sheckler **withdrew his motion**.

MOTION was made by Councilmember Sheckler and seconded by Councilmember White to move draft Ordinance No. 02-107 on to a second reading at the September 12, 2002 meeting.

VOTE ON MOTION: Motion passed, 4 – 1, with Mayor Pro Tem Benjamin opposed.

AGENDA REVISION

Mayor Wasson announced that New Business Items Nos. 3 (Cancellation of the 2002 Agreement for Services between the City of Des Moines and the Regional Commission on Airport Affairs) and 4 (Draft Resolution No. 02-168 Supporting an Amendment to King County Charter, Reducing the King County Council from Thirteen to Nine Members) were removed from the agenda.

***Editor's Note:** New Business, Item No. 1, 2003 Preliminary Budget Presentation, also was not addressed at this meeting.*

NEW BUSINESS

Draft Resolution No. 02-181 [Assigned Res. No. 935] Authorize the Chamber of Commerce to Operate a Beer Garden at the Nibble of Des Moines

Mayor Wasson introduced Chamber of Commerce Executive Director Clarice James.

Ms. James announced that the 2002 Waterland Festival went well. She said that she would like to provide Council with her version of the events related to Council during the comments from the public.

Councilmember Sheckler questioned whether the comments would be out of order, as they were not presented during comments from the public.

Mayor Wasson said that he would allow the comments.

Ms. James said several sponsorship packages were available for the Waterland Festival. Mayor Pro Tem Benjamin had said he would like to sponsor a face-painter. Later, he said that he had arranged and paid for the service. The individual offering to provide the face-painting service then came to her and said that Mayor Pro Tem Benjamin no longer wished to sponsor the service. Ms. James said that the individual told her that she would sponsor the face-painting herself. The vendor then completed the paperwork to provide free face-painting at the Festival. As the contract was for free face-painting, Ms. James asked the vendor not to charge for the service. That evening, the vendor asked for a ride in a golf cart to her vehicle. Waterland staff was working to remove an ATM machine at that time so the vendor was told it would take approximately one half hour before she could be transported. She eventually asked Officer Wieland to remove the vendor.

Ms. James asked Council to allow a beer garden and carnival rides at the "Nibble of Des Moines" festival that would be held on September 28 and 29, 2002. A portion of the proceeds collected from the carnival rides would be donated to the families of the pedestrian/vehicle accidents' victims. She felt that the carnival rides would provide more of a family atmosphere for the event. Ms. James stated that carnival set-up and tear-down would be completed during the day. The Chamber would maintain a safe and secure environment for the Nibble of Des Moines patrons. Ms. James confirmed that she had contracted directly with the Des Moines Police Guild for police services.

Councilmember Sheckler noted that Section 7 of Resolution 933, asked that future authorizations be submitted to the City Manager at least ninety days prior to the proposed event.

Ms. James stated that the Board had discussed the addition of the Beer Garden as they had heard that people were interested in having alcohol available at the event. The Board had then asked her to present the request to Council.

City Attorney Marousek clarified that Section 7 of Resolution 933 stated the provision as a suggestion rather than a requirement.

MOTION was made by Mayor Wasson and seconded by Councilmember Petersen to amend Resolution No. 933 to authorize the Chamber of Commerce to operate a Beer Garden at the “Nibble of Des Moines” with the provision that the Chamber provide the City Manager with an operating plan that included an appropriate amount of police patrol.

Councilmember Sheckler said that he would support the event but that he could not support the motion as he felt it violated the intent of the Section 7 of Resolution 933.

Mayor Pro Tem Benjamin said he recognized Councilmember Sheckler’s concerns but was willing to forego the technicalities as a fundraiser for the families was created. He asked Commander O’Leary to comment on any problems associated with the Waterland Festival Beer Garden.

Commander O’Leary informed Council that he was not aware of any problems occurring within the beer garden. He said that the patrons seemed to appreciate the Beer Garden’s new location.

Ms. James stated that a portion, possibly 10%, of the carnival proceeds could go to a fund for the families.

Councilmember Sheckler asked Ms. James to clarify whether proceeds from the carnival or from the Nibble of Des Moines would be donated to the families. He said he could possibly support the motion if proceeds from the event were going to the families.

Mayor Pro Tem Benjamin asked Ms. James to correct him if he was wrong and said that Ms. James had said that 10% of the carnival proceeds would go to the families.

Ms. James said that she had spoken to three of the five Executive Board members about the donation plan.

MOTION was made by Mayor Wasson and seconded by Mayor Pro Tem Benjamin to amend the main motion to include the allowance of carnival rides.

VOTE ON MOTION: Motion passed, 3 – 2, with Councilmembers Sheckler and White opposed.

VOTE ON AMENDED MAIN MOTION: Motion passed, 3 – 2, with Councilmembers Sheckler and White opposed.

Ms. James thanked the police department for their efforts during the Waterland Festival.

NEXT MEETING DATE - Study Session September 5, 2002

ADJOURNMENT

At 10:16 p.m., **motion** was made by Mayor Wasson, seconded by Mayor Pro Tem Benjamin and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty, Deputy City Clerk