PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES September 12, 2002

The regular meeting of the Des Moines City Council was called to order at 7:31 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 Thomasson.

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod, Scott Thomasson and Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Harbormaster Joe Dusenbury, Commander Kevin Tucker, and Deputy City Clerk Angela Chaufty.

CORRESPONDENCE

Department of Social and Health Services Correspondence

City Manager Piasecki announced that a copy of the letter from Department of Social and Health Services to Harold Worden regarding the potential siting of a secure community transition facility in his neighborhood had been distributed to Council.

COMMENTS FROM THE PUBLIC

Joe Carlo, 28823 Redondo Shores Drive South

Mr. Carlo informed Council of his concerns regarding the volume of traffic in the Redondo area. He said that the road had become a collector route. Mr. Carlo questioned if the replacement of the three-way stop with a traffic light near Salty's might improve traffic flow.

Mayor Wasson asked the City Manager to provide Council with a response to Mr. Carlo's concerns.

Frank Desimoni, Jr., 28802 Redondo Shores Drive

Mr. Desimoni told Council that his house was located at the end of the Redondo boardwalk. He said that during the summer people gather at the boardwalk and make noise late into the night. He also said that cars speed through the area. Mr. Desimoni questioned whether the boardwalk was considered a park and, if so, why did it not have any rules. He asked Council to set a time limit on the length of time an individual could remain in the area and a curfew for the boardwalk. Mr. Desimoni asked for more police patrol for the boardwalk end areas.

Mayor Wasson asked whether the issue could be remanded to the Public Safety and Transportation Committee.

City Manager Piasecki confirmed that Council could remand the issue to committee and said that the Public Works Director and Chief of Police would investigate the concerns.

Mayor Pro Tem Benjamin asked Mr. Desimoni to give his phone number to the clerk.

Tim Stiles, 903 SW Granite Lane, North Bend

As a representative of the Moss family, Mr. Stiles stated that he had left phone messages for Mayor Wasson and Mayor Pro Tem Benjamin asking them to explain their votes for the Nibble of Des Moines. He said that Mayor Pro Tem Benjamin had Clarice James call him regarding his concerns. Mr. Stiles asked whether Ms. James was representing Mayor Wasson and Mayor Pro Tem Benjamin. He questioned why Council voted to allow the Beer Garden at the Nibble of Des Moines.

Bob Ponds, 23116 30th Avenue South

Mr. Ponds voiced appreciation for Council's actions regarding his neighborhood. He said that the fence installation and drug abatement program have helped. Mr. Ponds told Council that the King's Arm Motel remained a problem. He asked Council for assistance in dealing with it.

Councilmember Thomasson noted that the Public Safety and Transportation Committee had met with Police staff to develop ways to address the concerns through the business licensing process.

City Manager Piasecki informed Mr. Ponds that Commander Tucker would provide him with additional information regarding the committee's work.

Mayor Pro Tem Benjamin commented that Council was aware of the concerns and was working with the police department to address them.

BOARD & COMMITTEE REPORTS

Finance and Economic Development Committee

Councilmember Steenrod announced that the committee would meet next Monday to study the Community Development Director's economic development proposal. The 2003 budget proposals would be reviewed at the following committee meeting.

Municipal Facilities Committee

Councilmember Steenrod reported that the committee had met with the architect to discuss the Senior Activity Center plans. The committee hoped to have the building ready for occupancy by the end of the year. Councilmember Steenrod questioned whether the Redondo Boat Launch plans would include any proposed street revisions.

Assistant City Manager Loch said that the Redondo Boat Launch plan would include plans to consolidate crosswalks and improve lighting in the area. He informed Council that the Public Works department had performed a traffic and speed study for the street.

Response to Comments from the Public - Stiles

In regard to Mr. Stiles' comments, Councilmember Steenrod said that the driver had not yet been determined to be under the influence of alcohol when she voted for the Beer Garden.

Public Safety and Transportation Committee

Regarding Mr. Carlo's comments during Comments from the Public, Councilmember Thomasson stated that the Public Safety and Transportation Committee had studied the possibility of installing a traffic signal in the area but felt that the signal would bring more traffic usage to the area and would defeat the traffic reduction goal.

Response to Comments from the Public – Stiles and Carlo

Councilmember White thanked Mr. Stiles and said that she felt that he deserved an apology for the manner in which the issue was handled.

In regard to Mr. Carlo's comments, Councilmember White noted that the traffic calming project for Redondo had been moved forward in the City's Six-Year Transportation Improvement Plan.

Public Safety and Transportation Committee

Mayor Pro Tem Benjamin said that the committee was studying the Redondo issue mentioned by Mr. Carlo. He said that the committee would look closer at the possibility of installing a traffic light to address traffic flow.

Response to Comments from the Public – Desimoni and Stiles

Mayor Pro Tem Benjamin confirmed that Mr. Desimoni was questioning whether the Redondo boardwalk was a park.

In regard to Mr. Stiles' comments, Mayor Pro Tem Benjamin said that Council had been given the agenda item prior to the occurrence of the accident. He said that the Council did not run the Chamber of Commerce nor did the Chamber of Commerce run the Council. He stated that he was not present at the meeting when the Chamber of Commerce decided to cancel the Beer Garden. Mayor Pro Tem Benjamin said that he was the council liaison to the Chamber of Commerce.

PRESIDING OFFICER'S REPORT

Nibble of Des Moines' Beer Garden

Mayor Wasson read a statement stating that on August 15, 2002, the Chamber of Commerce requested approval for the City Council to operate a beer garden at the Nibble of Des Moines. On August 21, 2002, an accident caused by an individual who was suspected of being under the influence of alcohol occurred. On August 22, 2002, the Chamber of Commerce asked Council for permission to operate some carnival rides at the Nibble of Des Moines and offered to donate some of the proceeds to the families of two separate serious accidents. Mayor Wasson said that "malcontents" distorted the motives and actions of Council. He said that the beer garden had nothing to do with the tragic accidents that occurred in the City; the Chamber of Commerce had canceled the Bear Garden due to concerns expressed by the victim's family members; the Council had played no part in that decision; and it was unfortunate that Mr. Stiles allowed himself to be manipulated by malcontents.

Mr. Stiles asked for permission to respond to Mayor Wasson's comments.

Mayor Wasson ruled any comments out of order.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the minutes of August 5 and 22, 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 #82288 through #82496 & electronic fund transfers in the total amount of $931,480.37

Payroll fund transfers in the total amount of $298,526.48

3. Draft Resolution No. 02-208 ***[Res. No. 937]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, relating to the Redondo Boat Ramp, authorizing application(s) for funding assistance for a Boating Facilities Program (BFP) project to the Interagency Committee for Outdoor Recreation (IAC) as provided in Chapter 79A.25 RCW, Boating Facilities Program.

MOTION is to approve Draft Resolution No. 02-208.

MOTION was made by Councilmember Sheckler and seconded by Councilmember Steenrod to approve the Consent Calendar as read. Motion passed unanimously.

PUBLIC HEARING

2003 Community Development Block Grant (CDBG) Projects

Community Development Director Kilgore introduced the subject. She noted that six CDBG applications had been received. Community Development Director Kilgore said that the public hearing would allow the public an opportunity to comment on which projects to fund. She recommended that any reprogrammed funds or additional 2003 allocations be directed to the Housing Repair Program.

Mayor Wasson opened the public hearing and called for speakers three times.

None responded.

Mayor Wasson closed the public hearing.

Councilmember Steenrod confirmed that all of the applicants had been funded in the amounts requested.

In response to Councilmember Thomasson's questioning, Community Development Director Kilgore confirmed that all CDBG eligible projects at the Field House had been completed. She noted that the CDBG funding process was very strict and bureaucratic. Funding was divided into three areas: public service, planning and administration, and capital programs. Public service and planning and administration funds could not be used for capital programs. Community Development Director Kilgore said that the CDBG program was advertised in The Seattle Times and at an applicant conference.

MOTION was made by Councilmember White, seconded by Councilmember Petersen, and passed unanimously to allocate the 2003 CDBG program funds as follows:

- Senior Center Land Acquisition $72,138
- Friends of Youth 7,500
- City of Des Moines – Senior Center Support 39,299
- City of Des Moines – Planning & Administration 24,810

- City of Des Moines – Wesley Home Crosswalk Signal Project 75,000
- King County-Sousing Repair Program 15,000

Further, any reprogrammed funds or additional 2003 allocations are to be directed to the Housing Repair Program.

OLD BUSINESS

Draft Ordinance No. 02-017 ***[Assigned Ord. No. 1306]*** Regulations for Secure Community Transition Facilities - 2nd Reading

In response to questions previously asked by Council, Assistant City Manager Loch noted that a letter from DSHS to Mr. Worden had been distributed to Council. He explained that existing homes in the area would not necessarily be removed prior to the siting of a SCTF if DSHS could satisfy all siting criteria. Assistant City Manager Loch said that there would be no reimbursement available for the loss of property value. He noted that Alan Ziegler from DSHS and Mr. Worden were present in the audience.

Councilmembers Thomasson and Steenrod announced that they had watched the video of the public hearing.

City Attorney Marousek ruled them eligible to participate in the discussion and vote.

Assistant City Manager Loch explained that if Council did not adopt any regulations, DSHS could site and preempt all of Des Moines' zoning, permitting and inspection requirements.

Councilmember White said that she felt it was better to put the City's fate in the City's hands.

Upon questioning, Mr. Ziegler said that DSHS was asking each city to designate potential SCTF sites. If Des Moines chose to pass an ordinance regarding the siting of a SCTF, it would not be accurate to say that a SCTF would come to Des Moines.

Councilmember Steenrod questioned whether an agreement with another city for SCTF siting was possible.

Councilmember Thomasson felt that it was in the best interest of the City to enact the ordinance so that the State would be required to ask Council's permission before siting a SCTF within the City limits.

MOTION was made by Councilmember Thomasson and seconded by Councilmember White to enact Draft Ordinance No. 02-107 adopting land use regulations for secure community transition facilities.

In regard to Page 2, the second to the last "Whereas", Councilmember Thomasson suggested that a reference to the August 22, 2002 public hearing be included. In regard to Page 6, Section (ii), Councilmember Thomasson asked that language be developed that clarified that if public safety concerns outweighed the equitable distribution objections, Council may still say "no" to the siting of a SCTF.

City Attorney Marousek requested time to propose new language.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Steenrod and passed unanimously to table the motion until later in the meeting.

Assistant City Manager Loch noted that under the unclassified use permit process, the Planning Agency would conduct a public meeting while the Council would hold a public hearing regarding the issue.

Draft Ordinance No. 02-141 ***[Assigned Ord. No. 1305]*** Cardroom Regulations - 2^{nd} Reading

Commander Tucker informed Council that his research indicated that cardrooms did not create any major problems for police departments. A search of DUI records for ten local gambling establishments for the period of August 2001 through August 2002 revealed only two DUI's issued. He noted that the Muckleshoot Casino had sixteen DUI's for the same period. He noted that casinos would require a learning curve for the police but that they did not present any major concerns.

Community Development Director Kilgore informed Council that the police had voiced a concern regarding the combination of dancing, gambling, and drinking. She noted that dance halls required a separate license and that staff was currently reviewing the dance hall code.

Commander Tucker noted that the Pacific Ridge area currently did not have any cabaret requirements. He advised Council not to give a blanket dance hall approval for the area.

City Manager Piasecki explained that tax revenues gained from the cardrooms would go to the general fund. He noted that the Police Department was part of the general fund.

Commander Tucker said that staff had discussed the need to monitor the impact of cardrooms on the police department if the proposed ordinance was adopted.

Councilmember Steenrod concurred that costs to the police department should be tracked.

Community Development Director Kilgore informed Council that two to three individuals were currently interested in siting cardrooms in Des Moines.

Councilmember Thomasson said that he did not wish for the City to regulate bingo games, raffles, and fund-raising events of bona fide charitable or nonprofit organizations. In regard to Section 4(2) of the proposed ordinance, Councilmember Thomasson suggested that the definition of "gross receipts" be provided.

City Attorney Marousek explained that the proposed ordinance listed specific activities rather than adopted the RCW 9.46 by reference so as to provide local control of the City's permitted gambling activities.

Community Development Director Kilgore explained that RCW 9.46 refers to the State gambling code. She said that the State requires restaurant and gambling receipts to be tracked separately.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Petersen to adopt on second reading Draft Ordinance No. 02-141 permitting enhanced cardrooms in the City of Des Moines.

MOTION was made by Councilmember Thomasson, seconded by Mayor Wasson, and passed unanimously to delete Section 4(1) from page 5.

MOTION was made by Councilmember Thomasson, seconded by Mayor Wasson, and passed unanimously to delete Section 7.

MOTION was made by Councilmember Thomasson and seconded by Mayor Wasson to delete New Section 2(1).

City Attorney Marousek explained that state law would then rule in this issue.

The maker and seconder of the motion **withdrew their motion**.

VOTE ON AMENDED MAIN MOTION: Motion passed, 6 – 1, with Councilmember Sheckler opposed.

EXECUTIVE SESSION

At 9:07 p.m., City Attorney Marousek announced that the Council would convene in executive session for approximately twenty minutes to discuss personnel matters and for the purpose of planning or adopting strategies or positions as part of an ongoing collective bargaining process as provided in RCW 42.30.140(4)(b).

At 9:30 p.m., City Attorney Marousek announced that the Council would remain in executive session for approximately another ten minutes.

At 9:40 p.m., City Attorney Marousek announced that the Council would remain in executive session for approximately another ten minutes.

At 9:50 p.m., Council returned to open session. No formal action was taken.

OLD BUSINESS, CONTINUED

Draft Ordinance No. 02-017 ***[Assigned Ord. No. 1306]*** Regulations for Secure Community Transition Facilities - 2nd Reading, Continued

Councilmember Thomasson put the issue on the table.

MOTION was made by Councilmember Thomasson and seconded by Mayor Wasson to amend draft ordinance No. 02-107 as follows:

1. To add a reference in the recitals to the August 22, 2002 public hearing;
2. To amend subsection (13)(b)(ii) to make it clear that the Council may determine that a facility must be sited in compliance with public safety goals, even if those needs do not conform to equitable distribution goals, and

3. To amend subsection (13)(b)(iii) to make it clear that Council may deny a permit if potential adverse impacts cannot be mitigated,

and that staff be directed to draft language incorporating both amendments.

VOTE ON MOTION: Motion passed, 6 – 1. Mayor Pro Tem Benjamin abstained for personal reasons.

VOTE ON AMENDED MAIN MOTION: Motion passed, 5 – 2, with Mayor Wasson opposed and Mayor Pro Tem Benjamin abstaining for personal reasons.

Draft Resolution No. 02-212 ***[Assigned Res. No. 938]*** Reconfiguration of Nibble of Des Moines

Harbormaster Dusenbury introduced the subject. He informed Council that there was not enough room in the center parking lot for the event due to the addition of the carnival. In addition, he said that the configuration would interfere with the public hoist. Harbormaster Dusenbury proposed the following actions:

- Move the event to the north parking lot,
- Construct temporary fencing to separate the event crowd from the launch operations, and
- Use the center and south parking lots for launch parking.

Harbormaster Dusenbury recommended that the Chamber of Commerce provide the City Manager with a map of the new layout and distribute the information to the marina neighbors. Further, he recommended that the Chamber of Commerce submit an operating plan that included an appropriate amount of police patrol to the City Manager.

Chamber of Commerce Executive Director Clarice James informed Council that she had spoken with Des Moines' Police Guild personnel to secure police services for 6:00 – 11:00 p.m., Friday and Saturday and 5:00 – 9:00 p.m., Sunday. She said that she had also met with fire and health department personnel regarding the event. In response to Councilmember Sheckler's questioning, Ms. James said that traditional foodstuffs not provided by local vendors would be provided by the carnival. She listed local vendors that would be participating in the event. Ms. James felt that local restaurants were not participating in the event as they could not staff their restaurants and the event simultaneously. Ms. James said that two local restaurants were participating in the Nibble of Des Moines.

Councilmember Thomasson stated that the original purpose of the Nibble of Des Moines was to feature local eating establishments. It was a business building venture for the City of Des Moines. He said that the original purpose had been abandoned and that the event had now become a Chamber of Commerce fund-raiser. He felt that the residents living by the Marina were being asked to do a lot just to endure the Waterland Festival and he was not willing to expand this event into another carnival fundraiser.

Ms. James said that the Chamber has discussed changing the name of the event. She said that the carnival was not an on-going part of the Nibble of Des Moines but that she happened to get the rides due to a cancellation elsewhere. Ms. James said the carnival would not be inevitable every year. She informed Council that approximately forty vendors had signed up to participate in the event, eighteen of them were from Des Moines.

Councilmember White voiced agreement with Councilmember Thomasson's comments. She questioned why the event was being done if it was not a hometown event

Councilmember Thomasson said that he would not have voted for the inclusion of a beer garden at the Nibble of Des Moines and he would not support the event now.

Harbormaster Dusenbury confirmed that a map of the new configuration had been given to condominium representatives.

Councilmember Steenrod felt it was important to keep people coming to Des Moines. She supported the idea of renaming the event so that the emphasis was not on food.

Ms. James informed Council that proceeds from the petting zoo would benefit the Des Moines Food Bank.

Councilmember Thomasson noted that a repealer clause had been omitted from the proposed resolution.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Steenrod to enact Draft Resolution No. 02-212, granting the Chamber of Commerce permission to conduct the annual "Nibble of Des Moines" festival to include a carnival, with extended days and hours, in the North Lot of the Marina and at the site of the former Quartermaster Store, with the provision that the Chamber provide the City Manager with a map and operating plan that allows for normal Marina operations and includes an appropriate amount of Police patrol.

MOTION was made by Councilmember Thomasson, seconded by Mayor Wasson, and passed unanimously to add language to the proposed resolution that would rescind the previous resolution.

Councilmember Sheckler said that as only two local food vendors were participating in the event, he believed that the Nibble of Des Moines had become another carnival.

Councilmember Petersen noted that restaurants were suffering from the economy. He felt that if other restaurants could afford to participate, they should be allowed to do so.

Mayor Pro Tem Benjamin voiced support for the main motion as the event would become an attraction and bring people to Des Moines.

VOTE ON MOTION: Motion passed, 4 – 3, with Councilmembers Sheckler, Thomasson, and White opposed.

Draft Resolution No. 02-201 Regarding Referendum 51 - Continued Discussion

MOTION was made by Councilmember White and seconded by Mayor Pro Tem Benjamin to table the issue for a few weeks until additional information was available.

VOTE ON MOTION: Motion passed, 6 – 1, with Councilmember Thomasson opposed.

NEW BUSINESS

Discussion: Resolution No. 753 Policies Governing City Council Participation in Public Contracts

Mayor Wasson introduced the subject. He stated that he had forwarded the proposed resolution to the City Manager. Mayor Wasson said that the proposed changes would provide Council with more overview of the expenditures. It would amend the policies for the following items:

- Interlocal Agreements
- Public Works Small Works Roster
- Purchase of Supplies, Materials Equipment, & Professional Services
- Professional Services Contracts
- Administrative Contracts
- Franchise Agreements
- Public Works – Subject to Bid
- Architectural & Engineering Services
- Lease, Purchase or Sale of City Real Property

MOTION was made by Mayor Wasson to table the issue to the next meeting so that Council could become more familiar with its proposed revisions.

Councilmember Thomasson informed Council of the historical background of Resolution No. 753. He said that a Finance Contract Committee had been created to review every contract. The committee eventually determined that it did not want to deal with the mundane issues. He asked Council to consider the volume of items that would be affected by the proposed resolution. He said that the City Manager was hired by the Council to run the City.

Mayor Wasson clarified that it was the following Council that established the Finance Contract Committee.

MOTION was seconded by Councilmember Sheckler.

VOTE ON MOTION: Motion passed unanimously.

Draft Resolution No. 02-168 Supporting An Amendment to King County Charter Reducing King County Council from 13 to 9 Members

Mayor Wasson announced that the issue had been moved to the next meeting.

NEXT MEETING DATE - Regular Meeting September 26, 2002

ADJOURNMENT

At 10:24 p.m., **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk