

AGENDA
REGULAR MEETING DES MOINES CITY COUNCIL
January 30, 2003 - 7:30 p.m.

CALL TO ORDER - Mayor Pro Tem Benjamin

PLEDGE OF ALLEGIANCE

ROLL CALL

ELECTION OF MAYOR

CORRESPONDENCE

COMMENTS FROM THE PUBLIC: At this time you are invited to comment on items that you wish to bring to Council's attention. Please sign in prior to the meeting and limit your comments to three minutes or less.

BOARD & COMMITTEE REPORTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

CONSENT CALENDAR*

1. Motion is to approve the minutes of January 13 and 16, 2003. *approved as consent*
2. Draft Resolution No. 03-002 - Title: A Resolution of the City of Des Moines, Washington approving a Conditional Shoreline Substantial Development Permit and an Environmentally Sensitive Areas Development subject to conditions specified herein.

MOTION is to approve Draft Resolution No. 03-002.

3. Motion is to approve the amendments to the contract for professional engineering services for financing the Des Moines Transportation Element Update with The Transpo Group for up to an amount of \$5,000, and to authorize the City Manager to sign said contract amendments substantially in the form as attached. *motion 2/6*
4. Motion is to award R custom Excavation, Inc. the contract to purchase and remove 12 mobile homes that the City has acquired through right-of-way purchase of the Pacific Highway South Redevelopment Project in the amount of \$30,000, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% and further to authorize the City Manager to sign said contract substantially in the form as submitted. *passed 6-1*

*NOTE: Items on the Consent Calendar are either routine or have been previously discussed. Any item may be removed by a Councilmember. *passed 4-0*

OLD BUSINESS

1. Draft Ordinance No. 02-186 Dangerous Fences - 2nd Reading

*passed
has
amended*

SUMMARY: At the January 9, 2003 continued Public Hearing, staff made a presentation responding to the Council's requested changes. The Public Hearing is now closed. A motion passed unanimously to move the draft ordinance to a 2nd reading on the January 23, 2003 agenda. Time expired at the January 23rd meeting before this item could be addressed, so it has been placed on the next meeting agenda for action.

NEW BUSINESS

1. Draft Ordinance No. 01-142 Telecommunications Code Readoption

*passed
1st reading
7-0*

SUMMARY: The proposed ordinance reenacts most of the City's telecommunications ordinance, with modifications changing only items that conflict with federal law. Changes have been made throughout the ordinance to make it clear that the City is regulating its rights-of-way, not the telecommunications providers. It is recommended that the Council discuss the draft ordinance, and pass it in its current or amended form to a 2nd reading for enactment on a future calendar.

2. Draft Ordinance No. 02-264 Traffic Impact Fees - 1st Reading

*continued
to March 6*

SUMMARY: The purpose of this agenda item is to get input from the full Council regarding the use of traffic impact fees.

6 ← 3/4 18/4 4/2

3. Marina Dry Stack Storage Alternatives

SUMMARY: The purpose of this report is to update the Council on the progress of the Dry Stack Storage Project and to seek Council direction regarding the site and configuration alternatives.

4. Draft Resolution No. 02-269 Adoption of an Economic Development Plan

SUMMARY: At its April 2002 retreat, the City Council selected economic development as one of the highest strategic objectives for 2002-2003. Since that time the Finance and Economic Development Committee has worked with Administration to develop a realistic, achievable strategy to maintain and increase the economic vitality in the City. The draft resolution would adopt an economic development action plan and establish a mission statement, goals and implementation priorities.

5. Reconsideration of RCAA Final Billing

SUMMARY: This item will give Council an opportunity to review the information supplied by the Regional Commission on Airport Affairs (RCAA) regarding the services they have provided in 2002 to satisfy their responsibilities per the agreement between the City of Des Moines and RCAA, and to determine the final payment amount Council will authorize for these services.

6. Claims Warrant #83550

SUMMARY:

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

SUMMARY: On June 27, 2002 Administration requested Council direction on mobile home parks. Currently, the mobile homes in the City are nonconforming uses. Under the draft ordinance mobile home parks established before July 1, 1992 remain legal, nonconforming uses. The purpose of the draft ordinance would be to allow mobile home owners, with an approved site plan, the opportunity to locate in a Des Moines' mobile home park.

8. Draft Resolution No. 02-237 Amending Council Rule 12

SUMMARY: The purpose of this item is to amend the current City Council Rules of Procedure to more specifically identify the City Clerk's duties regarding the keeping of minutes and to require a specific action item section in the minutes be kept of each City council meeting.

9. Councilmember Compensation

SUMMARY: The purpose of this item is to provide the City Council an opportunity to discuss Councilmember compensation. Mayor Wasson placed this item on the agenda at the request of Councilmember Steenrod.

10. Draft Resolution No. 03-013 Amendment of Council Rule 36, Videotaping of Council Meetings

SUMMARY: The Mayor has requested that the Council Rules of procedure be amended to restrict persons, other than the City's official videographer, from videotaping or photographing Council meetings to an area defined as behind a line projected parallel to the Council dais at the rear of the public comment table and not to block the view of the City Council dais. It is recommended that the Council discuss the draft resolution at the meeting of January 23rd, and pass the draft resolution in it current or amended form to a second reading for enactment on a future agenda.

11. Draft Ordinance No. 03-014 Allowing Suspension of Council Rules of Procedure

SUMMARY: The Mayor has requested that the Council Rules of Procedure be amended to allow for suspension of Council rules. Suspensions of rules are not currently allowed under DMMC 4.12.030. Therefore, DMMC 4.12.030 must be amended.

12. Draft Resolution No. 03-025 Highline School District 401 Education Programs and Operations
Levy

*passed
G-1*

SUMMARY: It is recommended that the Council discuss the draft resolution supporting the highline School District's programs and operation levy, which will be on the February 4, 2003 ballot. This election is to renew the current school levy tax; it is not a new tax. The previous levy passed by Highline voters in 2000 expires at the end of 2003. Passage of this replacement levy would continue to provide quality educational services to students.

NEXT MEETING DATE - Study Session February 6, 2003

ADJOURNMENT

A G E N D A I T E M

SUBJECT:

*Draft Ordinance No. 02-186
Dangerous Fences*

ATTACHMENTS:

1. Draft Ordinance No 02-186
2. Minutes from 01-09-2003 hearing
3. Minutes from 11-21-2002 hearing

AGENDA OF: January 30, 2003

DEPT OF ORIGIN: Community Dev.

DATE SUBMITTED: January 16, 2003

CLEARANCES:

☒ COMM DEV

☒ LEGAL

**APPROVED BY THE CITY MANAGER
FOR SUBMITTAL**

PURPOSE AND RECOMMENDATION:

The attached ordinance proposes to regulate razor wire and other dangerous fencing. Motions consistent with staff recommendation are provided below:

Motion 1:

"I move to adopt Draft
Ordinance No. 02-186."

*see
amendments*

BACKGROUND:

At the November 21, 2002 public hearing, the City Council heard staff's presentation of an ordinance regarding the dangers of razor wire to the safety of people, pets, and wildlife. Due to time constraints, the City Council unanimously made a motion to continue the hearing to January 9, 2003.

At the January 9, 2003 continued public hearing, staff made a presentation responding to City Council's requested changes. As there was no public comment, the Mayor closed the public hearing. A motion passed unanimously to move the draft ordinance to a second reading on January 23, 2003.

DISCUSSION:

At the January 9 hearing, Council requested that staff make two minor changes to the draft ordinance. Accordingly, staff has revised the language to strike the "and" from the phrase "and/or" on page 3, paragraph 2, and also strike "non-dangerous" from page 3, paragraph 4.

Councilmember Thomasson requested that staff provide a reason for the 10' setback indicated on page 3, paragraph 4. Staff contacted other cities with similar ordinances, and most jurisdictions do not have this type of setback requirement. Staff feels that it is necessary to have a setback from public sidewalks, and has recommended 10' because it is a common setback within the City.

ALTERNATIVES:

The City Council may:

1. Adopt the draft ordinance as written.
2. Adopt the draft ordinance with amendments by the City Council.
3. Do not adopt the draft ordinance.

FINANCIAL IMPACT:

Property owners of dangerous fences that are in violation of this proposed ordinance would be required to remove dangerous portions of the fence at their own cost. It is anticipated that the cost of removal of razor wire and similar materials will be insignificant, however, installing a new type of security system will vary depending on the security needs of the site. The property owners will be encouraged to contact the Police Department for a security survey. A security survey is a free service offered by the city to help people determine the best way to protect their property.

There will be no financial impact to the City of Des Moines.

RECOMMENDATION/CONCLUSION:

Administration recommends that the Council adopt the draft ordinance as written.

CONCURRENCE:

The following departments have been involved in the draft ordinance:

- Community Development Department
- Legal Department
- Police Department

The Police Department has expressed concerns about a total ban on razor wire due to security issues. Community Development and the Police Department will work together to develop other options using the types of fencing allowed within the ordinance.

COMMUNITY DEVELOPMENT'S THIRD DRAFT 01/16/2003

DRAFT ORDINANCE NO. 02-186

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to dangerous fences, and adding new sections to chapters 18.04 and 18.40 DMMC.

WHEREAS, there is razor wire and barbed wire fencing located within the City, and

WHEREAS, razor wire can be an effective method of securing commercial property, and

WHEREAS, razor wire is also being used to secure residential property within the City, and

WHEREAS, citizens of Des Moines have voiced concern over the presence of razor wire fencing, and

WHEREAS, coiled barbed wire fencing poses a similar threat, and

WHEREAS, razor wire and materials of similar design pose a danger to wildlife and domestic pets, and

WHEREAS, razor wire and coiled barbed wire also create a safety hazard for human beings, and

WHEREAS, existing regulations do not address dangerous fences, and

WHEREAS, an environmental checklist for this ordinance was prepared and was reviewed by the responsible SEPA official of the City of Des Moines, and a Determination of Non-Significance was issued on October 23, 2002 under the State Environmental Policy Act, RCW 43.21C, (SEPA) and the Administrative Guideline and local ordinance adopted to implement SEPA, and

WHEREAS, by motion regularly passed, the Des Moines City Council scheduled a public hearing for November 21, 2002, to consider the textual code amendments contained in this ordinance, and

ATTACHMENT 1

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held on the 21st day of November, 2002, and all persons wishing to be heard were heard, and

WHEREAS, by motion regularly passed, the Des Moines City Council continued the public hearing to January 9, 2003, and

WHEREAS, the public hearing was continued to the 9th day of January, 2003, and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Four new sections are added to chapter 18.04 DMMC to read as follows:

(1) "Barbed wire" means twisted wires strands of fence wire armed with barbs or sharp points at regular intervals.

(2) "Dangerous fence" means a fence which is designed to be able to or is likely to inflict injury or harm. The term includes, but is not limited to, fences constructed of or including barbed wire or razor wire.

(3) "Electric fence" means an above-ground wire fence that is designed to carry an electric current that will produce a mild shock when a person or animal comes into contact with the wire.

(4) "Razor wire" means tense steel coil around which a tape of razor sharp spikes are attached; also called concertina wire.

Sec. 2. A new section is added to chapter 18.40 DMMC to read as follows:

Dangerous fences--Restrictions. Dangerous fences are subject to the following restrictions:

(1) Fences containing razor wire, coiled barbed wire, or material(s) of similar design are prohibited in all residential zones, except that the Community Development Director may approve such dangerous fences in residential zones for jails, detention facilities and other methods of court-ordered personal confinement, through the building permit process. Only those fences to be used for the purposes set forth in this paragraph will be allowed under such permit.

(2) Electric fences are not permitted in the City except when used to contain grazing animals in an area zoned to allow such a use. Electric fences must be set back at least five (5) feet from the property line and/or must be enclosed by additional fencing or other barriers which prevent access to the electric fence by small children on the adjacent property.

(3) A barbed wire fence may be a maximum of 5' in height and may contain four (4) strands of taut parallel barbed wire.

(4) A ~~non-dangerous~~ fence or wall may incorporate a maximum of three (3) strands of parallel barbed wire a maximum of 2' in height on top of the fence, so long as the orientation is either straight up or angled in toward the enclosure. If such fence is not located within 10 feet of the marginal line of any sidewalk or pedestrian way, the orientation of the barbed wire strands may be angled out toward the exterior of the enclosure. No portion of the fence may overhang any property line.

(5) In residential zones, all permitted dangerous fences shall comply with height and setback restrictions for all fences as set forth

Ordinance No. _____

Page 4 of _____

in DMMC 18.40.150. For properties where both codes apply, the more restrictive code shall prevail.

(6) All fences not in compliance with this section shall, within sixty (60) days of notification from the City, be removed by the owner or, upon failure to remove the fence, the Community Development Director is empowered to cause the removal of the fence, the cost of which shall be billed to the owner.

Sec. 3. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

NEW SECTION. **Sec. 4. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2002 and signed in authentication thereof this _____ day of _____, 2002.

M A Y O R

APPROVED AS TO FORM:

City Attorney

Ordinance No. _____
Page 5 of _____

ATTEST:

City Clerk

Published: _____

Effective Date: _____

DRAFTORD:U:\CELESTE\ORDINANCES\RAZORWIRE

**EXCERPT
DES MOINES CITY COUNCIL MINUTES
January 9, 2003**

CONTINUED PUBLIC HEARING

Draft Ordinance No. 02-186 Dangerous Fences - 1st Reading

Land Use Planner II Carlson reminded Council that a Public Hearing was held on November 31, 2002 meeting. At that hearing Council heard staff's presentation of the draft ordinance regarding the dangers of razor wire to the safety of people, pets and wildlife. Public testimony was taken at that meeting, but due to time constraints, Council has continued the hearing. She further advised that at the direction of Council staff has added a definition for electric fencing so that buried fences will be excluded from the proposed regulations, has exempted commercial zoned property from the regulations, and has also clarified the language in the definition of barbed wire.

Councilmember Thomasson requested, and Council concurred, the following revisions to the draft ordinance:

Page 3 (4) first line: Strike the words "non-dangerous"

Page 3 (2) 2nd sentence, and/or: Strike the word "and"

Upon questioning by Councilmember Thomasson, Land Use Planner II Carlson advised that the 10 foot measurement in section 2 (4) was taken from another city's ordinance.

As there were no public who wished to address the Council, Mayor Wasson declared the hearing CLOSED.

MOTION was made by Councilmember Sheckler, seconded by Councilmember White, to move Draft Ordinance No. 02-186 to a 2nd reading at the January 23, 2003 Council meeting.

Councilmember Thomasson advised that he may wish to change the 10 foot measurement in Section 2 (4) to 3 or 5 feet at the next reading.

VOTE ON MOTION: Motion passed unanimously.

EXCERPT DES MOINES CITY COUNCIL MINUTES November 21, 2002

PUBLIC HEARING

Draft Ordinance No. 02-186 Dangerous Fences - 1st Reading

City Manager Piasecki introduced the subject. As staff had notified the people who currently have razor wire on their property of the hearing only a few days ago, he suggested that Council allow written comments and continue the hearing to a later date.

Mayor Wasson opened the hearing.

Assistant Planner Carlson said that the proposed ordinance was written in response to Council's direction due to a citizen's request. She informed Council that the Code currently did not address any dangerous fences. The proposed ordinance would ban razor wire fencing and regulate electric fences and barbed wire fences. Assistant Planner Carlson confirmed that Council had received the letter submitted by the owner of Midway Motors (Exhibit 1). She said that, if the proposed ordinance passed, property owners would be required to remove the dangerous fencing at their own expense within sixty days. Assistant Planner Carlson confirmed that the ordinance did not address buried fences.

City Attorney Marousek said that the exclusion of buried fences could be clarified in the definition section of the draft ordinance.

Upon request, Assistant Planner Carlson said that she would provide Councilmember Steenrod with a copy of DMMC 18.40.150.

Councilmember Steenrod said that Council must consider the issue carefully as the fencing was also a visual deterrent to crime.

City Manager Piasecki confirmed that Council could restrict the use of dangerous fencing in specific zones.

Upon questioning, Assistant Planner Carlson explained that the proposed ordinance was based upon the ordinances of four different cities and contained the commonly addressed items.

Councilmember Thomasson noted that the draft ordinance did not contain a process for a hearing or compensation. He said that the existing fences could be argued to be a non-conforming use.

City Attorney Marousek said that she would research the issue.

Councilmember Petersen stated his belief that the fencing was not a deterrent to an experienced thief.

City Attorney Marousek read the rules for conducting a public hearing.

Speakers

Vernena Bergin, 21628 28th Avenue South

Ms. Bergin spoke in opposition to the proposed ordinance. She said that the purpose of a fence was to keep people out and the purpose of razor wire was to keep people from going over. She stated that her razor wire has protected her tenants from crime. Ms. Bergin said that common sense goes a long way. She informed Council that she had received a permit and signed for the razor wire when she initially got it. Ms. Bergin said that electric fences would not kill anyone but only shock them. She said that anyone caught in a fence had no business being there in the first place.

Phil Yohann, 1300 South 250th

Mr. Yohann said that he was the concerned citizen who had originally brought the issue to Council. He said that his only concern was with the razor wire surrounding the RV lot at Huntington Park. Mr. Yohann informed Council that he has extricated three cats, including one that died, from the razor wire within the last seven years. Mr. Yohann voiced agreement with Councilmember Petersen's comment that anyone could cut the wire to get into the property. He reiterated that his only concern was with razor wire in a residential area. Razor wire used in commercial areas was a different issue.

Robert Back, 23840 16th Lane South

Mr. Back asked that a clear definition of barbed wire be included in the ordinance. As an owner of horses enclosed with an electric fence, Mr. Back said that he was satisfied with how the proposed ordinance was written. He wanted to be sure that if his fence became dangerous due to exposed nails, he would not have to fix it right away. Mr. Back thanked Council for addressing his concerns.

Mayor Wasson called for additional speakers three times.

None responded.

MOTION was made by Councilmember Thomasson, seconded by Mayor Pro Tem Benjamin and passed unanimously to continue the hearing to January 9, 2003.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Amending DMMC 4.12.030, Allowing
Suspension of Council *Rules of
Procedure*

ATTACHMENTS: 1. Draft Ordinance No. 03-014
2. Robert's Rules of Order

FOR AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: 1/13/03

CLEARANCES:

☒ Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL: AT

RECOMMENDATION

It is recommended that the Council discuss Draft Ordinance No. 03-014 at the regular session of January 16, 2002, and pass Draft Ordinance No. 03-014 in its current or amended form to a second reading for enactment on a future calendar.

MOTION: "To pass Draft Ordinance No. 03-014 to a second reading for enactment on a future calendar."

BACKGROUND

The Mayor has requested that the Council *Rules of Procedure* be amended to allow for suspension of Council rules. Suspensions of rules are not currently allowed under DMMC 4.12.030. Therefore, DMMC 4.12.030 must be amended.

ALTERNATIVES

Two alternatives are presented. One alternative permits suspension by majority vote. However, the City Attorney recommends that suspension be permitted only by 2/3 vote, since Robert's Rules of Order requires a 2/3 vote.

CITY ATTORNEY'S FIRST DRAFT 01/13/03

DRAFT ORDINANCE NO. 03-014

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to City Council *Rules of Procedure*, allowing incidental suspension of rules contained in the City Council *Rules of Procedure* by amending DMMC 4.12.030.

WHEREAS, DMMC 4.12.030 currently provides only for amendments, not suspensions, of existing City Council *Rules of Procedure*, and

WHEREAS, this amendment to DMMC 4.12.030 allows for the suspension of a Council rule for the meeting at which the vote to suspend is taken, and

WHEREAS, the City Council finds it in the public interest to amend DMMC 4.12.030 allowing for incidental suspensions of Council rules; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 4.12.030 and section 3 of Ordinance No. 765 as amended by section 1 of Ordinance No. 821 as amended by section 1 of Ordinance No. 855, are each amended to read as follows:

Rules of Procedure—Amendment/Suspension. The rules adopted under the procedure set forth in this chapter shall not be suspended (~~((but))~~) except by a [majority vote] [2/3 vote] of the Councilmembers present. Such suspension shall remain in effect only for the meeting at which the vote to suspend is taken. The rules adopted under the procedure set forth in this chapter may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the Council. Any such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the Council agenda under the order of new business. A vote of the Council to adopt such

Ordinance No. ____
Page 2 of ____

a resolution shall occur at a subsequent regular meeting.

NEW SECTION. Sec. 2. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

NEW SECTION. Sec. 3. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2003 and signed in authentication thereof this ____ day of _____, 2003.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

subject to appeal. But the point can be put at issue before the assembly by making the motion despite the chair's opinion and, when he *rules* the motion out of order, appealing from the chair's decision.

The chair's announcement of the result of a vote also is not a ruling and is not subject to appeal. If a member doubts the correctness of such an announced result, however, he should call for a "Division" (see 29).

Form and Example

A member desiring to appeal rises and, without waiting to be recognized, addresses the chair as follows:

MEMBER A: I appeal from the decision of the chair.
(Second.)

The chair, after stating clearly the exact question at issue, and the reasons for his decision if he thinks an explanation necessary, states the question on the appeal as follows:

CHAIR: The question is: "Shall the decision of the chair stand as the judgment of the assembly [or "club," "society," "board," etc.]"?

Or:

CHAIR: The question is, "Shall the decision of the chair be sustained?"

The question should not be on "sustaining the chair," because the *decision*, not the presiding officer, is in question.

The vote is taken so that the affirmative will be in favor of sustaining the chair's decision, as follows:

CHAIR: As many as are in favor of sustaining the chair's decision, say *aye*. . . . Those opposed to sustaining this decision, say *no*. . . .

After the result of the vote is announced, business is resumed in accordance with the situation existing after the action on the appeal.

§25. SUSPEND THE RULES

When an assembly wishes to do something that it cannot do without violating one or more of its regular rules, it can adopt a motion to *Suspend the Rules* interfering with the proposed action—provided that the proposal is not in conflict with the organization's bylaws (or constitution), local, state, or national law, or the fundamental principles of parliamentary law.

Standard Descriptive Characteristics

The incidental motion to *Suspend the Rules*:

1. Can be made at any time that no question is pending. When business is pending, *Suspend the Rules* takes precedence over any motion if it is for a purpose connected with that motion. It yields to the motion to *Lay on the Table* and to all privileged motions when these motions are in order at the time according to the order of precedence of motions—except that if it relates to the priority of business it does not yield to a *Call for the Orders of the Day*. It also yields to incidental motions arising out of itself.
2. Can be applied to any rule of the assembly except

bylaws* (or rules contained in a constitution or corporate charter). No subsidiary motion can be applied to *Suspend the Rules*.

3. Is out of order when another has the floor.
4. Must be seconded.
5. Is not debatable.
6. Is not amendable.
7. Usually requires a two-thirds vote (see below, however). In any case, no rule protecting a minority of a particular size can be suspended in the face of a negative vote as large as the minority protected by the rule.
8. Cannot be reconsidered (see below regarding its renewal).

Further Rules and Explanation

OBJECT AND EFFECT OF THE MOTION. The object of this motion must usually be to suspend one or more rules contained in the parliamentary authority (rules of order), the special rules of order, or the standing rules of the assembly.** A motion to "take up a question out of its proper order," or to consider one before a time to which it has been postponed, is an application of the motion to *Suspend the Rules* (see 14, 40).

In making the incidental motion to *Suspend the Rules*, the particular rule or rules to be suspended are not mentioned; but the motion must state its specific purpose, and its adoption permits nothing else to be done under the suspension. Such a motion, for instance, may be "to suspend the rules and take up the report of the Building

*Regarding the suspendibility of rules in the nature of rules of order when placed within the bylaws, see page 17.

**For the classes of rules that an organization or an assembly may adopt, see 2.

Committee," or "to suspend the rules and agree to [that is, to adopt without debate or amendment] the resolution . . ." When the purpose of a motion to *Suspend the Rules* is to permit the making of another motion, and the adoption of the first motion would obviously be followed by adoption of the second, the two motions can be combined, as in "to suspend the rules and take from the table (33) the question relating to . . ." The foregoing is an exception to the general rule that no member can make two motions at the same time except with the consent of the assembly—unanimous consent being required if the two motions are unrelated (see also pp. 107-108 and 270-271).

If a motion to *Suspend the Rules* is adopted and its object is to allow consideration of business that could not otherwise have been considered at the time, the chair should immediately recognize the member who moved the suspension of the rules, to make the appropriate motion that will bring up the desired business. Or, if no further motion is necessary (for example, if the two motions were combined as indicated above, or if the question is one that was postponed), the chair should announce the business as pending.

RENEWAL OF THE MOTION. If a motion to suspend the rules is voted down, it cannot be renewed by moving to suspend the rules for the same purpose at the same meeting, unless unanimous consent is given. It can, however, be renewed for the same purpose after an adjournment, even if the next meeting is held the same day. Any number of motions to suspend the rules for different purposes can be entertained at the same meeting.

RULES THAT CANNOT BE SUSPENDED. Rules contained in the *bylaws* (or constitution) cannot be sus-

pending—no matter how large the vote in favor of doing so or how inconvenient the rule in question may be—unless the particular rule specifically provides for its own suspension, or unless the rule properly is in the nature of a rule of order as described on page 17.

Rules *protecting absentees or a basic right of the individual member* cannot be suspended, even by unanimous consent or an actual unanimous vote. For example, the rule requiring previous notice of a proposed amendment to the bylaws protects the absentees, and its suspension would violate their rights. Further, the rule requiring officers to violate their rights. Further, the rule requiring officers to be elected by (secret) ballot protects a minority of one from exposing his vote, which he may do if he votes against, or objects to, suspending such a rule (see *Voting by Ballot*, p. 405).

At a regular meeting of an organization that has an established order of business, the assembly cannot, even unanimously, vote to *dispend with* that order of business (in the sense of voting, in advance of the time when it adjourns, that the order of business shall not be gone through at all at that meeting). If the assembly, by a two-thirds vote, adopts a motion "to dispense with the regular order of business and proceed to"* a certain subject, it has in effect voted to *pass* all classes in the order of business which normally would precede that subject (see 40). In such a case, when the matter taken up out of its proper order has been disposed of, even if it has consumed as much time as the usual meeting, the chair must return to the regular order of business and call for the items in sequence, unless the assembly then votes to adjourn. (see 21).

*This usage should be avoided.

RULES WHOSE SUSPENSION REQUIRES A TWO-THIRDS VOTE. The *rules of order* of a society, as contained in the manual established by the bylaws as the parliamentary authority, or as included in any special rules of order adopted by the organization (see 2), are rules of parliamentary procedure, the suspension of which requires a two-thirds vote. Some societies call all their rules "standing rules." But by whatever name a rule is called, if it relates to parliamentary procedure, it requires previous notice and a two-thirds vote for its amendment; hence, it requires a two-thirds vote for its suspension.

RULES THAT CAN BE SUSPENDED BY A MAJORITY VOTE. An ordinary* *standing rule*, as the term is used in this book, is a rule that does not relate to parliamentary procedure as such and refers, for example, to such matters as the hour for beginning meetings (in cases where the dates of regular meetings are established by the bylaws). Standing rules are adopted, as any ordinary motion, by a majority vote, and are amended by a two-thirds vote without previous notice or by a majority vote with such notice; they therefore can be suspended by a majority vote as they do not involve the protection of a minority of a particular size. Through an incidental main motion adopted by a majority vote, a standing rule can be suspended for the duration of the current session.

SUSPENSION OF RULES BY UNANIMOUS CONSENT. Frequently, when the matter is clearly not controversial, time may be saved by asking unanimous consent rather

*In conventions the term *standing rule* is used in a special sense which may include parliamentary rules adopted by the convention (see pp. 612 ff.).

than by making a formal motion to suspend the rules. A member who has obtained the floor can say, for example, "Madam President, I ask unanimous consent to offer the courtesy resolutions before we receive the report of the special committee." The chair then asks if anyone objects and, if so, she proceeds to take a vote on suspending the rules, just as if a formal motion had been made.

Form and Example

The usual form of this motion is:

MEMBER A (obtaining the floor): I move that the rules be suspended [or "to suspend the rules"] which interfere with ... [stating the object of the suspension]. (Second.)

Or:

MEMBER A (obtaining the floor): I move to suspend the rules and take up ... (Second.)

When the object is to adopt a motion without debate or amendment, the form is:

MEMBER A (obtaining the floor): I move to suspend the rules and adopt [or "agree to"] the following resolution: "*Resolved*, That" (Second.)

If such a motion does not receive the required two-thirds vote, the main motion can be taken up only in the normal way. A member moving to suspend the rules can briefly give sufficient information to enable the members to vote intelligently on his undebatable motion. (For the manner of taking a two-thirds vote, see pp. 45 and 48-49.) In announcing an affirmative result, the chair says, for example,

CHAIR: There are two thirds in the affirmative and the rules are suspended for the purpose of ... The chair recognizes Mrs. Watkins.

§26. OBJECTION TO THE CONSIDERATION OF A QUESTION

The purpose of an *Objection to the Consideration of a Question* is to enable the assembly to avoid a particular original main motion altogether when it believes it would be strongly undesirable for the motion even to come before the assembly.

Standard Descriptive Characteristics

An *Objection to the Consideration of a Question*:

1. Takes precedence over original main motions (and over an *unstated* subsidiary motion, except *Lay on the Table*), but the objection can be raised only before there has been any debate or any subsidiary motion has been stated by the chair; thereafter consideration of the main question has begun and it is too late to object. It yields to the motion to *Lay on the Table*, to all privileged motions, and to incidental motions arising out of itself.
2. Can be applied to original main motions (p. 97) and to petitions and communications that are not from a superior body. It cannot be applied to incidental main motions. No subsidiary motion can be applied to it alone, but while it is pending the main question can be laid on the table, and the objection then goes to the table with the main question.
3. Is in order when another has the floor, until considera-

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Highline School District 401
Education Programs and Operations
Levy

ATTACHMENTS: Draft Resolution No. 03-025

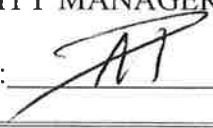
FOR AGENDA OF: January 31, 2003

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: January 24, 2003

CLEARANCES:
[X] Legal 

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

PURPOSE AND RECOMMENDATION

It is recommended that the Council discuss Draft Resolution No. 03-025 supporting the Highline School District's programs and operation levy, which will be on the February 4, 2003 ballot.

MOTION: "To adopt Draft Resolution No. 03-025, supporting the Highline School District's Educational Programs and Operation Levy."

DISCUSSION

This election is to renew the current school levy tax; it is not a new tax. The previous levy passed by Highline voters in 2000 expires at the end of 2003. Passage of this replacement levy would continue to provide quality educational services to students.

FINANCIAL IMPACT

The levy would be an estimated \$2.86 per \$1,000 of assessed property value for 2004. Senior citizens and disabled persons may qualify for an exemption (not deferral) from this tax.

RECOMMENDATION (OR CONCLUSION)

None.

Resolution No. ____
Page 2 of ____

ADOPTED BY the City Council of the City of Des Moines,
Washington this ____ day of ____, 2003 and signed in
authentication thereof this ____ day of ____, 2003.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

DRAFTRES:03-025

AGENDA ITEM

SUBJECT: Traffic Impact Fees

AGENDA OF: January 30, 2003

ATTACHMENTS:

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: December 6, 2002

CLEARANCES:

[X] Finance

[X] Public Works

[X] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *CTR for TP*

1. Draft Ordinance No. 02-264 Adopting the use of traffic impact fees
2. Comparison of traffic impact fees charged by other cities
3. Map of projects
4. Chart of Impact Fee Calculation and Recommended Cost
5. Potential Impact Fees per Unit of Development
6. Pacific Ridge Core Transportation Projects

Purpose and Recommendation:

The purpose of this agenda item is get input from the full Council regarding the use of traffic impact fees, and to approve the first reading of Draft Ordinance 02-264. This agenda item will come back for a second reading with adjustments based on the Council's direction.

Suggested Motions

"I move to approve the first reading of Draft Ordinance 02-264 adopting the use of traffic impact fees."

Background:

The analysis of the present and future transportation needs has been studied and is included in the Comprehensive Transportation Plan which was presented to Council for a public hearing and approved at the December 5th meeting. The plan lists around \$100 million (in 2001 dollars) in capital projects which should be done between 2001 and 2020. While the City has done relatively well at getting grant funding to cover part of its transportation projects, grants require matches, and some times grants are not available. In order to accomplish the critical projects, an additional source of funding is needed. Existing Arterial Street funding does not even cover keeping up with pavement maintenance on existing streets.

While there are only limited sources of funding available to pay for street projects due to State law, the City of Des Moines is even more limited due to our residential tax base. As the Council Public Safety and Transportation Committee discovered when they evaluated the alternatives to finance transportation needs, there really is only one source at this point in time that has the possibility of raising a significant amount of money, and that is traffic impact fees. But it should be kept in mind that even if the traffic impact fees are at the optimum level, they still will only raise approximately one third of the needed funding. The rest must come from grant funding and, in some cases, lower priority projects will not be constructed.

It also needs to be pointed out that the Washington State Growth Management Act (GMA) requires that Cities have a legitimate plan for building transportation projects needed as a result of growth. GMA allows agencies to implement impact fee programs to help offset the cost of transportation facilities needed to accommodate growth. To meet basic GMA requirements, an impact fee shall be:

- Related to improvements to serve new development, not existing deficiencies.
- Assessed proportionally to the impacts of new development.
- Allocated for new improvements that reasonably benefit new development.
- Spent on facilities identified in the capital facilities plan.

It is important to note that impact fees are not limited to new capital projects. An agency may impose impact fees to cover costs of previous improvements, provided they meet the above criteria. As identified in the above criteria, impact fees can only be used for improvements that are needed due to future growth. Therefore, the costs for non-capital projects such as annual maintenance and operations are not included in an impact fee program. The cost of roadway capacity-added projects can be assessed as impact fees proportional to the relative impact of new development to total growth. In that way the fee is fair to the developers since it is based on a measurement of how much they are expected to affect the road system in the City.

Based on the growth which is projected in the Greater Des Moines Comprehensive Plan which feeds into the Comprehensive Transportation Plan (CTP) travel demand model, total PM peak hour trip generation within the city of Des Moines is expected to increase significantly between 1998 and 2020. The 1998-2020 growth in trip generation accounts for 43.9 percent of the total 2020 traffic generation within the City. Only the basic roadway capacity-added improvement projects are included in the impact fee program (see Attachment 3). To keep an impact fee program relatively simple, the city would base it on a single, city-wide district versus the concept of multiple districts which some other cities use. This decision made by the Public Safety and Transportation Committee reflects an analysis based on a three-district concept that showed all districts to be within 15 percent of the city-wide average. In implementing a traffic impact fee program, the city would use methodologies for computing new PM peak trips based on the most current edition of the Institute of Transportation Engineers Trip Generation Manual or, for businesses not clearly described in this manual, other industry sources or technical studies as approved by the Public Works Director. Examples of how this proposed fee will affect development is shown on Attachment 5.

It does need to be pointed out that the City of Des Moines does have an approved localized traffic impact fee program in the Pacific Ridge area which was instituted last year as a way to provide needed local street improvements in order to serve the development in that specific area. The "core transportation projects" for Pacific Ridge are shown in Attachment 6. According to Ordinance 1298, development within the "Mitigation Boundary" will receive special treatment when and if city-wide impact fees are adopted. The residential developments located east of Pacific Highway South are to pay the highest Pacific Ridge Transportation Mitigation Fee and thus are exempted from the city-wide fee. New development that fronts along the Pacific Highway south Corridor are to pay a reduced Pacific Ridge Transportation Mitigation Fee which is to be credited toward a city-wide fee. As a result of the conditions associated with Ordinance 1298, the overall City transportation fees are estimated be about \$6,750,000 less than the total calculated in Attachment 4, or about \$30 million.

The analysis used to calculate the city-wide transportation impact fee is a complicated, detailed computation which splits out the projects that are needed as a result of growth within the city of

Des Moines, from those City projects that are due to present deficiencies and do not add capacity, projects related to maintenance, and projects needed because of surrounding regional growth (see Attachment 4). A detailed description of the process used to determine the impact fee is included on pages 70 to 74 of the recently approved Comprehensive Transportation Plan. The reason for the complexity of the fee computation is to ensure that it is fair to the developers and will withstand legal scrutiny. The City's consultant on the Plan, The Transpo Group, is very familiar with those fees and the related calculation as they have worked with a number of Washington cities that have adopted a similar transportation fee plan.

Any adopted impact fee program also would need to meet the following provisions, per the GMA:

- Payments shall be held in a reserve account and may only be expended to fund capital improvements needed to mitigate a development's direct impact;
- Payments shall be expended within six years; and
- Provide refunds, with interest, if funds are not expended within six years.

The impact fee program "shall provide credits for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified by the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity" (RCW 82.02.060(3)). As an example, a developer constructing required frontage improvements along an arterial street project included in the impact fee calculation would get a credit against the fees.

The impact fee program assumes that a given amount of development in the City will occur by 2020. If development levels assumed in the Comprehensive Transportation Plan take longer to actualize within the City, then the funding from impact fees will not match the Comprehensive Transportation Plan. However, if significant levels of forecast development are not in place by 2020, then several of the impact-fee eligible projects will not be needed because the traffic volumes will be lower.

Discussion:

Traffic impact fees have been discussed by the City of Des Moines City Council for many years and were recommended in the adopted 1993 Comprehensive Transportation Plan. A detailed analysis of needs caused by growth is contained in the "Developer Transportation Impact Fees" section of the recently adopted Comprehensive Transportation Plan (page 70). After a Council Public Safety and Transportation (PS&T) Committee review of the possible methods of financing transportation needs, it became obvious that traffic impact fees are the only way to cover these growth-induced needs at this time. Furthermore, Des Moines needs traffic impact fees as a source for grant matches. To even apply for grants, the City must identify a source of matching funds. Most grants require a match of between 20% and 30%.

The beauty of traffic impact fees is that development pays its own way, thus protecting the existing businesses and citizens from a situation of ever-worsening congestion. New development is assured that the money will go to specific projects that will offset the effects of growth that they themselves are creating. In this way, development is not only helping the City of Des Moines to address growth, but is also investing in its own future. Many cities have had traffic impact fees in effect for ten years and, if anything, it has made their cities the kind of places where a lot of development has taken place (e.g. Redmond, Auburn, Bellevue, and SeaTac).

There are various approaches which different cities have take to funding their transportation projects which are needed to meet the growth in their cities and thus comply with GMA. Much depends on the funding options available to the cities, the size of their staff, and what the Councils are willing to back. Attachment 2 is a list of some of the surrounding cities and other related examples, and what they are doing or plan to do to fund transportation needs and meet GMA. On one end of the scale is Kent which has a large industrial/commercial area which can support large local improvement districts (LID's), a big staff to assemble them, and a Council which is willing to grant approval even when there is loud opposition. Federal Way and Tukwila are in the process of studying transportation impact fees and are expecting to go to their Councils early next year. Burien is following the same path, but is not quite as far along. SeaTac and Auburn have had traffic impact fees for some time; however, they are both supplementing the expansion of their street system using other funding (parking fees at SeaTac and other tax revenues at Auburn). As a result, both these cities have chosen to only charge impact fees at a level of about one half the full rate. On the other hand, there are a number of cities who are successfully charging the full rate. Maple Valley is in a financial position very similar to Des Moines. They do not have alternate funding for transportation. As a result, they are assessing the full rate and have not noticed a change in their pace of development. Their fee is actually higher than what is being proposed by the Des Moines Comprehensive Transportation Plan.

Given the high level of transportation need in Des Moines and given the fact that we do not have an alternate source to fill in the funding void, Maple Valley is probably a better template for what the City of Des Moines should do.

Alternatives:

Cities are mandated to provide revenue to provide the transportation improvements needed to serve future growth under the GMA law. Traffic Impact fees are the best option for providing the revenue required for the City of Des Moines to address the requirements of this law. Council can choose to institute a traffic impact at a lower amount as some other cities have done. The problem with this approach is that the City of Des Moines does not have an alternate source of funds to make up the resultant shortfall.

Financial Impact:

Adopting a traffic impact fees program itself does not incur cost, however, traffic impact fees are the only revenue source at this time that will cover a significant portion of the costs incurred by the need for transportation improvements caused by growth in future City of Des Moines traffic demands. Traffic impact fees will only be charged on new growth, which will add additional trips to the transportation system.

Recommendation/Conclusion:

The PS&T Committee, after evaluating transportation needs and funding options, recommends that Council adopt the use of traffic impact fees.

Concurrence:

Finance and Legal

CITY ATTORNEY'S FIRST DRAFT 11/21/02
CITY ATTORNEY'S SECOND DRAFT 12/12/02

DRAFT ORDINANCE NO. 02-264

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON establishing a transportation impact fee service area, imposing impact fees therein to finance part of the costs of improvements to serve new development, providing for the disposition of such impact fees, and establishing an appeal process.

WHEREAS the City is authorized by RCW 82.02, the Growth Management Act ("the GMA"), and by RCW 39.92, the Local Transportation Act, to require new growth and development within the City of Des Moines to pay a proportionate share of the cost of new facilities to serve such new growth and development through the assessment of impact fees, and

WHEREAS, as part of the Greater Des Moines Comprehensive Plan the City has adopted a Comprehensive Transportation Plan which identifies deficiencies in public transportation facilities and identifies the means by which such deficiencies could be eliminated, and

WHEREAS, the City Council has found and determined that it is in the best interests of the City, in order to insure a fair and predictable method for allocating the share of the cost of such new public facilities, to impose impact fees on the new growth and development activities; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Definitions.

(1) Use of words and phrases. As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Building permit" means any written authorization from the City which authorizes the commencement of development activity.

(3) "City" means the City of Des Moines, Washington.

(4) "City Comprehensive Plan" means the Greater Des Moines Comprehensive Plan, adopted pursuant to the GMA.

(5) "Development activity" means any construction or expansion of a building or structure that creates additional demand on and/or need for public facilities, but not interior remodeling that does not change the PM Peak trips as categorized in the Comprehensive Transportation Plan to the Greater Des Moines Comprehensive Plan or of the applicable code or regulation of the City.

(6) "GMA" means the Washington State Growth Management Act, codified as RCW 82.02.050 through 82.02.090, as now in existence, or as hereinafter amended.

(7) "Hearing Examiner" means the Hearing Examiner of the City of Des Moines, pursuant to Chapter 18.94 of the Des Moines Municipal Code.

(8) "Impact fee" means a payment of money imposed by the City upon development activity as a condition of issuance of a building permit to pay for public facilities needed to serve new growth and development, and to mitigate the impacts of the development activity on the transportation facilities of the City, but does not include any permit or application fee.

(9) "Owner" means the owner of record of real property. If real property is being purchased under a real estate contract, the purchaser shall be considered the owner of real property if the contract is recorded.

(10) "Public facilities" as used in this section refers to public streets, roads and rights-of-way owned or operated by the City for other governmental entities, including trails, paths, bikeways, other transportation facilities and all attendant improvements.

(11) "Service area" means the development impact fee service area of the City identified in Section 3.

(12) "Transportation facilities" means and refers to streets and roads, but includes all publicly owned streets, roads, alleys and right-of-ways within the City and street services, traffic control devices, curbs, gutters, sidewalks and related facilities and improvements.

Sec. 2. Transportation impact fees established. There is established, subject to the provisions of this chapter, a transportation impact fee program.

Sec. 3. Establishment of service area. The City hereby establishes, as the service area for development impact fees, the City of Des Moines, including all property located within the corporate limits of the City. The scope of the service area is hereby found to be reasonable and established on the basis of sound planning and engineering principles.

Sec. 4. Imposition of impact fee on development activity.

(1) The City hereby authorizes the assessment and collection of impact fees on development activity within the City, at the calendar year 2001 rate of Two Thousand Five Hundred Thirty Nine (\$2,539.00) per peak p.m. trip, as computed using methodologies from the most current edition of the Institute of Transportation Engineers Trip Generation Manual or other industry sources approved by the Public Works Director. This impact fee shall be adjusted annually based on the construction cost index for the Seattle area as reported in the Engineering News Record periodical. Based upon the above impact fee rate and adjustments, the rate as of January 1, 2003 will be \$2,615.00 per peak p.m. trip.

(2) Such impact fees shall:

(a) Only be imposed for system improvements that are reasonably related to new development; and,

(b) Not exceed a proportionate share of the cost of the system improvements, including the costs of previously constructed system improvements, reasonably related to new development; and,

(c) Be used for system improvements that will reasonably benefit new development; and,

(d) Be used for facilities identified in the Comprehensive Transportation Plan as "Intersection and Roadway

Capacity Improvement Projects for the Traffic Impact Fee Program."

(3) Such impact fee schedule is based upon the formula for calculating the proportionate share of the cost of the system improvements, including the costs of previously constructed system improvements, necessitated by new development to be borne by impact fees, which formulas are described in the Comprehensive Transportation Plan element of the Greater Des Moines Comprehensive Plan and incorporated herein by this reference.

(4) The impact fees imposed pursuant to this chapter shall be assessed by the City after the effective date of this ordinance. A final assessment, based upon the actual building permit to be issued, shall be made, and the fee shall be due and payable in full at the time of issuance of the permit.

(5) Failure to pay the impact fees for a given development activity at the time that such impact fees are due and payable shall result in denial of the building permit for which the owner has applied.

(6) The impact fee program shall provide credits for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the Comprehensive Transportation Plan as "Intersection and Roadway Capacity Improvement Projects for the Traffic Impact Fee Program." The value for which credit shall be given is the estimated value used for Impact Fee calculation in the Comprehensive Transportation Plan.

Sec. 5. Disposition of impact fee revenues.

(1) The impact fees collected pursuant to the provisions of this chapter shall be deposited into an impact fee fund. Pending application as provided in this chapter, the monies deposited in the impact fee fund shall be invested in any investment authorized for the investment of City funds. All interest and profits derived from the investment of monies in each account in the impact fee fund shall be retained in such account.

(2) The impact fees deposited in each account in the impact fee fund, and the interest and profit received from the investments therefrom shall be expended only for public facilities of the type for which such impact fees were collected, in conformity with the Greater Des Moines Comprehensive Plan and Comprehensive Transportation Plan. and expended or encumbered within six years of receipt by the City, unless written findings by the City Council identify an extraordinary and compelling reason for the City to hold the fees for a longer time. The City shall account for annual expenditures and shall comply with this section in successive comprehensive plans, transportation plans and capital facilities plans as appropriate.

(3) The City shall prepare an annual report on the impact fee fund which shows the source and amount of all monies collected, earned or received and the public facilities that were financed in whole or in part by impact fees.

Sec. 6. Refunds.

(1) The City shall, in accordance with RCW 82.02.080, refund to the current owners of property on which an impact fee has been paid any impact fees paid with respect to such property that has not been expended or encumbered for public facilities of the type of which such impact fees were collected.

(2) The City shall also refund to the current owner of property of which an impact fee has been paid all impact fees paid with respect to such property if the development activity for which the impact fee was imposed did not occur and no impact has resulted; provided, that if some, but not all, of the development activity for which the impact fee was imposed occurred, the impact will be deemed to have occurred, and no refund shall be available under this section.

(3) Owners seeking a refund of impact fees must submit a written request for a refund of impact fees to the City Manager or designee within one (1) year of the date the right to claim the refund arises, which, for purposes of refund claims authorized pursuant to paragraph 2 of this section only, shall be the date of voluntary or involuntary abandonment of the

building permit, or the date that notice is given as provided in paragraph 1 of this section, which ever occurs later. Refunds of impact fees shall include interest and any profits earned on the impact fees from the date of their receipt to the date of refund, as a percentage of the interest/profits earned by the fund on an annual basis. Any impact fees not expended within the time limitations and for which no application for a refund has been made within the one (1) year claim period, shall be retained by the City and expended on public facilities of the type for which such impact fees were initially collected, without further limitation as to the time of expenditure.

Sec 7. Appeals.

(1) The determination of the City Manager or designee regarding the applicability of the impact fee to a given development activity within the service area shall be final, however an owner may pay an impact fee imposed pursuant to this chapter under protest in order to obtain a building permit and, after such payment, file an appeal regarding the amount of the impact fee to the Hearing Examiner within ten (10) days of the City's final decision under the provisions of the hearing examiner code, DMMC Chapter 18.94.

(2) Appeal regarding the amount of the impact fee imposed on any development activity may only be made by the owner of the property where such development activity shall occur.

Sec. 8. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

NEW SECTION. Sec. 9. Effective date. This ordinance shall take effect and be in full force five (5) days

Ordinance No. ____
Page 7 of ____

after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of ____, 2002 and signed in authentication thereof this ____ day of ____, 2002.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

DRAFTORD:02-264

Status of Transportation Impact Fees in Other Cities	
Arlington	\$1,038 per pm peak trip
Auburn	Auburn currently charges only a portion of their calculated impact fee need.
Des Moines	\$2,539 per pm peak trip proposed
Duvall	\$2,682 per pm peak trip
Federal Way	Hopes to implement a program in early 2003.
Kent	Finances most of their needs through the LID process.
Maple Valley	\$3,599 per pm peak trip Has had a program since incorporation; Started at \$807 per pm peak trip; Raised the fees each year to the current \$1,802 and has adopted an increase to \$3,599 per pm peak trip for 2003; Discussions with their Engineer indicate that the program has been successful and they continue to see development.
SeaTac	\$1,020 per pm peak trip
	Finances some of their needs through parking fees.
Tukwila	Plans to investigate a program in 2003.

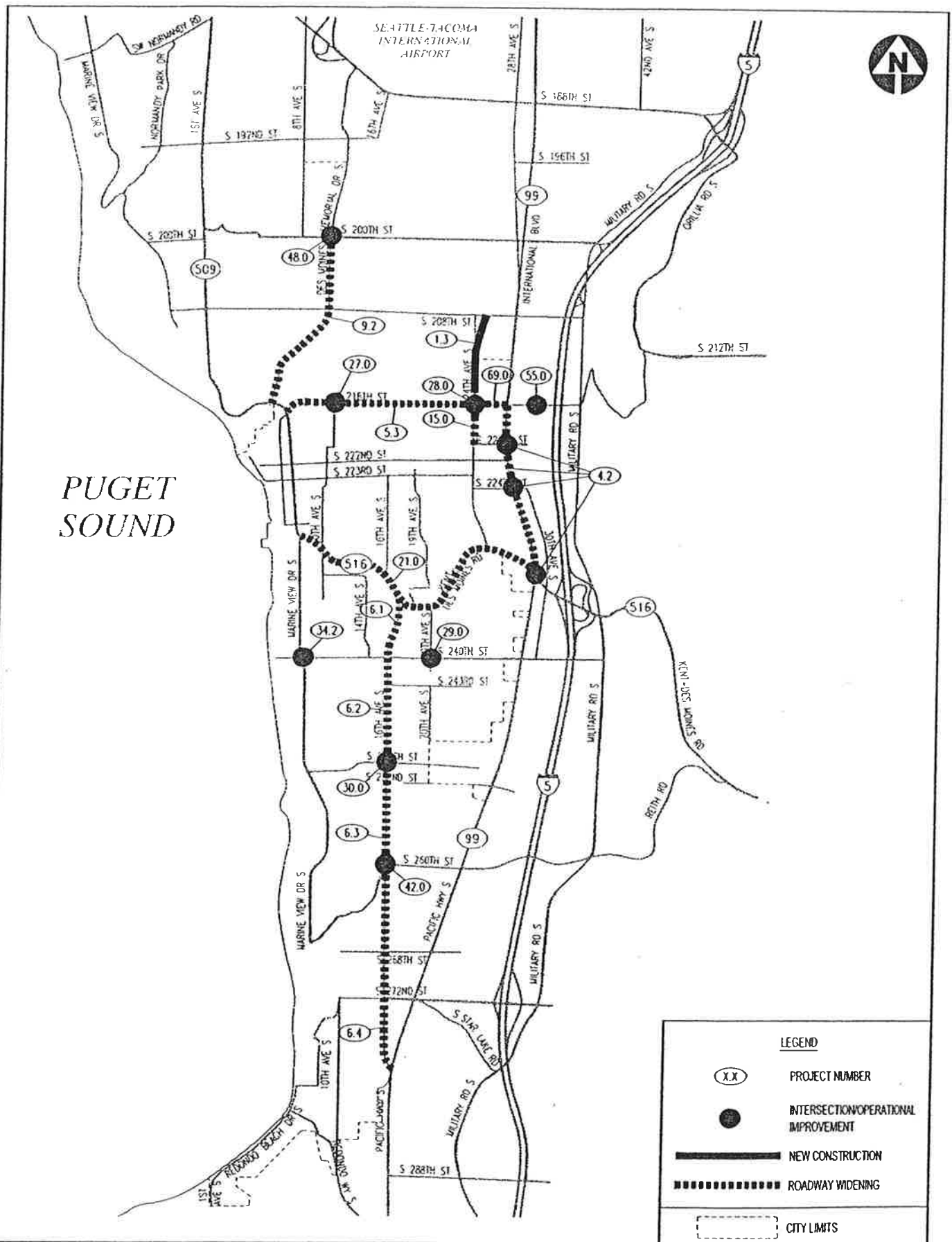


Figure 17

Potential Intersection and Roadway Capacity Improvement Projects for Traffic Impact Fee Program

City of Des Moines Comprehensive Transportation Plan

IMPACT FEE CALCULATION

		<u>Percent of Total Cost</u>
Total Cost ¹ (2001-2020)	\$112,763,500	100%
Less-Non Capacity Capital Projects	-\$51,470,000	46%
Less-Non Capital (Art.,Main.,NTC,etc.)	<u>-\$13,883,500</u>	<u>12%</u>
Capacity-Added Projects	\$47,410,000	42%
 Capacity-Added Projects	 \$47,410,000	 42%
Less City/Regional Share (through traffic growth)	<u>-\$10,429,000</u>	<u>9%</u>
Maximum Potential Impact Fee Funding	\$36,981,000	33%

¹ Estimated total project cost in 2001 dollars. Costs are conceptual and take into consideration, if necessary, ROW acquisition costs but do not include costs associated with mitigating potential environmental impacts.

Basic Roadway Capacity - Added Project (City-Wide)

Maximum Potential Impact Fee Funding ²	\$36,981,000
Total New PM Peak Hour Trips	14,563
Cost per PM Peak Hour Trip	\$2,539

² Estimated total project costs in 2001 dollars. Costs are conceptual and take into consideration, if necessary, ROW acquisition costs, but do not include costs associated with mitigating potential environmental impacts.

POTENTIAL IMPACT FEES per UNIT OF DEVELOPMENT

Land Use	Average		Land Use	City-Wide	
	Code	Rate ¹	Pass-By	Net New	Average
Office (per 1,000 gsf)	710	1.49	-	1.49	\$3.78/sq ft
Business Park (per 1,000 gsf)	770	1.29	-	1.29	\$3.28/sq ft
Light Industrial (per 1,000 gsf)	110	0.98	-	0.98	\$2.49/sq ft
Retail					
Shopping Center (per 1,000 gsf, for example, 25,000 gsf)	820	10.06	34%	6.64	\$16.86/sq ft
Quality Restaurant (per 1,000 gsf)	831	7.49	44%	4.19	\$10.65/sq ft
Fast Food Restaurant (per 1,000 gsf)	834	33.48	50%	16.74	\$42.50/sq ft
Gas Station w/ Market (per vehicle fueling position)	845	13.38	56%	5.89	\$14.948/vfp
Supermarket (per 1,000 gsf)	850	11.51	36%	7.37	\$18.70/sq ft
Drive-In Bank (per 1,000 gsf)	912	54.77	47%	29.03	\$73.70/sq ft
Single-Family (per dwelling unit)	210	1.01	-	1.01	\$2,564/DU
Multi-Family (per dwelling unit)	220	0.62	-	0.62	\$1,574/DU

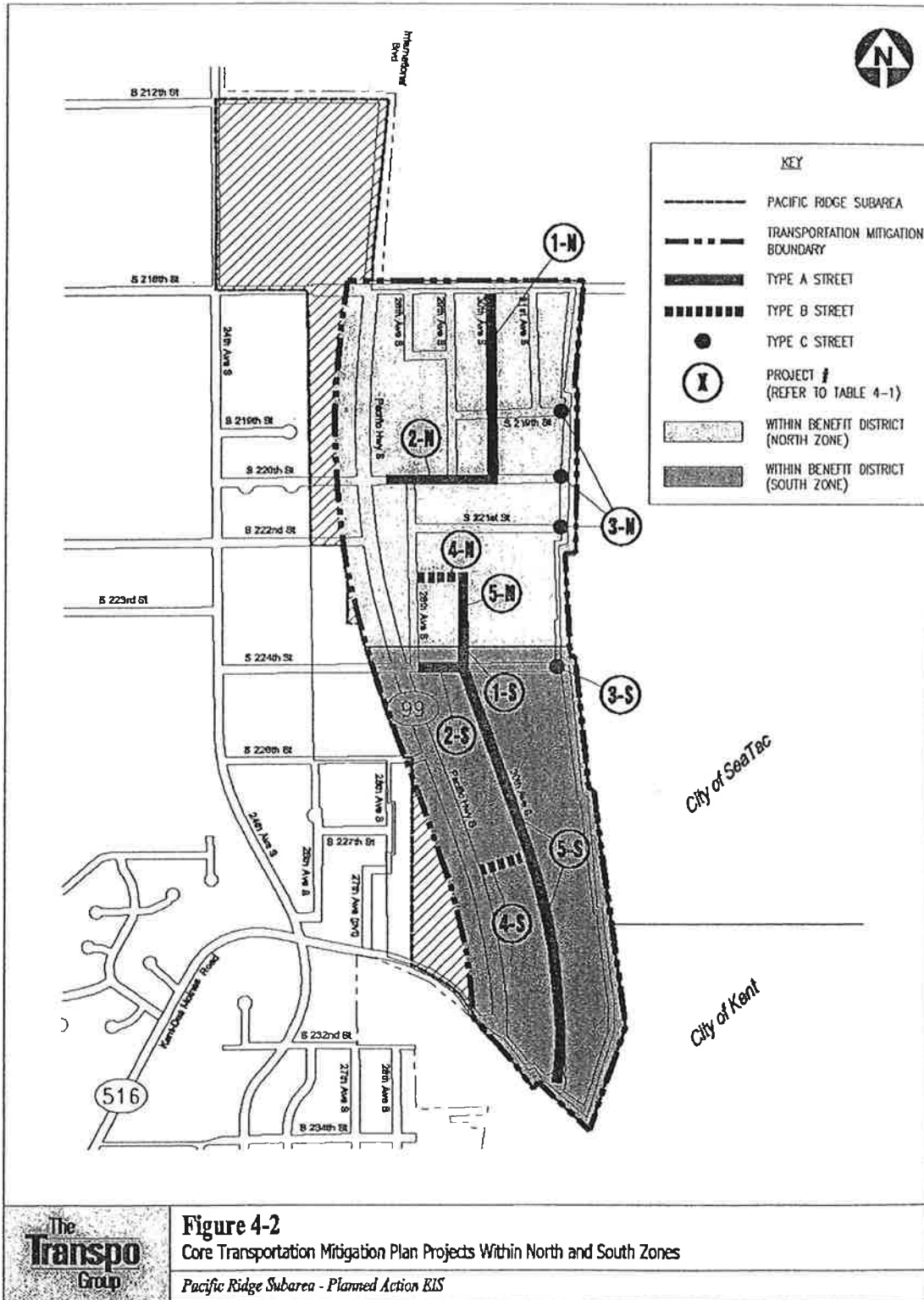
1 Source: *Trip Generation*, Institute of Transportation Engineers (ITE), 1997. Note: City would apply trip rates based on regression equations where appropriate (see *Trip Generation Handbook*, ITE, 1998).

2 A pass-by trip is made as an intermediate stop on the way from an origin to a primary destination. Pass-by trips are attracted from traffic passing on an adjacent street that offers direct access to the development.

3 Pass-by percentages from *Trip Generation Handbook*, ITE, 1998. This publication does not include pass-by percentages for office, business park, light industrial, and single- and multi-family residential. However, it should be noted that King County applies a pass-by percentage to some non-retail land use types, including 15% for office and business park.

4 Average PM peak hour trip generation rate x (100 - pass-by percentage) = net new trip rate

5 Net new trip rate multiplied by \$2,539 per trip.



A G E N D A I T E M

SUBJECT:

*Shoreline Permit for the Redondo Boat
Launch Renovation Project
City File No. LUA 2002-008*

ATTACHMENTS:

1. Draft Resolution No. 03-002
(Revised)

AGENDA OF: January 30, 2003

DEPT OF ORIGIN: Comm. Develop.

DATE SUBMITTED January 24, 2003

CLEARANCES:

☒ COMM DEV

☒ LEGAL

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL

PURPOSE AND RECOMMENDATION:

The purpose of this item is to request the City Council approve necessary shoreline and environmentally sensitive area permits that would enable renovation of the Redondo Boat Launch.

Motion:

"I move to adopt Draft Resolution No. 03-002 approving environmental and shoreline applications enabling the renovation of the Redondo boat launch."

BACKGROUND:

The City Council reviewed a conditional shorelines substantial development permit and an environmentally sensitive areas development exception pertaining to the renovation of the Redondo Boat Launch at a public hearing on January 23, 2003. The Council received testimony, closed the hearing and directed staff to make clarifying changes to Draft Resolution No. 03-002.

DISCUSSION:

Staff has incorporated new language into Draft Resolution No. 03-002 to reflect Council's concerns about proposed operational changes not being clearly reflected in its decision and the need to provide some flexibility to make needed adjustments to the floating breakwater and facility operations over time.

ALTERNATIVES:

The City Council may:

1. Adopt the draft resolution as written.

2. Adopt the draft resolution with amendments by the City Council.
3. Remand the proposal back to administration for evaluation or study if a specific concern is identified.
4. Do not adopt the draft resolution.

FINANCIAL IMPACT:

There is no direct financial impact related to the review and approval of shoreline and environmental permits related to this proposal. Denial of these permits, however, will most likely result in the loss of money available through a state grant which has been secured to fund much of the proposed improvements. A certain amount of city matching funds is required for construction.

RECOMMENDATION/CONCLUSION:

Administration recommends approval of the requested shoreline and environmental permits.

CONCURRENCE:

The following divisions/departments have reviewed plans for the proposal and provided input for the final design.

- Building Division
- Planning
- Engineering-Surface Water
- Engineering-Transportation
- Police
- Fire
- Marina

In addition to plan review by the above agencies, all potentially affected utilities, agencies, and property owners were notified of the proposed boat launch improvements as required under the SEPA review process. No comments or concerns were received.

COMMUNITY DEVELOPMENT'S FIRST DRAFT 01-09-2003
COMMUNITY DEVELOPMENT'S SECOND DRAFT 01-24-2003

DRAFT RESOLUTION NO. 03-002

A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON approving a Conditional Shoreline Substantial Development Permit and an Environmentally Sensitive Areas Development subject to conditions specified herein.

WHEREAS, the City of Des Moines administration requests to renovate and construct improvements to the Redondo boat launch facility located within the City of Des Moines, and

WHEREAS, the Redondo boat launch facility is a public amenity providing for recreational opportunities on Puget Sound.

WHEREAS, among other proposed improvements, city administration is proposing a seasonal floating breakwater for the Redondo boat launch to reduce wave interference with the function of launching boats.

WHEREAS, the city's shoreline master program requires approval of a conditional shoreline substantial development permit for the proposed boat launch renovation because it is located within 200 feet of a regulated shoreline (Puget Sound) and it involves the installation of a breakwater.

WHEREAS, proposed boat launch facility improvements are located within an environmentally sensitive area as identified by the Conservation Element of the Greater Des Moines Comprehensive Plan and Title 18 DMMC, and

WHEREAS, there are additional development regulations and restrictions for developments proposed within environmentally sensitive areas, and

WHEREAS, the Redondo boat launch is an existing facility that has altered the natural functions of the environmentally sensitive area and any significant improvements to the launch require approval of development exception to City of Des Moines environmentally sensitive area regulations, and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been forwarded to the city of Des Moines, reviewed by the responsible official of the city of Des Moines, and a Determination of Non-significance was issued, and

WHEREAS, said environmental documents have been available and accompanied the application throughout the entire review process, and

WHEREAS, the City Council, in its regular meeting on January 23, 2002, considered the Redondo boat launch facility renovation proposal and recommendations from administration at a public hearing; and

WHEREAS, the City Council, in its regular meeting on January 23, 2002, directed administration to include additional conditions of approval clarifying that operational changes are proposed for Redondo boat launch facility which are not apparent in illustrated plans and that potential adjustments in the location of the proposed breakwater may be necessary for optimum efficiency and eliminating conflicts with use of the adjacent fishing pier; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Sec.1. Findings of fact The City Council in support of its decision to approve the proposed Redondo boat launch facility improvements, subject to specific conditions, adopts the following findings of fact:

(1) The proposed improvements and use are consistent with the policies of the Shoreline Management Act, the City's Shoreline Master Program, the Des Moines Comprehensive Plan and other applicable plans, programs, and regulations.

(2) The proposed improvements and use will not interfere with the normal public use of public shorelines.

(3) The proposed improvements, use, and design of the project will be compatible with other permitted uses within the area.

(4) The proposed improvements and use will cause no unreasonably adverse effects to the shoreline environment

designation or zoning classification in which it is to be located.

(5) The public interest suffers no substantial detrimental effect from the proposed improvements and use.

(6) The proposed improvements and use are in the best interest of the public, health, safety, morals or welfare.

(7) The existing boat launch is located within an environmentally sensitive area that was lawfully altered under the auspices of King County in accordance with the provisions of Title 18 DMMC and any state and federal laws at the time the alteration occurred.

(8) The existing boat launch has significantly disrupted the natural functions of the environmentally sensitive area.

(9) The proposed improvements utilize to the maximum extent possible the best available construction, design, and development techniques which result in the least adverse impact on the environmentally sensitive area.

(10) The proposed boat launch facility improvements incorporates the development standards of DMMC 18.86.070 through 18.86.087 and the surface water design manual to the maximum extent possible.

(11) The proposal boat launch facility improvements are consistent with the purpose and intent of Chapter 18.86 DMMC.

(12) The City SEPA Official has determined that the proposed improvements to the boat launch will not result in significant adverse environmental impacts.

(13) A biological assessment was conducted and revealed that no significant tideland or submarine habitat exists in the immediate area of the boat launch.

(14) The existing boat launch and a most of the surrounding Redondo shoreline area has experienced substantial development and change causing the city to assign the shoreline designation of urban environment.

(15) The city's shoreline master program provides for a wider range of uses and development options in the urban shoreline designation than the conservancy designation.

(16) In addition to proposing physical improvements to the Redondo Boat launch facility, the applicant is also

proposing operational controls and changes related to boat launching, circulation and queuing of vehicles preparing to launch boats, parking, and use of parking areas.

(17) The proposed location and alignment of the floating breakwater may interfere with use of the adjacent fishing pier and may not be positioned to perform in an optimal manner.

Sec.2. Approval subject to conditions. The Conditional Shoreline Substantial Development Permit and Environmentally Sensitive Areas Development Exception are approved subject to the following conditions and modifications:

(1) Except for possible revisions to the alignment of the proposed floating breakwater to achieve maximum performance and except as otherwise stated and clarified in condition 2 contained herein, the proposed use and all improvements shall be substantially consistent, as determined by the Community Development Director with plans and applications on file with the Community Development Department (File No. LUA_2002- 008) or new applications must be filed and approved by the city;

(2) Facility operational controls and changes related to launching boats, queuing of vehicles preparing to use the subject boat launch, and parking are also approved and may be adjusted as determined necessary by the City Manager to obtain increased site utility and efficiency.

(23) The applicant shall obtain all applicable State and Federal approvals and permits prior to construction of improvements.

(34) The applicant shall obtain approval of a building permit from the City of Des Moines for all proposed improvements prior to construction of improvements.

Sec. 3. Compliance with other law. Nothing in this resolution shall be construed as excusing the applicant from compliance with all federal, state, or local statutes, ordinances, or regulations applicable to this conditional shoreline substantial development permit and development

exception to an environmentally sensitive area other than as expressly set forth herein.

Sec. 4. Resolution attached to approval documents. A certified copy of this resolution, along with the herein referenced findings of fact, shall be attached to and become a part of the evidence of the approval of said conditional shoreline substantial development permit and development exception to an environmentally sensitive area and be delivered to the applicant.

Sec. 5. Distribution of resolution following council action. Certified or conformed copies of this resolution shall be delivered to the following:

(1) City of Des Moines Community Development and Public Works Departments;

(2) King County Fire District #26; and

(3) City Clerk of the City of Des Moines.

Sec. 6. Distribution of resolution by planning official. Within five days following adoption of this resolution, the planning official shall distribute the resolution to the applicant, and to each person who submitted timely written or oral testimony to the city council for inclusion in the record.

Sec. 7. Reconsideration. A request to reconsider this decision of the city council may be made by the applicant, or by any person who submitted timely written or oral testimony to the city council for inclusion in the record. The request for reconsideration, in the form of a letter, shall be delivered to the community development department within 10 days following the date of adoption of this resolution. The request shall contain a clear reference to the conditional shoreline substantial development permit and development exception to an environmentally sensitive area to be reconsidered and a statement of the specific factual findings or conclusions of the city council disputed by the person filing the request for reconsideration. The city council shall reconsider a decision if the council finds that an error of fact, law, or procedure that is more likely than not to affect the outcome of the decision has been made; or if the person requesting reconsideration is seeking

to enter previously unavailable information that is more likely than not to affect the outcome of the decision. The request for reconsideration shall be processed in conformance with City Council rules of procedure, Chapter 4.12 DMMC.

PASSED by majority vote of the Des Moines city council in regular, open meeting on the 30th day of January, 2003, and signed in authentication thereof this day of , 2003.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

AGENDA ITEM

SUBJECT: Purchase and Removal
of Mobile Homes

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Public Works

ATTACHMENTS:

DATE SUBMITTED: January 24, 2003

CLEARANCES:

1. Contract for Purchase and Removal of
Mobile Homes

[] Finance

[X] Public Works

[X] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this report is to seek City Council approval to award a contract for purchase and removal of the mobile homes located in Pine Terrace Mobile Home Park. These homes were acquired by the City as part of the right of way acquisition on the Pacific Highway South Redevelopment Project.

Suggested Motions:

The following motion will appear on the Consent Calendar:

"I move to award R Custom Excavation, Inc. the contract to purchase and remove 12 mobile homes that the City has acquired through right-of-way purchase for the Pacific Highway South Redevelopment Project in the amount of \$30,000, plus authorize the City Manager or his designee to approve change orders up to an amount of 10%, and further to authorize the City Manager to sign said contract, substantially in the form as submitted."

Background:

On July 25, 2002 City Council approved the surplus and disposal of the 12 mobile homes at Pine Terrace Mobile Home Park acquired during the Pacific Highway South Project right of way acquisition phase. Since then, staff has been working with our consultant to relocate all of the tenants in these homes through the federal relocation process.

The mobile homes were advertised for purchase and removal in The Seattle Times and the Daily Journal of Commerce. Two contractors attended a viewing of the homes. One offer was submitted. This offer requests the City to pay R Custom Excavation \$30,000 to purchase and remove the mobile homes and clean up the site. This amount includes removal of debris,

removal of wooden sheds, and general cleanup. Staff has made inquiries with other contractors and feels that this amount is acceptable for the work that is required.

Discussion:

When the property for the right-of-way was purchased from Pine Terrace Mobile Home Park, 12 mobile homes had corners resting on the acquired land. The people living in these mobile homes have been justly compensated and have relocated. However, because the mobile homes still occupy land on the Pine Terrace Mobile Home Park property, the City is paying "space" rent for the land used.

The Pacific Highway South Redevelopment Project is going to be advertised soon and the mobile homes need to be moved before construction begins.

Alternatives:

These mobile homes are not in a condition that would make them useful for City purposes. Advertising the mobile homes for sale gave no other offers. If the City, instead, attempted to hire a contractor for demolition, the City would also have to pay for asbestos inspection and abatement. By signing this agreement for purchase and removal, this becomes the responsibility of the new owner. R Custom Excavation, Inc. is prepared to remove the homes immediately. If an alternative is considered, the City will continue to accumulate monthly space rental costs from the Park.

Financial Impact:

The City of Des Moines is currently paying \$3,500 per month to rent the land the mobile homes are occupying. The cost of this contract for purchase and removal is \$30,000 and will be funded with project funds.

Recommendation/Conclusion:

Staff recommends Council approve this motion and take steps to promptly remove the mobile homes from the property and clean up the area.

Concurrence:

Legal

Contract Between the City of Des Moines and R. Custom Excavation, Inc., for Purchase and Removal of Twelve (12) Mobile Homes Located in Pine Terrace Mobile Home Park at 21814 Pacific Highway South, Des Moines WA 98198

THIS AGREEMENT made and entered into this _____ day of January 2003, by and between the **CITY OF DES MOINES**, Washington, hereinafter called the "**City**", and **R. Custom Excavation, Inc.**, hereinafter known as the "**Contractor**."

The City and the Contractor for the hereinafter-established consideration agree as follows:

1. **Purchase Scope of Work.** Contractor hereby assumes ownership from the City of Des Moines the following surplus personal property, twelve (12) mobile homes as listed in included Attachment "A" and associated wooden storage sheds, offered for sale pursuant to RCW 47.12.140. The personal property is presently located at Pine Terrace Mobile Home Park at 21814 Pacific Highway South, Des Moines WA 98198.

2. **Removal Scope of Work.** Within not more than thirty (30) days from the date of execution of this Contract, Contractor shall remove all twelve (12) mobile homes as listed in included Attachment "A" and associated wooden storage sheds from above-mentioned premises. In said removal operations, it shall be Contractor's responsibility to comply with all federal, state, county or city regulations that may apply to any activity resulting from the award of this contract, including but not limited to the moving of the purchased property, and the Contractor shall obtain all necessary permits. Contractor is responsible for the disconnection of any and all utilities to each mobile home, and for capping-off all such utility connections to utility purveyor satisfaction. Contractor shall remove all debris from the twelve (12) mobile home pads to the satisfaction of the City such that only the concrete and/or asphalt pavement remains. Contractor hereby acknowledges that asbestos and hazardous material testing have not been done by the City. On execution of this Contract, Contractor assumes sole responsibility for any and all asbestos and hazardous materials that may be contained within the twelve (12) mobile homes and associated wooden storage sheds and debris.

All labor, materials, tools, equipment, utilities, services, permits, and all other things necessary or required for the satisfactory performance of the work shall be furnished by the Contractor. The Contract shall be performed and completed under the supervision of, and subject to, the approval of the City or its authorized representatives.

3. **Wage Rates.** In conformity with the R.C.W. 39.12, no laborer, workman or mechanic employed in the performance of this Contract either by the Contractor or a subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by this Contract shall be paid less than the minimum hourly rate for his trade or occupation hereinafter set forth or, if none is set forth, the minimum hourly wage rates for his trade or occupation which prevail in the locality where the work is to be performed, and the Contractor agrees that no such laborer, workman or mechanic shall be paid less than such rate.

In case any dispute arises to what are the prevailing rates of wages for work of a similar nature and it cannot be adjusted by the parties involved, the matter shall be referred to the Director of Labor & Industries and his decision shall be final. These rates are subject to change to reflect increases and decreases in the rates which may prevail in the area from time to time during the performance of the Contractor shall constitute the basis for a change in the Contract Price.

On forms provided by the Industrial Statistician of State L&I, the Contractor shall submit to the Engineer the following for itself and for each firm covered under RCW 39.12 that provided work and materials for the contract:

1. A copy of an approved "Statement of Intent to Pay Prevailing Wages" State L&I's form number F700-029-000. The Contracting Agency will make no payment under this contract for the work performed until this statement has been approved by State L&I and a copy of the approved form has been submitted to the Engineer.
2. A copy of an approved "Affidavit of Prevailing Wages Paid," State L&I's form number F700-007-000. The Contracting Agency will not release to the Contractor any funds retained under RCW 60.28.011 until all of the "Affidavit of Prevailing Wages Paid" form have been approved by State L&I and a copy of all the approved forms have been submitted to the Engineer.

The Contractor shall be responsible for requesting these forms from State L&I and for paying any approval fees required by State L&I.

Certified payrolls are required to be submitted by the Contractor to the Engineer, for the Contractor and all subcontractors or lower tier subcontractors, on all Federal-aid projects and, when requested in writing by the Engineer, on projects funded with only Contracting Agency funds. If these payrolls are not supplied within ten calendar days of the end of the preceding weekly payroll period for Federal-aid projects or within ten calendar days from the date of the written request on projects with only Contracting Agency funds, any or all payments may be withheld until compliance is achieved. Also, failure to provide these payrolls could result in other sanctions as provided by State laws (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12). All certified payrolls shall be complete and explicit. Employee labor descriptions used on certified payrolls shall coincide exactly with the labor descriptions listed on the minimum wage schedule in the contract unless the Engineer approves an alternate method to identify the labor used by the Contractor compare with the labor listed in the contract provisions. When an apprentice is shown on the certified payroll at a rate less than the minimum prevailing journey wage rate, the apprenticeship registration number for that employee from the State Apprenticeship and Training Council shall be shown along with the correct employee classification code.

4. Compensation. In consideration for the complete and faithful performance of the Contract, Contractor shall be paid in a single lump sum based upon its initial bid, included as Attachment "B", upon satisfactory completion of all work to be done under the provisions of this Contract. Excepting changes and modifications necessitated or agreed upon in writing by the City and Contractor, the City authorizes payment to the Contractor not to exceed \$30,000.00 including sales tax. Contractor shall pay state sales tax as required by WSDOT Standard Specification 1-07.2(2). Payment by the City shall be made within 30 days of the City's written notice acceptance of the work, which notice shall not be unreasonably withheld.

5. Performance Standards. Contractor's services, and all duties incidental or necessary thereto, shall be conducted and performed diligently and competently and in accordance with professional standards of conduct and performance for the type of work involved in this project.

6. **Insurance.** The contractor shall secure and maintain in force throughout the duration of this Contract, insurance coverage sufficient to satisfy the following minimums:

Comprehensive General Liability: \$1,000,000 combined single limit per occurrence.
\$1,000,000 per aggregate

Automobile: \$1,000,000 single limit

Commercial General Liability: \$1,000,000 each occurrence
\$2,000,000 general aggregate
\$2,000,000 products – comp/op aggregate

Contractor's general liability policy shall name the City of Des Moines as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City of Des Moines. Certificates of coverage as set forth in this section must be delivered to the City of Des Moines before the City will authorize Contractor to proceed with the removal project.

7. **Record Keeping.** All records or papers of any sort relating to the City and the project will at all times be the property of the City and shall be surrendered to the City upon demand. Contractor is entitled to retain a complete set of work product for historical and evidentiary purposes. All information concerning the City and said project which is not otherwise a matter of public record or required by law to be made public, is confidential and Contractor will not, in whole or in part, now or at any time, disclose that information without the express written consent of the City.

8. **Assignment.** This Contract may not be assigned or otherwise transferred by either party hereto.

9. **Entire Agreement, Waiver of Default, Amendment.** This Contract is the complete expression of the understanding of the parties and supersedes any and all prior written or oral understandings. Time is of the essence in the performance of the provisions of this Contract. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Contract unless stated to be such through written approval of the parties. This Contract may be amended only by mutual written consent of the parties.

10. **Independent Contractor.** The services provided by Contractor under this Contract are provided as an independent contractor. Nothing in this Contract shall be considered to create the relationship of employer and employee between the parties. Neither Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Contract. The City will not be responsible for withholding or

otherwise deducting federal income tax or social security payments, or contributing to the state Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to Contractor.

11. Indemnification. Contractor will indemnify, defend, and hold harmless the City, its agents, employees and volunteers, from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from acts, errors, omissions, or negligent acts Contractor, its agents, servants, officers, or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the City, or its agencies or employees caused or contributed to the alleged injury or damage. In the event that the City elects to defend itself against any claim or suit arising from any injury, death, or damage, Contractor, in addition to providing indemnification and holding the City harmless as set forth above, shall indemnify the City for all expenses incurred by the City in defending such claim or suit, including attorney fees; provided, however, that if (and only if) the provisions of RCW 4.24.115 apply to the work and services under this Contract and any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the City, its employees, agents, or representatives, the indemnification applies only to the extent of the negligence of Contractor, its employees, agents, or representatives.

12. Mediation/Arbitration Clause. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under the American Arbitration Association's Commercial or Construction Rules before resorting to arbitration. The mediator may be selected by Contract of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under the American Arbitration Association's Commercial or Construction Arbitration Rules. The arbitrator may be selected by agreement of the parties or through the American Arbitration Association. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

13. Venue, Applicable Law and Personal Jurisdiction. All questions related to this Contract shall be resolved under the laws of the State of Washington. In the event that either party deems it necessary to institute legal action arising from this Contract, such action shall be instituted in the King County Superior Court. The parties each consent to the personal jurisdiction of such court. Except as otherwise provided by law, it is expressly understood that neither party can institute any legal action against the other based on this Contract until the parties have exhausted the mediation and arbitration procedures required by the previous paragraph.

14. Severability. If any term, provision, covenant, or condition of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of

the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

15. **Waiver.** The waiver by either party of any breach of any term, condition, or provision of the Contract shall not be deemed a waiver of such term, condition, or provision or any subsequent breach of the same or any condition or provision of this Contract.

16. **Captions.** The captions used herein are for convenience only and are not a part of this Contract and do not in any way limit or amplify the terms and provisions hereof.

17. **Time of Essence.** Time is of the essence for each and all of the terms, covenants, and conditions of this Contract. Absent extenuating circumstances, it is agreed by both the City and the Contractor that this project shall be fully completed within thirty (30) days of being signed by both parties.

18. **Concurrent Originals.** This Contract may be signed in concurrent originals.

19. **Ratification and Confirmation.** Any acts consistent with the authority and prior to the effective date of this Contract are hereby ratified and confirmed.

IN WITNESS HEREOF, four (4) identical concurrent originals of this Contract, each of which shall be deemed an original thereof, have been duly executed by the parties herein named, on the day and year first above written.

CITY OF DES MOINES

CONTRACTOR

By _____
City Manager
21630 11th Avenue So., Suite A
Des Moines, WA 98198
Dated _____

By _____
Its _____
Address: _____

Dated _____

APPROVED AS TO FORM:

Linda A. Marousek
City Attorney

MOBILE HOMES IN PINE TERRACE MOBILE HOME PARK
21814 Pacific Highway South, Des Moines WA 98198

PACIFIC HIGHWAY IMPROVEMENT PROJECT

<u>No.</u>	<u>Space</u>	<u>Registration Model</u>
1.	K	1961 Elcar
2.	L	1974 Flamingo
3.	O	1969 ABC
4.	42	1958 Knox
5.	44	1964 Marlette
6.	45	1965 Mayflower
7.	48	1960 Universal
8.	49	1974 Titian Champion
9.	50	1972 Vantage
10.	51	1963 Commodore
11.	52	1965 TWCT Fleetwood
12.	53	1969 Van Dyke

(Bid For)

PERSONAL PROPERTY ~~SALE~~ REMOVAL AGREEMENT

Subject to the terms and conditions stated hereof, the undersigned ~~purchaser~~ hereby tenders payment of \$ 30,000.00 together with a performance bond or deposit in the amount of \$ 5000.00, for purchase from the City of Des Moines, seller, of the following described personal property offered for sale pursuant to RCW 47.12.140 on _____:

NOTE: ACCEPTABLE TO
HOLD THE \$5000.00
DEPOSIT UNTIL
COMPLETION OF
PROJECT.

After acceptance of this agreement by the City, the Purchaser agrees to remove the above-described items from the City's property and clean up all resultant debris in accordance with Seller's instructions prior to _____, and in said removal operations it shall be the Purchaser's responsibility to comply with all federal, state, county or city regulations that may apply to any activity resulting from the award of this sale, including but not limited to the moving of any item purchased, and the Purchaser shall agree to obtain all necessary permits. Otherwise the sale shall become null and void and all monies paid hereunder, including performance bond or deposit, shall be forfeited to the City as liquidated damages and the sale herein described shall be immediately terminated.

The performance bond or deposit shall be returned to Purchaser upon satisfactory completion of agreement.

AGREEMENT ACCEPTED this

_____ day of _____, 20__

CITY OF DES MOINES

Property Management Agent

APPROVED AS TO FORM:

Linda A. Marousek, City Attorney


Signature of Purchaser ~~OTHER~~ Bid only

PO BOX 726

Purchaser's Street or Mailing Address

PORT ORCHARD, WA 98366

City, State, Zip Code

360-874-9661

Purchaser's Telephone No.

91-1686138

TIN/SSI Number

Parcel No. _____

IC No. _____

ATTACHMENT B

A G E N D A I T E M

SUBJECT: Warrant 83550 Comprising the last
 three items of the Claims List of
 December 19, 2002

ATTACHMENTS:

 Last two pages of Claims List of December 19,
2002

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Administration

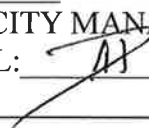
DATE SUBMITTED: January 28, 2002

CLEARANCES:

[] _____

[] _____

[] _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this is item is to provide the City Council an opportunity to decide whether or not authorize payment of last three items of the December 19, 2002 Claims List (warrant 83550), for partial reimbursement of legal fees incurred by Councilmembers Wasson, Benjamin, and Steenrod in defense of the lawsuit "Citizens for Des Moines v. Don Wasson, et al".

Suggested Motion:

I move authorize payment of the last three items of the December 19, 2002 Claims list (warrant 83550).

Background:

The last three items on the December 19, 2002, Claims List represented partial reimbursement of legal fees incurred by Councilmembers Wasson, Benjamin, and Steenrod in their defense of the lawsuit "Citizens for Des Moines v. Don Wasson, et al." The total bill submitted for reimbursement was \$41,787.59. Warrant 83550 represents reimburses of \$28,805 of the amount requested.

Rule 9 of the City Council Rules of Procedure allows the Presiding Officer the "option of deleting any item from the agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda of a subsequent Council meeting".

Discussion:

At the December 19, 2002 meeting, the Presiding Officer deleted the last three items of the Claims List (warrant 83550) from the agenda and the warrant was placed on the January 9, 2003, agenda for the City Council to decide which, if any, agenda to place it on for consideration. Because of the great number of citizens who wanted to speak at the January 9, 2003, meeting, the Presiding Officer deleted this item

Alternatives:

Council may choose to authorize payment of the last three items December 19, 2002, Claims list, to not authorize payment, or to authorize an amount other than \$28,805.

Recommendation:

None.

83550 12/13/02 003878 SHORT CRESSMAN & BURGESS DM VS WASSON, STEENROD, B 520.000.046.514.70.41.0

7,451.21 ✓

VOUCHRE2
12/13/02 10:45

CITY OF DES MOINES
VOUCHER/CHECK REGISTER
FOR ALL PERIODS

PAGE 6

VOUCHER/ CHECK NUMBER	CHECK DATE	VENDOR NUMBER	VENDOR NAME	ITEM DESCRIPTION	ACCOUNT NUMBER	ITEM AMOUNT	CHECK AMOUNT
				DM VS WASSON, STEENROD, B	520.000.046.514.70.41.0	6,150.96 ✓	
				DM VS WASSON, STEENROD,	520.000.046.514.70.41.0	15,203.18 ✓	28,805.35
		***	KEY BANK	BANK TOTAL			334,727.43
				TOTAL CHECKS			334,727.43

AGENDA ITEM

SUBJECT: Amendment to the Des Moines
Transportation Element
Professional Services Contract

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: January 21, 2003

ATTACHMENTS:

1. Transpo Contract Amendment

CLEARANCES:

[X] Finance

[X] Public Works

[X] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this item is to approve funding to compensate our consultant, The Transpo Group, for additional council presentations on the Comprehensive Transportation Plan financing and in particular a Transportation Impact Fee Program.

Suggested Motion:

The following motion will appear on the consent calendar:

"I move to approve the amendments to the contract for professional engineering services for financing the Des Moines Transportation Element Update with The Transpo Group for up to an amount of \$5,000, and to further authorize the City Manager to sign said contract amendments substantially in the form as attached."

Background:

The Comprehensive Transportation Plan was near completion in December 2001. However, since four new council members began in January of 2002, it was decided to brief the new members of the Public Safety and Transportation (PS&T) Committee prior to presenting the final plan to council for adoption. The Comprehensive Transportation Plan includes a section on financing the City's next 20 years of transportation needs. In this section, Transpo suggests a Transportation Impact Fee Program be implemented to fund a portion of the proposed arterial street congestion relief projects. After four meetings in 2002, the PS&T Committee recommended both the Comprehensive Transportation Plan and the Transportation Impact Fee program be presented to the full Council.

The full Council also discussed transportation funding related to funding utility undergrounding on the 16th Avenue South project. Council at that time directed staff to include utility undergrounding as an element of that project. It was determined that the only logical source

of funding for this and other high priority projects was a Transportation Impact Fee Program. This program would also provide funding for grants for other much needed transportation projects, which would help to free up City resources for pavement management of existing streets.

Discussion:

The Plan was reviewed by the PS&T Committee at four meetings in 2002. The Comprehensive Plan was scheduled for Council presentation on December 5, 2002. Larry Toedtli of The Transpo Group made the presentation to Council, and the plan was subsequently adopted. Larry Toedtli will also be presenting the Transportation Impact Fee Program to Council. This presentation was originally scheduled for the December 12, 2002, meeting, which Larry Toedtli attended. However, the meeting ended prior to getting to this item. It was then rescheduled for the January 9, 2003, meeting, which he attended, but was sent home early when the item was removed from the agenda. The item has now been rescheduled for January 30, 2003.

In Exhibit #1, the Transpo Contract Amendment dated December 26, 2002, The Transpo Group requests \$1,930 to cover the additional meetings beyond those contemplated in the current contract. Staff is requesting Council to approve up to \$5,000 to cover the cost of these meetings and any possible additional meetings that Council may request. Depending on the outcome of the January meeting, it is possible that Council may request additional analysis by Transpo, and another meeting.

Alternatives:

An alternative would be to approve only the currently requested amount of \$1,930, plus the additional meeting not included in this proposal. However, if an additional meeting were again required, staff would need to return to council for authorization for additional funding.

Financial Impact:

The additional funds for this contract would be taken from the ending unreserved fund balance of the Arterial Street fund.

Recommendation/Conclusion:

Staff recommends that Council authorize funding up to an amount of \$5,000 to complete this contract with The Transpo Group.

Concurrence:

Legal Department
Finance Department

December 23, 2002

TG: 98007.00

Mr. Tim Heydon
Public Works Director
City of Des Moines
21650 11th Avenue S
Des Moines, WA 98198

SUBJECT: DES MOINES TRANSPORTATION PLAN – CONTRACT AMENDMENT

Dear Tim:

This letter is intended to serve as a formal amendment to our agreement with the City of Des Moines related to the update to the City's Transportation Plan. Our original contract agreement was entered into on January 6, 1999.

Based on our telephone conversation, I understand that you would like me to prepare for and attend three meetings with the Des Moines City Council, which are associated with adoption of the Comprehensive Transportation Plan and traffic impact fees. The following summarizes our scope of services and budget estimate, and provides for the City to authorize the amendment.

Scope of Services

I will prepare for and attend three evening meetings with the Des Moines City Council. The meetings will cover the following topics:

- **December 5, 2002.** Present overview of the Transportation Plan, including existing conditions, travel forecasting improvement projects, and the various systems plans (streets, pedestrian, bicycle, and transit). Assist in answering questions.
- **December 12, 2002 and January 2003 (date to be determined).** Presentation on traffic impact fees and relationship to overall financing of the Transportation Plan.

We do not envision creating additional graphics or handout materials; we will use graphics and other pages from the December 2001 Transportation Plan report for each meeting.

Budget Estimate

Our estimated budget to cover the three meetings is \$2,350. However, we had approximately \$420 remaining from our previous task order related to the meetings in Spring 2002. Therefore, we are requesting a budget amendment of \$1,930 for the additional City Council meetings. The attachment summarizes the hours and costs. The Des Moines City Council meetings will be invoiced as Task 7 to the current project. The total budget will increase from \$99,131 to \$101,061.

ATTACHMENT 1

Mr. Tim Heydon
December 23, 2002
Page 2

Authorization

If the above scope and budget is acceptable to the City, the contract amendment can be formalized by having an authorized representative of the City sign below. Other terms and conditions of the original contract will remain the same. Alternatively, the City could issue a new contract for this additional work.

We look forward to assisting the City in the adoption of the Transportation Plan and its implementation. Please call me at 425.821.3665 if you have any questions or comments on this amendment.

Sincerely,

The Transpo Group, Inc


Transpo Representative

Larry W. Toedtli, P.E.

Name - Printed

December 23, 2002

Date

Contract Amendments Accepted By:

City of Des Moines

Name of Client

Client Signature

Name - Printed

Date

Attachment

M:\98\98007\WP\Contract Amendment Letter 12-23-02.doc

ATTACHMENT
CONSULTANT FEE DETERMINATION - SUMMARY SHEET
DES MOINES TRANSPORTATION PLAN UPDATE - CITY COUNCIL - 2002

A. DIRECT SALARY COST (DSC):

Note: All rates in 2002 values.

Classification	Hours	X	Rate	=	Cost
Project Manager	13		\$50.96		\$662
Sr Transp Planner	0				\$0
Project Engineer	0		\$29.81		\$0
Tech/Graphics	0		\$18.75		\$0
Sr Clerical	3		\$19.50		\$59
Subtotal (DSC)	16		\$45.06		\$721

B. OVERHEAD (OH) COST:

OH Rate x DSC or 1.91 x A **\$1,377**

C. FIXED FEE (FF):

FF Rate 0.30 x (A) **\$216**

D. SUBTOTAL - TRANSPOR LABOR

\$2,314

E. SUBCONSULTANTS: (Mark-up @ 5%)

Quote

Marked-up

\$0

F. REIMBURSABLES: (Mark-up @ 0%)

Estimate

Marked-up

Mileage	\$40.00	\$40.00
Reproduction / Courier	\$0.00	\$0.00
Traffic Counts		\$0.00
		\$0.00

\$40

G. GRAND TOTAL - ESTIMATED FEE (D+E+F)

\$2,354

23-Dec-02

The TRANSPO Group, Inc. - Kirkland, Washington
DES MOINES TRANSPORTATION PLAN UPDATE - CITY COUNCIL - 2002
MANPOWER REQUIREMENT

		Project Manager	Sr Tran Planner	Project Engr	Tech/ Graph	Type/ Admin	Total TRANSPO
TRANSPORTATION PLAN TASKS							
Task 1	Agency Interaction Program / Administration	13	0		0	3	16
Task 2	Transportation Inventory/Existing Conditions	0	0	0	0	0	0
Task 3B	2020 Travel Forecast Model	0	0	0	0	0	0
Task 4B	Revised Transportation Improvement Projects	0	0	0	0	0	0
Task 5B	Financial Plan	0	0	0	0	0	0
Task 6B	Revised Transportation Plan	0	0	0	0	0	0
Total		13	0	0	0	3	16

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Alternatives for Dry Stack Boat
Storage at the Marina

ATTACHMENTS:
4 Dry Stack Boat Storage Concepts

FOR AGENDA OF: January 30, 2003
DEPT. OF ORIGIN: Marina

DATE SUBMITTED: January 24, 2003

CLEARANCES:

[X] Marina

[] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

A. Purpose & Recommendation

The purpose of this report is to update the Council on the progress of the Dry Stack Storage Project and to seek Council Direction regarding the site and configuration alternatives.

Recommended Motion

"I move that the City Council accept the recommendation of the Municipal facilities committee to proceed with Alternative A of the Dry Stack Boat Storage Project at the Quartermaster Site."

B. Background

Existing Conditions:

There are 171 20 and 24 foot slips in the water and 107 dry sheds for a total of 279 spaces. This amounts to 33% of the total number of slips in the Marina. These slips account for about \$420,000 in annual revenue, or 23% of the total permanent moorage collected each year. Currently there are seven people on the 20 foot covered list, 35 people on the 24 foot covered list and 12 people on the dry shed list. The wait for a 20 foot covered slip or a dry shed is about six months, and the wait for a 24-foot covered is about nine months to a year.

Trends

The demand for smaller in-water slips has been declining in the last decade, primarily because the smaller boats have traditionally been used for fishing and fishing opportunities have declined significantly since 1990. The demand for the dry sheds has declined somewhat also, again because of fishing conditions and because the dry sheds at the Marina can only accommodate a

boat 21 feet or less in length. Dry stack storage facilities have been operating in the Puget Sound region for some time, and they are becoming more popular now that the technology exists to store and launch boats in the 24 to 30 foot range. Dry stack storage is popular with boaters because it is convenient, reduces maintenance costs and preserves the value of their boats.

Master Plan Process

When the Marina was built in the late 1960's, the covered moorages were built using all-wood construction for the floating docks instead of using sectional concrete floats. All-wood floats were chosen because they are cheaper and because at that time, concrete floats were relatively new and their life span was not certain. Even though the decision at that time was to use all wood construction for the covered moorages, the project engineers, Reid Middleton, Inc., designed the structures so that the wood floats could be replaced with concrete floats sometime in the future.

In 1995 and 1996, the Marina staff and Reid Middleton, Inc. completed the Marina Facility Master Plan. The object of this planning process was to determine what would need to be done to keep the Marina in good condition for the next ten years. In 1995 the floating docks were still in excellent condition, and no significant repairs were recommended. At that time it was assumed that when major repairs or renovations were needed that the method used would be to replace the wood floats with sectional concrete floats, keeping the roof structures as is.

At the end of 1996 a snowstorm destroyed the covered floating docks at the Port of Edmonds and the Port of Bremerton. These structures were almost identical to the covered docks in the Marina. As a result of these failures, local building codes regulating the minimum roof loads for floating structures were changed. In the future, all floating structures will have to support the same roof loads that land based structures support. These new requirements increase the cost of covered floating docks dramatically. These new regulations took away the option of replacing the wood floats with concrete floats and keeping the original roof structures because the existing roofs are not designed to take the weight loads required by the new codes.

At the beginning of the Comprehensive Marina Master Plan project in 1997/98 it became apparent that the biggest issues would involve the floating docks because the cost of renovating or replacing the docks would be much more than the estimates for the original plan, which was to keep the existing roof structures. The fact that the demand for the 20 and 24 foot covered moorages had been decreasing over the last several years became a problem also. At that point the staff and consultant had to ask the question "if the 20 and 24 foot covered docks are going to be significantly more expensive to replace and if the demand for them continues to decrease, will the Marina be able to get enough revenue from new small boat docks to recapture the cost of building and operating them"? At that time the trend toward larger boats was well established by the sales data, and the staff and consultant were concerned enough about the economic feasibility of in-water 20 and 24 foot moorage to begin looking at ways to increase the capacity of upland storage for the smaller boats. Typically, upland storage is much cheaper than in-water slips to build.

In 1998/99 the existing dry shed site was evaluated for possible expansion and, after the Quartermaster parcel became available, two configurations for dry stack storage were developed for that site.

C. Discussion

Dry Stack Options

Dry Shed Site.

This site was considered early in the Master Plan process. A concept that would replace the dry sheds with a “two-story storage structure was discussed in the Des Moines Marina Facility Plan Development Issues Report given to the Council in May of 1999. After the Quartermaster site became available, no further work was done on developing options for this site. The options discussed below have not been developed to the level of the Quartermaster site options. Before the staff could make a recommendation on a plan at the dry shed site, a more detailed analysis of the construction costs, view impacts and operational impacts would need to be done.

Dry Shed Site – Concept 1

This building would have space for approximately 162 boats 18 to 32 feet long, stacked two-high. A more detailed design effort would be needed to determine the exact height of the building. The doors would be on the west side. It would include interior wash-down areas, some exterior racks for small boats and 5 ft. by 5 ft. storage lockers that would be accessible from the outside. This plan maximizes the number of boats that can be stored but the west-facing doors would create some conflicts with M and N dock tenants that need to park in that area to access their boats.

Dry Shed Site – Concept 2

This building would house approximately 152 boats 18 to 32 feet long, also stacked two-high. As with Concept 1, the exact height of the building is not known at this time. The doors would face the north. It would include interior wash-down areas and storage lockers accessible from the outside. This plan cannot store as many boats as option 1, but it does eliminate the conflict with M & N dock tenants.

Quartermaster Site – Concept A

This building would be built as close to the bank as possible and would have the capacity to store approximately 100 boats 18 to 32 feet long. The boats would be stacked three or four high, depending on size. The building would be built to the maximum allowable height. This concept includes exterior wash-down areas and does not include storage lockers. This Concept has the best financial performance of the two concepts for this site. Its major drawback is the buildings proximity to the neighboring buildings.

Quartermaster Site – Concept B

The footprint of this building would extend to the setback line on the west side of the parcel. The building could store 85 to 95 boats, stacked three or four high. Like Concept A, this building would be built to the maximum allowable height. The wash-down area for this concept could be located inside the building. This building has more separation from neighboring buildings, but generates less revenue than concept A.

D. Alternatives

Alternative 1. Accept the recommendation of the Municipal Facilities Committee and direct staff to proceed with Concept A at the Quartermaster Site.

Alternative 2. Remand the Dry Stack project back to the Municipal Facilities Committee for further study of the two Quartermaster Site Alternatives.

Alternative 3. Remand the Dry Stack project back to the Municipal Facilities Committee for further study of the alternatives, including the dry shed site.

E. Financial Impact

Currently, the dry sheds and lockers generate about \$150,000 per year. Operating expenses are very low, limited to annual maintenance on the hoists and sheds. At the Quartermaster Site, the estimated annual revenue for Alternative A, (at 100% occupancy) is approximately \$200,000 and the estimated annual increase in operating expenses is \$40,000. For Alternative B, the estimated annual increase in operating expenses is the same as for Alternative A, but estimated annual revenues are less at \$185,000 per year.

At the dry shed site, Concept 1 has the highest revenue potential, which is estimated to be \$300,000 per year. This is about \$50,000 per year less than the current dry shed revenue plus the expected revenue from Concept A at the Quartermaster site. Using the Dry Shed site will create the opportunity for using the Quartermaster site for another purpose, possibly some type of retail, but a use that will generate \$50,000 in annual net revenue has not been identified.

Use of the Quartermaster site for a Dry Stack operation does not preclude developing other business opportunities at other locations. The Master Plan identifies the area north of the existing office as a possible site if the guest moorage is expanded. Also, at some point, the existing dry sheds will need to be replaced. That may create an opportunity for some other type of development in that area.

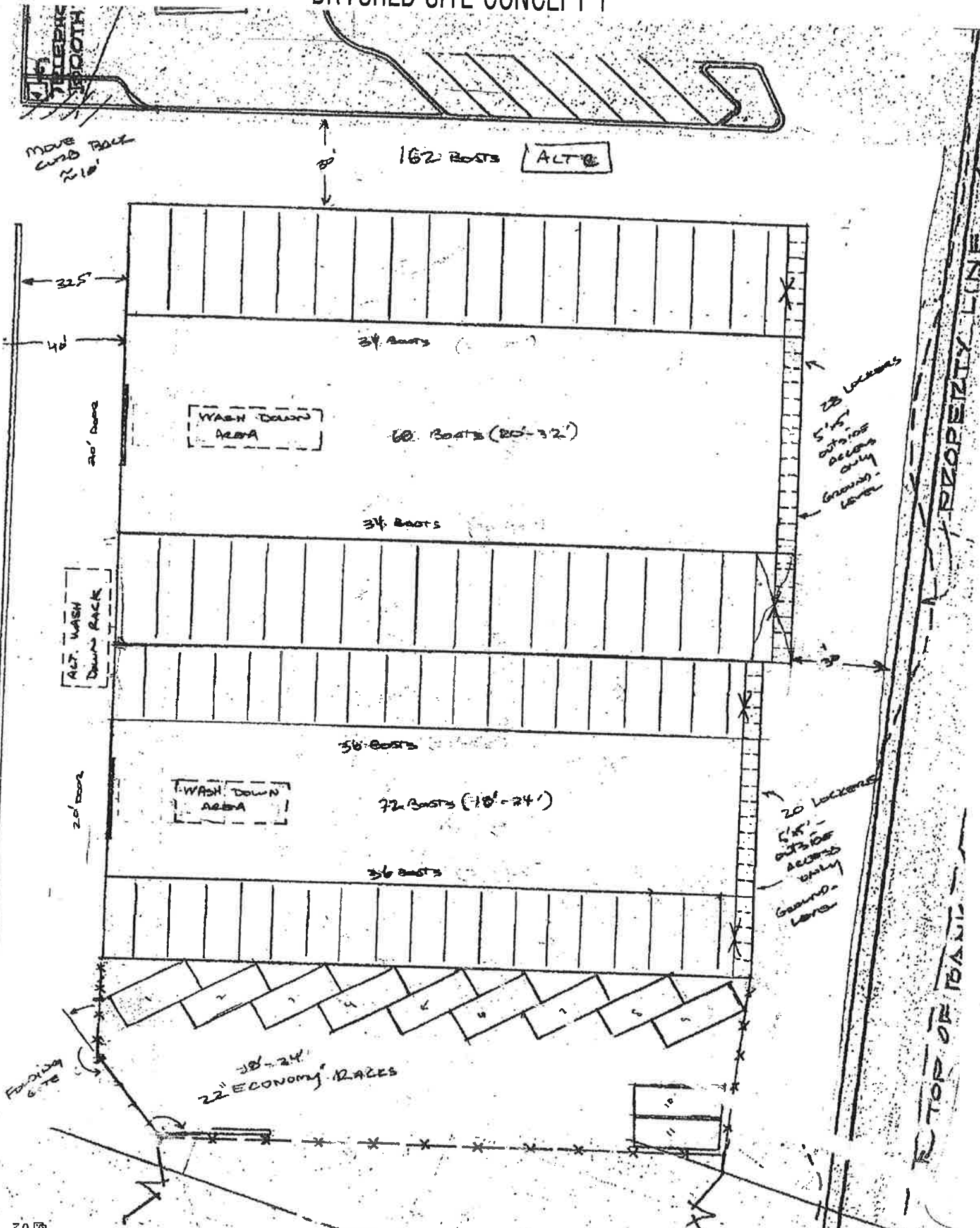
F. Recommendation

The staff believes that Concept A at the Quartermaster site is the best available alternative.

G. Concurrence

Municipal Facilities Committee.

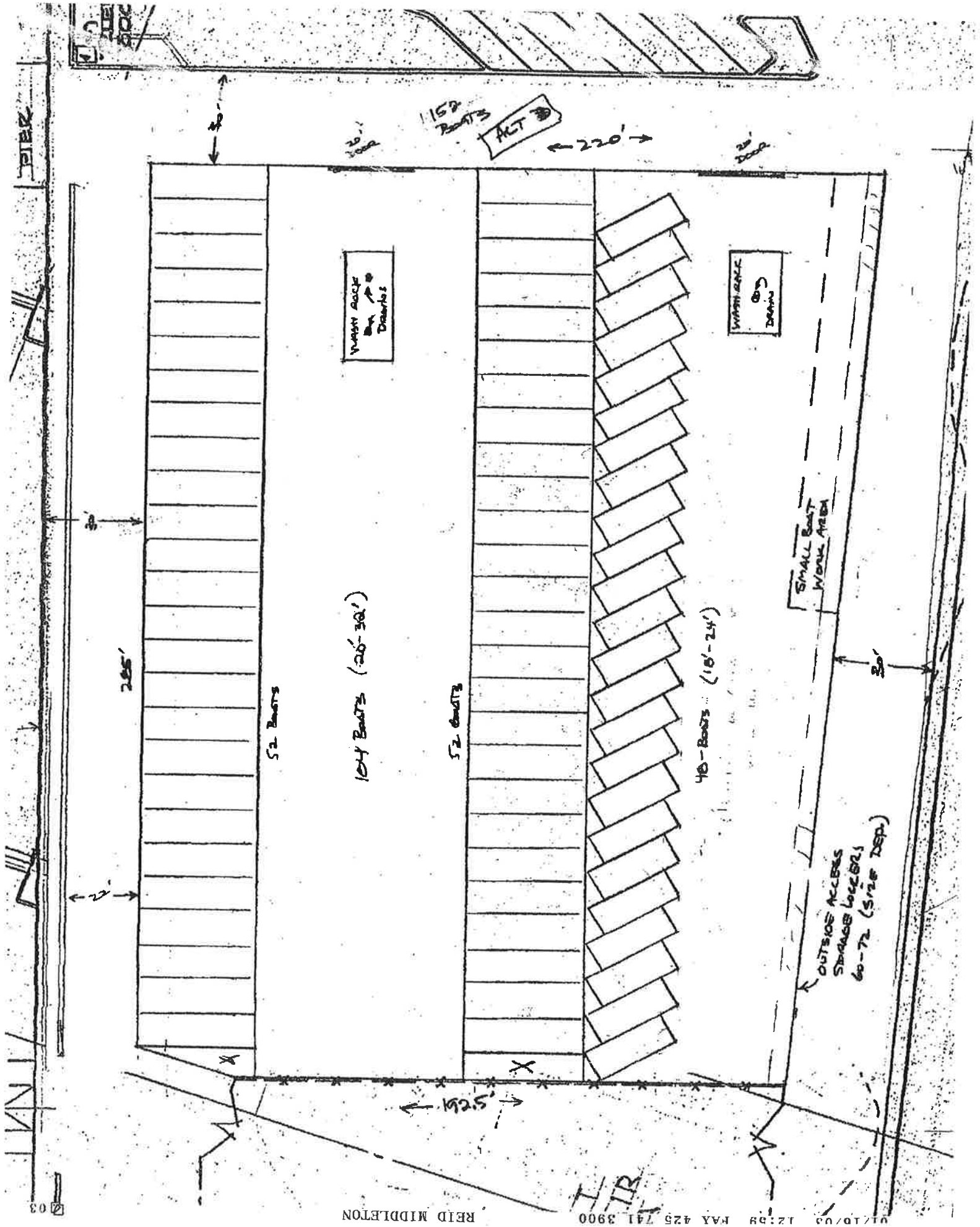
DRYSHED SITE CONCEPT 1

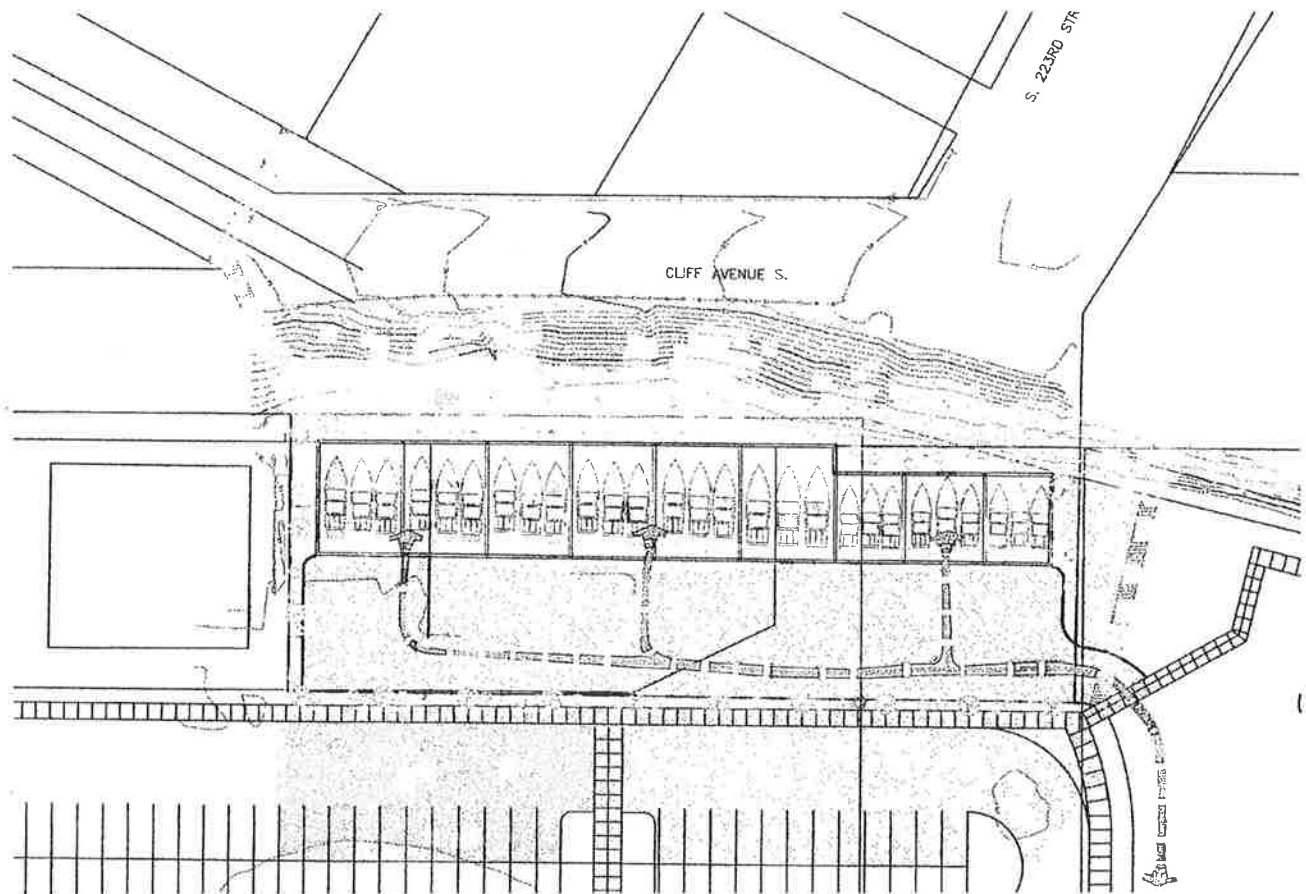


REID MIDDLETON

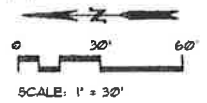
01/16/03 12:59 FAX 426 744 3900

DRYSHED SITE CONCEPT 2

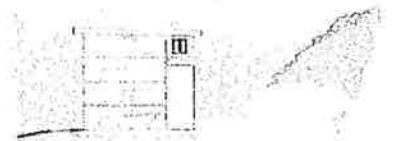




site plan



elevation - front

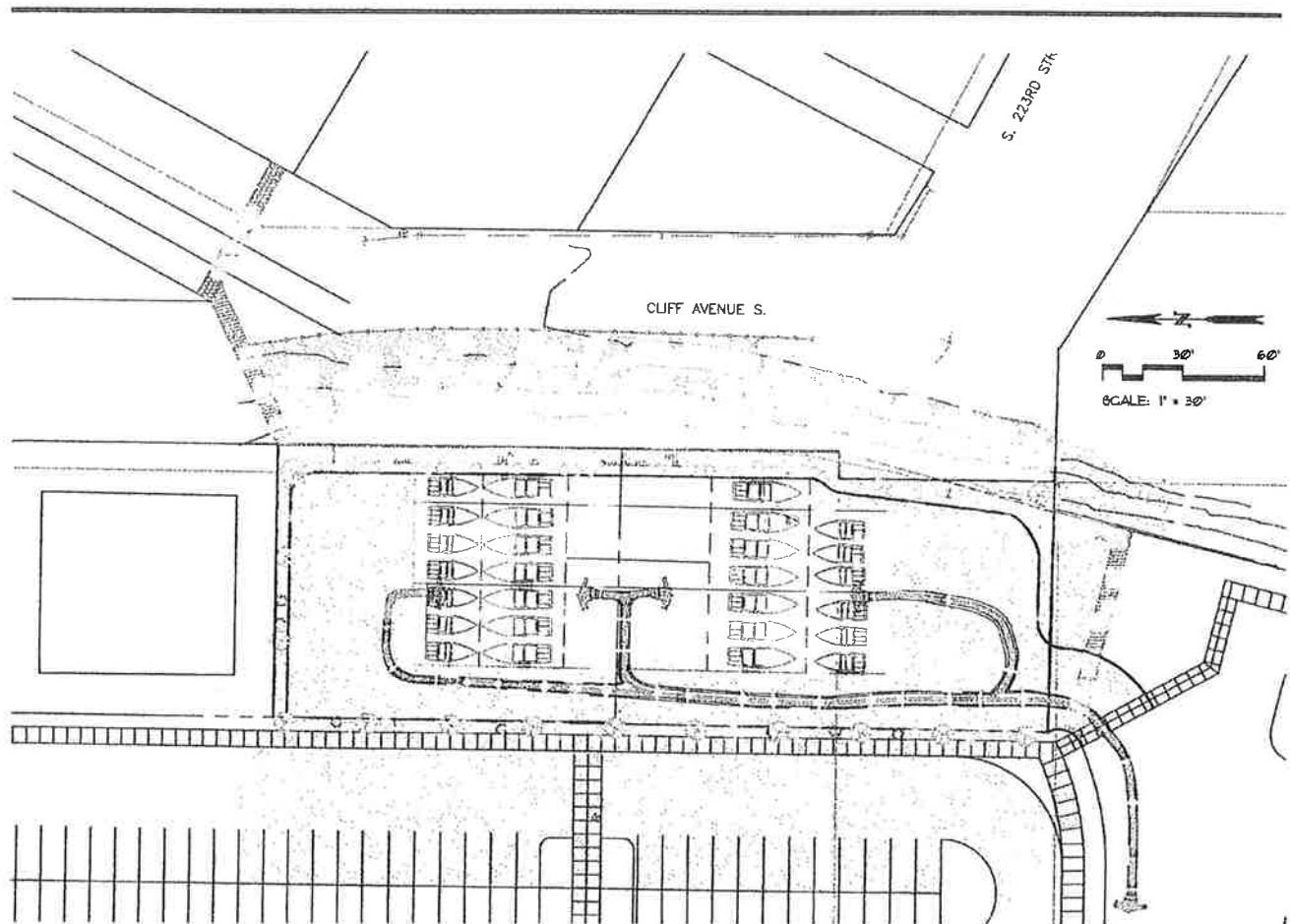


elevation - side

DRY STACK BOAT INVENTORY - CONCEPT A

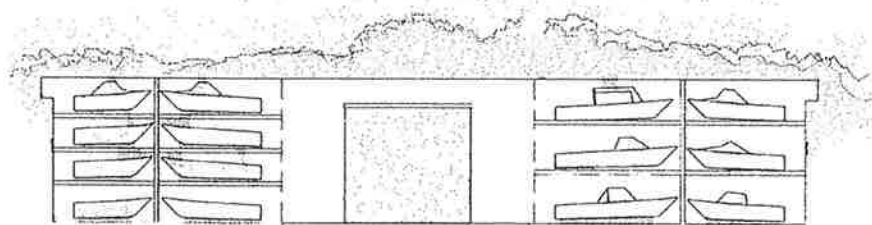
<u>< 24'</u>	<u>< 32'</u>	<u>TOTAL</u>
36	72	108 BOATS

NOTE: ROOF & CLADDING
REMOVED FOR CLARITY



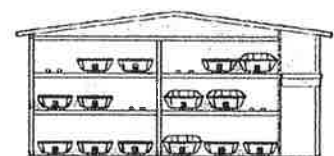
site plan

scale: 1" = 30'



elevation — front

scale: 1" = 20'



elevation — side

scale: 1" = 20'

DRY STACK BOAT INVENTORY - CONCEPT B

<u>< 24'</u>	<u>< 28'</u>	<u>< 32'</u>	<u>TOTAL</u>
28	49	18	95 BOATS

NOTE: ROOF & CLADDING
REMOVED FOR CLARITY

A G E N D A I T E M

SUBJECT:

Draft Resolution No. 02-269
Adoption of an economic development plan

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Community Development 

DATE SUBMITTED: December 4, 2002

ATTACHMENTS:

1. Economic Development Plan

CLEARANCES:
[X] LEGAL 

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

The purpose of this item is to present for City Council consideration the first citywide economic development action plan.

Suggested Motion:

"I move to adopt draft resolution 02-269 establishing an economic development plan for the city."

Background and discussion:

At its April 2002 retreat the City Council selected economic development as one of the highest strategic objectives for 2002-2003. Since that time the Finance and Economic Development Committee has worked with Administration to develop a realistic, achievable strategy to maintain and increase the economic vitality in the city. After many months of work the attached action plan was developed.

Alternatives:

1. Adopt Resolution 02-269
2. Adopt Resolution 02-269 with Council revisions
3. Do not adopt Resolution 02-269

Financial Impact:

There will be financial impacts associated with implementation of the action plan. City Council shall have the opportunity to review and approve these expenditures prior to project implementation.

Recommendation/Conclusion:

Administration recommends adoption of Resolution 02-269.

Concurrence:

None

COMMUNITIY DEVELOPMENT'S FIRST DRAFT 12/02/02
DRAFT RESOLUTION NO. 02-269

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON adopting an economic development action plan and establishing a mission statement, goals and implementation priorities.

WHEREAS, economic development activities broaden and strengthen the local tax bases by providing meaningful employment opportunities and enhancing the quality of life for all residents, and

WHEREAS, successful economic development efforts in other communities have been planned and implemented through partnerships between the City, their local Chambers of Commerce and local businesses, and

WHEREAS, the Growth Management Act encourages establishment of economic development plans, and

WHEREAS, adoption of an economic development plan provides a clear policy basis for project implementation, and

WHEREAS, adoption of a economic development plan clearly articulates to potential developers and employers city priorities and intent, and

WHEREAS, developing a broad base of support including innovative public/private partnerships is critical for the success of any economic development program; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Sec. 1 Economic development and revitalization shall be a priority for the City of Des Moines. The City shall work diligently to implement this strategic objective in cooperation with the Greater Des Moines Chamber of Commerce, local businesses, interested organizations and residents of Des Moines.

Sec. 2 The attached "City of Des Moines Economic Development Action Plan" is hereby adopted as the City's official economic development policy document. This plan shall be a working document used to guide and direct all economic development activities of the City.

The City Manager shall keep the City Council appraised of the progress of the Economic Development Action Plan through periodic briefing at Council meeting and the inclusion of Economic Development activities in the City manager's regular report to Council.

PASSED BY THE City Council of the City of Des Moines this ____ day of _____, 2002 and signed in authentication thereof this ____ day of _____, 2002.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

CITY OF DES MOINES ECONOMIC DEVELOPMENT ACTION PLAN

Introduction

At its April 2002 retreat, the City Council ranked economic development as one of its highest strategic objectives. The Finance and Economic Development Committee was assigned the duty to draft a realistic, achievable strategy to maintain and increase economic vitality in the city. After many months of research and discussions with the Committee this action plan was developed.

In addition to a mission statement and goals that clearly articulate the policy directives, the action plan also includes an implementation/work program matrix that prioritizes the city's actions. The matrix also promotes accountability by including specific due dates and responsible parties.

Whereas the mission statement and goals of the economic development action plan may remain consistent for several years, the matrix is designed to be reviewed and updated on an annual basis. The matrix will serve as the major implementation document of the action plan and will be incorporated into work programs in all affected city departments.

What is economic development?

To paraphrase the definition the state legislature used in establishing the Economic Development Tax Authority, economic development broadens and strengthens state and local tax bases by providing meaningful employment opportunities and enhancing the quality of life for all citizens.

The Growth Management Act lists 13 planning goals, one of which is economic development:

"Encourage economic development throughout the state that is consistent with adopted comprehensive plans; promote economic opportunity for all citizens of the state, especially for unemployed and disadvantaged persons; and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources and local public facilities (RCW 36.70A.020(5)).

How do you make economic development happen?

Only one of three things can happen to a city:

- It can grow
- It can maintain the status quo (at least for a time)
- It can stagnate

Economic development is no one single plan, policy or program. Nor can one single, group whether public or private, can accomplish the task alone. Successful economic development plans involve everyone, from government to the smallest home business in town.

Successful economic development plans generally have three elements:

- Business development/ retention
- Infrastructure development
- Workforce development

Business Development/retention

Business development and retention are the cornerstones of any economic development effort. In this context business development/retention can include business attraction programs, promotion, joint city/ private partnerships, etc.

People will shop, visit, live and work in an area because of available services, not promises or false hype. In this area, critical mass is imperative for success. Having a significant number of commercial, cultural, tourist amenities also helps in attracting new businesses into the community, which in turn creates new jobs for local citizens.

Infrastructure development

Any economic development plan must address the issue of infrastructure support. Without adequate infrastructure support no economic development can occur. In this context infrastructure includes:

- o Roads, including gateways
- o Utilities (i.e. water, gas, electric, etc)
- o Stormwater drainage
- o Flood Control

- o Telecommunications
- o Schools

With the passage of the Growth Management Act, cities are required to establish "levels of service" and maintain "concurrency" with adopted standards. Luckily in Des Moines most of our infrastructure systems are adequate for a broad range of economic development activities.

Workforce Development

Workforce development is a statewide system of education and training that prepares people for high-skilled jobs and assures employers of a skilled workforce. A trained workforce is critical in securing family wage employers in our community. A good workforce development program will accomplish the following:

- Increase productivity
- Enhance a city's ability to compete
- Provide higher wage jobs for its citizens
- Reduce illiteracy
- Increase standards of living
- Provide opportunities for people historically denied higher-paying jobs
- Stabilize the population

The action plan matrix provides priorities for implementation in each of these three areas.

Mission and goals

Des Moines has many attractions in its favor; they do not need to be enumerated here. What the city has not done is to capitalize upon its assets. Based on a review of our advantages a draft mission statement and goals were developed. A defined mission statement and goals can provide many benefits, including:

- A policy basis for implementation
- Clearly articulates to residents, businesses and potential residents and businesses what the city represents -- a "declaration of intent"
- Inspires people to take pride in their community
- Frees the community from past failures

A good mission statement will respect a community's past while taking a reasonable view of the future. Likewise, a good mission statement cannot be all things to all people. It must always serve as a direct, focused statement of the community's intent and its future.

The City of Des Moines economic development action plan mission statement

The Des Moines Economic Development Action plan will provide a basis for activities designed to foster a diversified, vibrant, and stable economy while preserving community values. The result of this action plan will be an improved business climate leading to an increased tax base and improvements to the standards of living and quality of life for all citizens of the Waterland City

Goals:

- Attract desirable new employers consistent with the area's quality of life
- Eliminate excessive regulatory restrictions while preserving a high level of health and safety in the community
- Focus initial revitalization efforts to the downtown and Pacific Ridge communities
- Improve the image of the city through a targeted marketing and promotion program
- Develop a broad base of community support for economic development efforts including innovative public/private partnerships
- Maintain and upgrade where necessary roads, utilities and other infrastructure improvements

Implementation

Implementation priorities of the Des Moines action plan are detailed in the attached matrix. Progress on these activities will be included in the City Manager's monthly report. On an annual basis Administration will provide the Council an opportunity to review and revise the matrix. It shall be the responsibility of the Finance and Economic Development Committee to make quarterly reports to the full Council on the implementation of these priorities.

Des Moines Economic Development Action Plan Implementation Matrix

	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
Priority 1									
	1. Work with Chamber and other groups to create a marketing plan and business attraction and retention program for the City of Des Moines • Develop marketing plan in conjunction with SWKC group • Work with Chamber to implement Recommendations • Contact Federal Way and Kent on interest in developing a joint business marketing plan		*		Jan 03	?	TBD	DM Chamber	Consultant

Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+				
Priority 1								
2. Review government regulations; streamline where possible - ID problem areas - Review process - Include at least one public meeting with user groups - Make recommendations to CC on code/process changes and priorities. Include costs and timelines - Begin code/process revisions	*		*		Dec. 02	Ongoing until code revision is complete		CD/Legal

Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
	30-90 days	90-180	180+					
3. Develop downtown revitalization strategy • Allow push carts, farmer markets and other seasonal vendors in the city • Revise DC code to allow for variances • Investigate using CDBG float program for a project • Conduct market study for Downtown		*		Summer 03	Seasonal	TBD/unknown	DM Chamber	Judith/CD/joe

	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
Priority 2	4. Continue Implementation of PR Neighborhood Plan					Plan implementation ongoing; incentive plan 05			CD/Legal
	• Implement incentive plan	*			Jan 03				
	• Recommend revisions to PR code to CC	*							
	• Begin publicity campaign on incentive plan	*							
	5. Institute neighborhood meetings for businesses				Spring 03	Fall 03	0	DM chamber	City Manager
	• Qtr. By business district		*						
	6. Prepare a development strategy for "south of KDM" area from KDM to 272nd		*		Jan 03	June 03	\$2,500	UW, Kent	CD/Adm

Priority	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
Priority 3	7. Work with POS, KC, and partner cities on sub-regional economic development efforts			*	Jan 00	Ongoing	\$5,000/yes	KC, POS, EDA, state, member cities	CD
	• Develop SBDC • Marketing study • Import/Export Center			*					
	8. Implement the Marina Master Plan			*	July 01	07			CD/Marina, Legal, CM
	• Boat storage (04) • Guest moorage (06) • Commercial buildings (03) • Breakers(03) • Bond sale (complete)	*		*					

Priority	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
Priority 3 cont	9. Work with cities of Kent and Federal Way on straightening boundaries			180+ *	Jan 03	Dec 03			
Priority 4	10. Promote economic development objectives by including goals, objectives and strategies on the city's webpage		*		June 03	June 03			
	11. Work with POS on creating a development plan for the buyout area, with the goal of beginning development within 36 months of signing, regardless of final outcome of the 3 rd runway • Complete "NEST" study • Continue encouraging POS to create a development plan			*	Ongoing until complete		\$188,000/yes	POS, Seatac, Burien, EDA	

Priority	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
Priority 5	12. Clearly express to all school districts via a resolution the need to work with the CC, administration and the community of the design of their facilities								
	• Adopt HCC master plan • Work with HCC, HSD on permitting of new facilities	*			03/03 04	03/03 07			
	13. Working with other organizations develop better strategies of linking student to jobs in the community			*	Sept 03	Develop program by Sept 04, then ongoing		HCC, HSD, DM chamber	

Priority 5 cont	Action	Time frame			Target Date to Start	Target Date to Complete	Est. Cost/ Matching funds	Affiliated Organizations	Action Item For:
		30-90 days	90-180	180+					
	14. Continue implementation of CIP • Where possible provide through the development process the opportunity for telecommunication expansion • Establish positive gateways at 272nd and 16th Ave Explore providing a gateway generally in the KDM/MVD area				*				Eng. CC, CD, utilities

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: RCAA Final Billing

FOR AGENDA OF: January 30, 2003

ATTACHMENTS:

Various Letters and Memos regarding
RCAA's Agreement with Des
Moines and Final Payment

DEPT. OF ORIGIN: City Manager's Office

DATE SUBMITTED: November 27, 2002

CLEARANCES:

☐ Legal _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AS

Purpose and Recommendation

The purpose of this report is to provide the City Council an opportunity to review the information supplied by the Regional Commission on Airport Affairs (RCAA) regarding the services they provided in 2002 to satisfy their responsibilities per the agreement between the City of Des Moines and RCAA and to determine the final payment amount the Council will authorize for these services.

Suggested Motion:

"I move to authorize payment of \$ _____ to the Regional Commission on Airport Affairs as full and final payment for services provided in 2002."

Background

The City of Des Moines contracts with RCAA to provide various services to educate the public concerning the environmental, economic and social effects of the proposed third runway and related expansion of Seattle-Tacoma International Airport. The attached copy of the 2002 agreement provides greater detail. For these services, the City agreed to pay RCAA \$28,000 in quarterly installments of \$7,000 each.

Discussion

At its September 5, 2002, meeting, the City Council voted to terminate the contract with RCAA. The City Manager notified RCAA of this action in a letter dated September 10, 2002, with an effective date

of October 14, 2002. Under paragraph 5 of the contract, RCAA is "entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City".

On September 6, 2002, RCAA sent the City an invoice for \$7,000 for services rendered in the first quarter of 2002, and an invoice for \$7,000 for services rendered in the second quarter of 2002. Attached to these two invoices was a detailed list of RCAA's 2002 expenditures to date. On September 20, 2002, RCAA invoiced the City \$7,000 for services rendered in the third quarter. Finally, on October 14, 2002, RCAA sent a final, pro rata invoice totaling \$1,065.22 for the first 14 days of the fourth quarter. Attached to this invoice was a letter detailing the services RCAA has rendered on behalf of the City and copies of several years worth of RCAA newsletters. All of this material has been previously given to the City Council and is attached to this report for Council's convenience.

Alternatives

The City Council may elect to pay all, part or none of the billings from RCAA, based upon Council's evaluation of the quantity and quality of services performed by RCAA on behalf of the City.

Financial Impact

The total billings amount to \$22,065.22. \$28,000 was allocated in the 2002 Budget for the RCAA contract.

Recommendation

None.

**AGREEMENT FOR SERVICES
BY AND BETWEEN
THE CITY OF DES MOINES AND
THE REGIONAL COMMISSION ON AIRPORT AFFAIRS ("RCAA")
FOR THE YEAR 2002**

The **CITY OF DES MOINES** ("City"), a municipal corporation, and the **REGIONAL COMMISSION ON AIRPORT AFFAIRS** ("RCAA") agree as follows:

FACTS AND ASSUMPTIONS

THIS AGREEMENT is entered into on the basis of the following facts and assumptions:

RCAA is a corporation, incorporated under the Nonprofit Corporations Act of the State of Washington.

The purpose for which RCAA is organized is to actively oppose the proposed third runway and related expansion of Seattle-Tacoma International Airport (Sea-Tac Airport) and to educate the local public concerning the environmental, economic, and social effects.

The RCAA recognizes that the City, in cooperation with the Airport Communities Coalition (ACC), is or may become engaged in litigation with the Port of Seattle, the Federal Aviation Administration, the Puget Sound Regional Council and others regarding many of the same issues with which the RCAA is concerned.

For these reasons, the City Council of the City of Des Moines has allocated funds to contract with RCAA which will be of assistance to the City in regards to the third runway or expansion of Sea-Tac Airport.

AGREEMENT FOR SERVICES

Accordingly, and in reference to the foregoing, the parties agree as follows:

1. RCAA Responsibilities

(a) RCAA shall provide to the City services which the City may from time to time require in achieving the goals previously described with regard to the third runway or expansion of Sea-Tac Airport. These services shall include the following:

- Information booths at public festivals in Burien, Normandy Park, Des Moines, Federal Way, Tukwila, Beacon Hill, Magnolia and other areas impacted by the expansion of Sea-Tac Airport;
- Schedule monthly citizen involvement activities in Olympia, Seattle, Sea-Tac Airport and the Greater Puget Sound Region, as necessary;

- Host town meetings in the Greater Puget Sound Region to inform and educate the public and elected officials as needed.
- Maintain a web site to provide in-depth and immediate information to the public;
- Publish a quarterly newsletter;
- Recruit new members;
- Expand the mailing list upon request of city councils;
- Send action alerts to all RCAA members as deemed necessary by the RCAA Board of Directors;
- Placement of informational advertisements as deemed necessary by the RCAA Board of Directors;
- Conduct elected official outreach at the state, county, and local levels;
- Provide other activities as deemed necessary by city councils;

(b) RCAA shall ensure that all of its activities on behalf of the City are in compliance with applicable state, federal and local law, including without limitation, any reporting requirements of the Washington Public Disclosure Commission that are applicable, or in the future become applicable, to actions or assignments undertaken by RCAA;

(c) RCAA will at all times maintain accurate and appropriate financial records. At any time during the term of this Agreement, within seven (7) days of a written request from the Des Moines Finance Director, RCAA agrees to make available to the City Finance Director for audit and inspection any and all records maintained by RCAA, including without limitation, receipts for goods, services, payroll, expenditures, and study costs; and

(d) RCAA will regularly seek contributions through its mailings and public activities.

2. *Limitations on RCAA Activities*

To ensure that RCAA's efforts are consistent with and complement the City's efforts through the ACC, the RCAA shall not use City funds for the following activities, without the prior approval of the City:

- Retaining experts or professionals to assist in developing technical information related to the impacts of Sea-Tac Airport;
- Dissemination of technical reports or other technical information prepared in contemplation of litigation, or in any manner related to the issues raised (or to be raised) in ACC litigation;
- Retain any professional or consultant who has been retained by the ACC (unless approved by the ACC); or

- Publication (including electronic publication) of any attorney/client privileged materials prepared for litigation by the ACC, its counsel, consultants, or staff.

3. *RCAA Meeting Requirements*

An officer of the RCAA shall meet with a member or members of the City staff on a periodic basis so that the City may provide RCAA with its requirements and RCAA may report on services rendered.

4. *City Responsibilities*

In consideration of the services performed by RCAA, the City shall compensate RCAA in the amount of twenty-eight thousand dollars (\$28,000.00) during the year 2002, payable in four installments, which shall be paid on or before February 15, 2002, May 15, 2002, August 15, 2002, and November 15, 2002, or when otherwise authorized by the City Council.

5. *Termination*

This contract may be terminated by either party upon thirty (30) days written notice, in which event RCAA will be entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City.

6. *Independent Contractor, Hold Harmless Agreement*

RCAA warrants and understands that in performing services under this agreement, it is an independent contractor and is not an agent, servant, or employee of the City of Des Moines and it will not represent itself as such. RCAA agrees to defend, indemnify, and hold the City, its officers, officials, agents, employees, and volunteers harmless from any claim, damages, suit, action or liability, costs of expenses in law or equity, including attorney fees and expenses in defending against any such claim because of damages to property or personal injury arising out of the services performed under this agreement, which may be occasioned by any willful or negligent act or omission of RCAA, or any of RCAA's agents, servants, employees, or subcontractors, except to the extent such injury is caused by the negligent or willful misconduct of the City, its directors, officers, agents, servants, or employees.

//
//
//

7. *Ratification, Confirmation, and Retroactive Application.*

Any acts consistent with the authority and prior to the effective date of this agreement are hereby ratified and confirmed. This agreement is effective as of January 1, 2002.

DATED this 1st day of February, 2002.

APPROVED AS TO FORM:



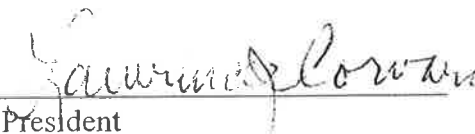
Gary N. McLean
City Attorney

CITY OF DES MOINES

By 

Robert L. Olander
Its City Manager

REGIONAL COMMISSION ON
AIRPORT AFFAIRS

By 
Its President

MEMORANDUM

Date: October 30, 2002

To: City Council

From: City Manager 

Subject: Information from RCAA Regarding Services Provided in and Billings for 2002
cc: City Attorney

Attached is information that I have received from the RCAA regarding the services that they have provided to the City of Des Moines in 2002. Also attached are copies of their quarterly billing statements for the first three quarters of 2002 and a prorated bill for the first two weeks of October. An item has been placed on the November 14, 2002, City Council meeting agenda to discuss RCAA's billings and to allow the City Council to decide if the services rendered meet the terms of the contract between the City and RCAA.



City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



October 29, 2002

Lawrence J. Corvari, President
Regional Commission on Airport Affairs
19000 Fourth Avenue S.W.
Normandy Park, WA 98166

Dear Mr. Corvari:

Thank you for your letter of October 14, 2002, providing the requested information concerning RCAA services. The City of Des Moines will determine its 2002 payment to RCAA for all time periods prior to termination of the 2002 contract, including the first two quarters of 2002 that were first billed to the City on September 6, 2002, under the termination provision of the contract. That language specifically states that:

RCAA will be entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City.

We expect that the City Council will consider this issue on November 14, 2002. I invite a representative of RCAA to address the Council during the discussion on this issue. Please advise me who will represent RCAA at the November 14 meeting.

Thank you again for your response to my letter. Please let me know if you have any questions.

Sincerely,

Tony Piasecki
City Manager

TP:sb



City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



September 10, 2002

Lawrence J. Corvari, President
RCAA
19900 Fourth Avenue SW
Normandy Park, WA 98166

Dear Mr. Corvari:

The City Council of the City of Des Moines, at its September 5, 2002 meeting, directed that the City terminate its contract with RCAA. In accordance with Paragraph 5 of the contract between the City and RCAA, you are hereby notified that the City terminates its contract with RCAA, effective October 14, 2002. This termination date provides you with thirty days written notice of termination, as required by the contract, counted as required by Civil Rule 6.

Under Paragraph 5 of the contract, upon termination of the contract, RCAA is "entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City." To permit the City to comply with this provision, please provide the City with a final billing by October 1, 2002, for services provided through October 14, 2002, giving both a pro rata calculation and detailed identification of services provided and dates of services, for January 1, 2002 through October 14, 2002. In order to allow the City to evaluate the "quantity and quality of services," in addition please provide a detailed identification of services provided, and dates of services, under the 2001 contract with the City. The City acknowledges that on September 6, 2002, you provided us with a billing for the first two quarters of 2002. The City requests that you provide us with the additional detailed information requested in this letter for both 2001 and 2002, in order to facilitate our timely final payment under the contract.

Thank you.

Very truly yours,

Tony Piasecki
City Manager

TP/LAM:vs

Cc: Linda A. Marousek, City Attorney

W101:RCAA/02-057

14 October 2002

Tony Piasecki
City Manager
City of Des Moines
21630 Eleventh Ave. So., Suite A
Des Moines, Washington 98198-6398

Re: RCAA billings to Des Moines:

Dear Mr Piasecki:

Please find enclosed for staff review & Council action our invoice for services for the fourth quarter, 2002, totaling \$1,065.22. The computation leading to this figure is shown on the invoice itself. Given that our services are continuous & ongoing, we believe that the appropriate method for computing the amount due us per contract for the fourth quarter is simply to prorate the quarterly payment of \$7,000 between days when the contract was in force (1-14 October), and the balance of the quarter. Your letter of 10 September, terminating the contract, asked for this computation specifically. While your letter terminating the contract asked for this billing by 1 October, our leadership has felt that it was inappropriate to submit a final bill before the terminal date, and our Office Administrator has discussed this with you, to, we believe, mutual agreement.

Your letter also asks for "detailed identification of services provided and dates of services, for January 1, 2002 through October 14, 2002". We trust that RCAA's services for the first three quarters of 2002, for which invoices are outstanding and unpaid, are not in dispute. There has been not the slightest hint of dissatisfaction with those services. Accordingly, we assume that the invoices for the first three quarters are being processed for timely payment, and that the request for a delineation of services during those quarters is only made to permit a basis for comparing prior services with services provided in the period 1-14 October.

* * * * *

It is appropriate to state at the outset that RCAA has provided the same services, in the same way, during the period 1-14 October, as during the period 1 January 2002 to 30 September 2002, and that services provided in the Year 2002 are very similar to those provided in Year 2001.

The services provided by RCAA to Burien, Des Moines, and Normandy



19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
FAX (206) 824-3451

<rcaa@earthlink.net>

www.rcaanews.org

Officers

Lawrence J. Corvari
President

Allan M. Furney
Vice President

Philip C. Emerson
*Vice President &
Secretary*

Jim Bartlemay
Treasurer

Directors

Mike Anderson
Jim Bartlemay
Frank Bosl
Clark Dodge
Brett Fish
Rob Frishholz
Dennis Hansen, M.D.
Jeanne Moeller
Len Oebser
Jane M. Rees

Affiliates

CANE

C.A.S.E. (Citizens
Against Sea-Tac
Expansion)

Seattle Community
Council Federation

Seattle Council on
Airport Affairs

RCAA

Tony Piasecki
Re: Final Billing
14 October 2002
Page 2

Park under its three separate but virtually identical contracts with those cities are generally of an indirect nature.

By that, I mean that instead of, say, providing material goods for the City's use, or performing consultant services direct to the City (as an engineer might do with respect to a proposed capital improvement), we provide services to the general public and others for the advantage of the City.

Purpose of services. As is said in the contract, RCAA's work is intended to "be of assistance to the City in regards to the proposed third runway and related expansion of Sea-Tac Airport". A list of activities that RCAA can engage in under this rubric is found in Paragraph 1(a) of the basic contract. And, naturally, we engage in other actions & activities in support of the no-third-runway position, though they are not listed per se in the contract. Generally, we have accepted the guidance of the Airport Communities Coalition in many of these day-to-day activities, tailoring our work to dovetail with theirs, and to be supportive of their rôle as the principal opponent of the runway project. Most our services can best be described as public-involvement and public-relations activities, premised on opposition to the third-runway project at Sea-Tac Airport, and other expansion projects there. Opposition to Sea-Tac expansion, and particularly, opposition to the third-runway proposal, has been this organization's focus since its founding, and that was the focus throughout 2002 – which is not just our position but is the position of the City of Des Moines, the other contracting cities, our friends & supporters, our affiliated organizations, and the Airport Communities Coalition.

Continuous services. Some of RCAA's services are provided day & night, week in & week out ("365/24/7"). This is particularly true of our pioneering website, which is the first great airport-concern website run by a citizen group. It is available for use by anyone any time. The website requires the services of a consultant webmaster, supported by information continuously fed to her by members of our Board, interested members of the public, and our Office Administrator. The website contains an ever-growing accumulation of Sea-Tac information that is difficult – perhaps impossible – to obtain elsewhere. Also provided 365/7/24 is our telephone answering service, by which we field public inquiries about Sea-Tac issues – many of them referred to us by staff of the contracting cities.

Work-day services. Some of our services are provided four days a week: Our office is open for regular business hours four days a week, with contract staff on duty to field phone, FAX, e-mail & in-person requests for information from contracting cities, ACC staff & consultants, other agencies, and the general public. In recent years, our office has received many requests for assistance in research and documentation from the ACC's attorneys and consultants, and from leadership, attorneys, and consultants of Citizens Against Sea-Tac Expansion, both of which

RCAA

Tony Piasecki
Re: Final Billing
14 October 2002
Page 3

have been actively involved in third-runway litigation on behalf of the ACC cities and the general public. We maintain extensive archives of relevant information and a library now occupying two rooms. Access to these resources is available during office hours to the public (but around the clock to our Board members, and as needed at any time by appointment through our contract staff).

After hours. Our Office Administrator reminds me that he handles a good volume of e-mail traffic outside of normal business hours for our Board and our affiliated organizations – this is a seven-day-a-week activity. He is not alone in this – our Board members are in touch with one another & with staff & consultants without regard to formal business hours. Urgent matters are dealt with urgently. The Administrator also reviews several e-mail publications relating to airport issues on a seven-day-a-week basis, & passes along items of interest to Board members, other volunteers, and affiliated organizations, and on occasion to news media.

Periodic services. Some of our services might be said to be provided periodically, although their impact is spread over long time periods. This category includes our (former) print newsletters and our present web letters. We published a quarterly print newsletter, focused on Sea-Tac issues, for several years, mailing to an extensive list. About 6000 Des Moines households received the newsletter regularly. Until we cut off Federal Way mailings, total distribution ran to about 40,000, and thereafter, to about 28,000. These newsletters went to all members of the Legislature, to the Congressional delegation & relevant staff, and to all voting members of the Puget Sound Regional Council, as well as the general public (some sample copies of the print newsletter are enclosed). There is further discussion of newsletters below.

Water-quality consultant. As you will note in reviewing our financial reports for Years 2001 and 2002 (previously furnished), a large item of expense for us in the last couple of years has been the services of our outstanding water-quality consultant. He has been a critical link in the technical arguments on our side of the third-runway administrative proceedings and associated litigation, with respect to environmental issues. His work has been significant in support of both the Airport Communities Coalition and C.A.S.E. (Citizens Against Sea-Tac Expansion) in this complex & highly technical effort. He has kept a watchful eye on how the Airport impacts Des Moines Creek -- rather a direct benefit to the City of DM. (We are not aware of anyone on your staff with these duties and expertise.) He reviews almost every water-quality document that is issued by any party – most importantly in the last few weeks, the drafts of the proposed renewal permit for the Airport under sec. 402 of the Clean Water Act (“NPDES permit”), & the Port’s voluminous comments on the drafts. He is a key member of the Technical Committee. He is invaluable to us in preparing for the forthcoming hearing on the renewal. All of these services

RCAA

Tony Piasecki
Re: Final Billing
14 October 2002
Page 4

have been continuous and ongoing.

Web-based Newsletters. As you may be aware, our Board made a decision some months ago to switch to a different form of newsletter. This was not only a cost-cutting measure (postage costs are accelerating) but also the result of a prolonged Board review of the effectiveness, as well as timeliness, of this method of reaching the public with the Sea-Tac runway message. So, we now issue a "webletter", a less formal, and very timely, newsletter that is posted monthly on our website, with an e-mail alert sent to our e-mail lists at the time of posting. The first of these was posted in mid-August, the second, in mid-September, and the editors and the chairman of the Board's Communications Committee are at work on the third, scheduled for issuance on or about 24 October.

Episodic services. Some of our services are episodic, especially "Action Alerts". As occasion requires, we send out mailings to interested people about special events of interest, such as the various public hearings on the JARPA (sec. 401.404) applications, and the efforts of Mr Hopkins to revive the ill-fated Des Moines conveyor-belt proposal. In the last few months, we set aside funds for an Action Alert on the long-expected public hearing for a new sec. 402 ("NPDDDES") permit for Sea-Tac Airport, and Board, staff, and consultant time has been expended in preparing for that Alert and for the public hearing.

Services to individuals. Some services are provided to specific persons. These include:

- Dealing with noise & flight-corridor inquiries
- Requests for information and research assistance, primarily from ACC's lawyers and consultants in the last few months, but also from the general public. Here's a comment that came in (unsolicited) the other day from a member of the public:

I personally have benefited greatly from RCAA's resources and from Chas' Insights {"chas" refers to our Office Administrator}. The mailed newsletter was extremely helpful to me as a newcomer to this area to understand just what was going on.

(Maintaining an office with staff has been essential to our mission of building support for the runway position of the ACC cities.)

- Working with beat reporters. RCAA is recognized as a source for information on Sea-Tac related issues, so we receive some independent inquiries from various print media. In addition, we pass along news tips and formal news releases to the local dailies and to the national e-mail airport-interest publications, all in aid of the no-third-runway effort.

* * * * *

RCAA

Tony Piasecki
Re: Final Billing
14 October 2002
Page 5

With respect to all of these activities, it has not been practical to engage in highly detailed accounting exercises, to allocate each hour of volunteer, staff, or consultant time to a particular category of activity, & then allocate the benefits of that activity as between the City of Des Moines on the one hand, other cities on the other, not to speak of the general public. To date, this has not been a requirement from any of the contracting cities.

We do track expenditures for special projects – like our recent aerial photography of various Sea-Tac construction sites (not available for inspection on the ground). We cannot (without a huge amount of new work) produce an accounting, hour by hour, for all of the time of Board members, other volunteers, contract staff, and other consultants. As is the case in any organization, a good deal of the expenses goes to overhead – phones, publications, contract staff. And there are services that are difficult to categorize – staff attendance at Port Commission meetings; Technical Committee members' meeting with the Army Corps of Engineers or the Department of Ecology; testimony at hearings; formal written comments on a variety of Airport-related issues; staff support to member groups – to mention just a few such activities.

The Board believes that it is not readily feasible to draw a distinction – which would be utterly artificial – between activities & expenditures that benefit the City of Des Moines separate and apart from benefit to the other contracting cities. For example, we made, at their request, a large contribution to the radio advertising campaign that ACC mounted earlier in the year. (This shows up in the accounting report that we sent you a few weeks back.) But how would one allocate the benefit of that expenditure as between the three cities? The cities' representative, the ACC, asked for the help; we provided it as part of the common effort.

I trust that you, your staff, & Council will find this sufficiently responsive to your inquiry. If not, please advise,

Yours sincerely,



Lawrence J. Corvari
President

Encls: Final invoice; sample print news letters

REGIONAL COMMISSION ON AIRPORT AFFAIRS

19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

14 October 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, portion, fourth quarter, 2002
As per contract between RCAA and the City of Des Moines

Normal quarterly payment per contract, \$7000
Fourth quarter, 92 days
Contract days, 14
Percentage, 15.2
Prorated amount due: $0.152 \times 7000 = \$1065.22$

Amount due:

\$1065.22

Change in Local Passengers and Yield at Top 100 U.S. Airports

First Quarter 2002 vs. First Quarter 2001

Airport	O&D Passengers	% Chg.	Yield	Airport	O&D Passengers	% Chg.	Yield
1 Los Angeles	6,101,450	-17.8%	-11.2%	51 Kahului	1,130,700	-6.1%	-9.7%
2 Las Vegas	6,016,710	-8.0%	-9.9%	52 Providence	1,127,830	-3.9%	-11.5%
3 Orlando	5,388,810	-13.3%	-9.1%	53 Albuquerque	1,076,450	-7.6%	-9.7%
4 Atlanta	5,241,730	-14.4%	-18.8%	54 Jacksonville	1,057,960	-12.2%	-14.9%
5 Chicago, O'Hare	5,202,850	-13.8%	-18.1%	55 Charlotte	1,039,070	-15.0%	-14.0%
6 Phoenix	4,890,820	-10.8%	-10.9%	56 Dallas, Love	1,034,120	-25.6%	-3.9%
7 New York, LaGuardia	4,210,120	-14.6%	-15.5%	57 Burbank	1,025,380	-5.7%	-10.4%
8 Dallas/Fort Worth	4,040,050	-12.9%	-18.2%	58 Milwaukee	985,620	-14.7%	-8.3%
9 Fort Lauderdale	3,913,930	-1.8%	-9.6%	59 Reno	982,820	-15.9%	-7.6%
10 New York, Newark	3,892,130	-15.7%	-17.8%	60 Cincinnati	962,240	-16.1%	-14.3%
11 Denver	3,876,850	-9.7%	-14.8%	61 Buffalo	848,820	-8.7%	-14.1%
12 Seattle/Tacoma	3,582,480	-8.6%	-12.1%	62 Tucson	812,320	-6.3%	-10.6%
13 Tampa	3,521,630	-7.7%	-14.1%	63 Memphis	746,430	-14.4%	-12.0%
14 Boston	3,426,960	-21.0%	-15.8%	64 Omaha	743,210	-6.2%	-13.0%
15 Baltimore	3,295,070	-8.8%	-9.9%	65 Manchester	717,710	2.1%	-10.4%
16 San Francisco	3,232,460	-25.5%	-13.6%	66 Louisville	715,060	-12.6%	-13.9%
17 San Diego	2,982,140	-8.7%	-10.8%	67 Norfolk	654,700	14.8%	-28.3%
18 Philadelphia	2,928,770	-6.6%	-17.6%	68 Oklahoma City	619,310	-13.4%	-9.7%
19 Minneapolis/St. Paul	2,927,870	-15.5%	-8.0%	69 Tulsa	591,980	-15.7%	-11.5%
20 Detroit	2,894,910	-16.0%	-12.8%	70 Albany, NY	589,620	-8.9%	-10.6%
21 Honolulu	2,800,720	-3.8%	-5.0%	71 Birmingham	564,250	-13.8%	-12.4%
22 Chicago, Midway	2,403,030	-10.0%	-8.7%	72 Spokane	563,870	-10.7%	-5.3%
23 Oakland	2,385,850	0.3%	-15.4%	73 El Paso	559,670	-10.2%	-7.2%
24 New York, Kennedy	2,361,250	1.6%	-14.3%	74 Anchorage	549,360	3.7%	-8.2%
25 Houston, Bush	2,333,730	-11.6%	-14.0%	75 Lithue	545,250	-9.0%	-2.2%
26 Miami	2,243,670	-9.6%	-13.3%	76 Kona	538,080	-4.9%	-5.2%
27 Salt Lake City	2,220,870	-10.8%	-3.7%	77 Boise	536,850	-12.7%	-6.3%
28 Washington, National	2,168,100	-26.2%	-8.9%	78 Greensboro	483,680	-17.4%	-11.7%
29 San Jose	2,134,390	-15.1%	-21.3%	79 Dayton	460,790	-7.4%	-14.4%
30 Portland, OR	2,044,000	-9.9%	-10.7%	80 Rochester, NY	457,740	-13.6%	-16.5%
31 St. Louis	2,038,350	-17.3%	-17.4%	81 Little Rock	447,160	-14.9%	-7.9%
32 New Orleans	1,967,650	-9.0%	-6.5%	82 Richmond	435,660	-17.6%	-16.2%
33 Kansas City	1,915,190	-12.0%	-12.7%	83 Islip	415,230	-14.0%	-8.0%
34 Sacramento	1,711,410	-0.6%	-12.1%	84 Grand Rapids	413,540	-5.8%	-15.3%
35 Washington, Dulles	1,680,200	-16.0%	-17.4%	85 Colorado Springs	410,890	-5.6%	-13.4%
36 Orange County	1,661,760	-1.9%	-17.1%	86 Syracuse	388,030	-8.0%	-12.7%
37 Raleigh/Durham	1,616,160	-8.9%	-25.0%	87 Palm Springs	344,910	-13.4%	-8.0%
38 West Palm Beach	1,586,340	-9.8%	-6.6%	88 Des Moines	335,490	-7.8%	-18.7%
39 Fort Myers	1,574,880	-5.2%	-6.5%	89 Savannah	331,010	-6.3%	-15.2%
40 Cleveland	1,509,270	-13.9%	-14.2%	90 Sarasota/Bradenton	324,430	-9.9%	-9.1%
41 Indianapolis	1,424,570	-11.9%	-14.6%	91 Hilo	321,990	-10.7%	4.9%
42 Pittsburgh	1,397,100	-12.4%	-17.7%	92 Madison	299,570	-0.9%	-16.0%
43 Nashville	1,373,130	-12.2%	-12.4%	93 Charleston	293,290	-9.9%	-9.3%
44 Hartford	1,372,520	-12.8%	-14.1%	94 Pensacola	277,380	28.1%	-22.0%
45 San Juan	1,363,790	-7.9%	-7.5%	95 St. Thomas	271,030	-0.3%	-18.0%
46 San Antonio	1,352,490	-7.2%	-11.4%	96 Greenville	257,350	-14.8%	-17.6%
47 Ontario	1,346,840	-7.1%	-12.8%	97 Knoxville	256,920	-14.8%	-16.1%
48 Houston, Hobby	1,332,270	-12.9%	-7.0%	98 Jackson	250,820	-14.8%	-11.2%
49 Austin	1,288,650	-14.8%	-19.3%	99 Vail/Eagle	247,780	-2.9%	-16.4%
50 Columbus, OH	1,288,260	-10.3%	-13.7%	100 Harrisburg	240,170	-1.6%	-14.9%

ECLAT
consulting

Based on U.S. DOT O&D Survey

IN BRIEF

Election Coverage:

Port of Seattle: Runway Foes Chosen To Challenge Incumbents

The third runway is emerging as an issue in Port Commission elections.

In the primary election on 18 September, two announced opponents of third-runway construction at Sea-Tac Airport were selected by voters to oppose incumbent Port Commissioners in the general election.

For Position 3, Richard Pope received 42,317 votes, and will face incumbent Paige Miller (with 87,662 votes). Two other challengers received a total of 30,716 votes. Mr Pope attributed a good part of Ms Miller's support to endorsements by Democratic Party groups.

In the Position 4 race, incumbent Pat Davis received fewer votes than the combined opposition. Christopher R. Cain will oppose her in the 6 November election. Ms Davis received 67,844 votes, Mr Cain, 39,488, Jake Jacobovitch, 29,187, and Al Yuen, 20,055. The *Post-Intelligencer's* election coverage erroneously reported that Mr Cain was not an active candidate, and did not even mention that he would be on the November ballot. Ms Davis' share of the vote (less than 44 percent) shows that the long-time incumbent is in serious difficulty.

Only two candidates filed for the seat now held by Jack Block—Mr Block and Lawrence Malloy. Their names will appear on the general-election ballot. Mr Malloy is a very keen supporter of the third runway. Mr Block has been known to express an occasional doubt.

Highline Area Races

In the Highline area, all candidates for City Council posts in Normandy Park and Burien are opposed to the Sea-Tac third-runway project, & the runway is not an issue at this time in the city of SeaTac.

In Des Moines, there are clear differences between the finalists on this issue. At present, all members of the Des Moines Council oppose the runway project & are supporters of the

Continued on page 2

Highline School Bonds

Story on page 2.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 7, No. 2

Fall 2001

WHAT NOW?

Two weeks after the attacks on the World Trade Center & the Pentagon, Congress was forced to bail out the airlines to the tune of \$15 billion. Some industry-watchers claim business will rebound quickly once people relax a little. Others, however, point out that the airlines were in big financial trouble *before* the Trade Center disaster because of a persistent drop in business travellers. This part of the problem, they argue, is likely to persist for a very long time, even if the public regains its confidence. The airlines themselves and Boeing seem to fall in to the latter camp, laying off tens of thousands.

Additional security needs will have a huge impact on airports. Some may never re-open. All of this affects airport expansion projects planned across the country, which are dependant on industry profits and customer demand. Sea-Tac's expansion is one of the most expensive in the country and will likely take some major cuts.

At many airports across the U.S., expansion projects are in serious jeopardy, as the money streams dry up. The immediate impacts are two-

fold: first, fewer travellers means less money collected from passenger facility charges (PFCs), & second, insolvent airlines cannot meet their lease payments to airports. Third, revenues from the federal tax on aviation fuel & other taxes on air travel will start to fall. FAA's grants for airport construction come from these taxes.

Here's what is happening at some representative airports.

Twin Cities (Minneapolis - St. Paul, Minnesota). The St. Paul *Pioneer Press* reported on 22 September that the balance of a \$2.7 billion expansion project at the Minneapolis-St. Paul Airport was at risk. To balance its budget the airport is likely to cut capital costs. Of the \$2.7 billion expansion project, between \$1.75 billion and \$2 billion already has been spent or committed.

San Francisco. According to the *San Mateo Daily Journal* (20 September), the terrorist attacks may impact the decision whether or not to proceed with expansion at San Francisco. (The airport wants to fill in a big piece of the San Francisco Bay to make new land for the runway.)

Continued on page 3

ACC Blasts DOE Process, Appeals to State Pollution Board

On August 10 the state Department of Ecology (DOE) issued a Section 401 water quality certification for the third runway project. This is the third attempt by the Port to get its 401 approval. This process has been watched with concern by people in the airport communities ever since DOE reassigned the lead analyst, Tom Luster, to "more pressing projects", hired Port consultants as "independent" technical reviewers, and "negotiated" the certificate in meetings chaired by a mediator paid for by the Port. (See *TIA* Summer 2001, p.5.) The Airport Communities Coalition (ACC) has appealed the decision and asked for a stay. The hearing on the stay is scheduled for mid-October 2001, but no schedule for the main appeal has been set.

The 401 decision is a one-time opportunity for the State to determine whether the third runway meets applicable state aquatic resource regulations. These regulations cover areas such as fill, stormwater discharges, decreased streamflow, groundwater, water quality in the streams, and wetland health. By law, the Port must demonstrate that there is "reasonable assurance" that construc-

tion and the third runway itself will not violate State water quality standards.

Affidavits from experts in support of ACC's appeal point out that the Port did not even provide the information necessary to decide if applicable water quality standards *could* be met, much less reasonable assurance that they *would* be met. For example, instead of requiring a plan showing that the Port can prevent transport of contaminated groundwater through old utility corridors under the airport, DOE will allow the Port to submit the plan 60 days *after* the issuance of the certification. This, despite the fact that the Port has had years to come up with a plan, but has failed. ACC's lawyers point out that this gerrymandering of the requirements also destroys the public's legal right to comment on the plan.

In some instances, the Port provided conflicting information. For example, different Port reports claim that water behind the 150-foot high retaining wall, the "Great Wall of Sea-Tac", will transport through the wall, be diverted under the wall, or be collected behind the wall for later dis-

Continued on page 7

IN BRIEF

Highline Schools, Port Agree to Noise Pact

Settlement may have been reached in the long-running dispute between the Highline School District and the Port of Seattle about mitigation of jet-plane noise in classrooms, a development welcomed by the Regional Commission on Airport Affairs (RCAA).

In a "memorandum of understanding" between the District, the Port, Gov. Gary Locke, and U.S. Rep. Adam Smith (D-9), sources for up to \$200 million in noise-mitigation money were identified, & the parties agreed to enter into a more-detailed agreement by 31 December.

Port Doubles Its Offer

In a breakthrough, the Port agreed to contribute up to \$50 million of its own money. Previously, the Port had only offered \$40 or \$50 million that it might receive from the Federal Aviation Administration for noise mitigation. Highline School District will put up \$50 million, to

Continued on page 6

IG To Audit Runway Costs

The Office of the Inspector General of the U.S. Department of Transportation and U.S. Rep. Adam Smith (D-9) have announced that the staff of the Inspector General will analyze the current estimated costs and sources of funding for the third-runway project at Sea-Tac. The audit will also cover 13 other major runway projects in the U.S. that are scheduled for completion by 2007.

Rep. Smith seeks a broader review of the third runway. He is pressing the Inspector General to report on the violation of a major condition in the Governor's certificate to the U.S. DOT that runway construction would not violate water-quality standards. He also has suggested that the Port of Seattle is not in compliance with fiscal standards for federally-assisted projects because it does not have a budget for the third runway—no current cost estimates & no complete financing plan.

Critics of the runway project wonder if the Inspector General can obtain from the Port what no-one else has been able to get: a complete, current cost estimate, and a description of a realistic financing plan.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 7, No. 2

Summer 2001

Port Announces New \$3 Billion Terminal for Sea-Tac Airport

On 8 May, the Port of Seattle Commission approved final design and funding for a \$94 million upgrade of the main terminal at Sea-Tac Airport. Construction work on the project is to begin in a year. The renovated terminal is scheduled for a grand re-opening in September 2004.

The airport also has pending a project for expansion of its south terminal, at a cost of \$375 million.

On 26 June, Port staff presented the Port Commission with its preliminary plans for a new north terminal, to be located about 1300 yards north of the existing main terminal. The cost estimate for this project is \$3 billion. Planners told the Commission that a detailed cost analysis would be available in about two years.

Bells, Whistles, and Gold-Plating

Included in this project would be expansion of the existing northern satellite terminal, one new 'people mover', two new parking garages, and three new concourses, with a light-rail station as an op-

tion as well. The cost includes removal and relocation of two freeways, and relocation of several cargo operations. According to the Port's planners, this third terminal is needed in order to accommodate a predicted increase in passenger traffic. The present main terminal was planned for 25 million travelers a year, and the new terminal is needed for the additional 11 million increase expected by the year 2010. Staff expects construction to start in the year 2004 and to be complete in 2014.

No firm sources of funding were identified by staff. One major component of funding for airport capital projects is revenue from tenant airlines. The Port has been in private negotiations with major airline tenants for a new master lease agreement since spring 2000. The present leases expire at the end of this year, and the Port wants hefty increases in rent from the airlines. The airlines are being asked to give up their present powers to control use of their lease payments.

Runway Safety Worries Mount

Veteran Pilot Says Wall Too Close, Incursions Dangerous

Airline pilot Sven Holm, who recently retired as chief pilot for Northwest Airlines, raised a series of concerns about the safety of the proposed third runway at Sea-Tac Airport in a letter to the *Seattle Post-Intelligencer* published on 20 June. He warned that careful pilots may refuse to use the runway.

Among the safety hazards, Capt. Holm pointed out the much higher risk of a "runway incursion" (on-the-ground collision of aircraft) with the proposed configuration of three parallel runways. The environmental impact statement for the runway project estimated that this risk would increase by 21 percent, though others have put the risk higher.

Another concern was the closeness of the runway to the edge of the embankment which drops 170 feet. To gain a 2500-foot separation between the new runway and the existing main runway, the Port must lay down 19.84 million cubic yards of fill, to extend the present level ground westward. The new runway would, according to Capt. Holm, be perilously close to the edge that embankment.

Continued on page 6

Inspector General Says U.S. Incursion Problems Too Risky

"Further actions are needed to reduce runway incursions", Congress was told on 26 June by Kenneth M. Mead, Inspector General of the U.S. Department of Transportation. Runway incursions are incidents on the runway that create a collision hazard. The number of these incidents in the U.S. grew by 48 percent from 1997 to 2000, with a 25 percent spurt between 1999 and 2000, according to a study released by the Federal Aviation Administration just a few days before Mr Mead's testimony.

While many of the incidents pose only slight risk of a collision, Mr Mead noted that there is a significant number of close calls. Of these, 63 percent involved at least one commercial aircraft where the potential loss of life is high.

FAA Rapped

Primary responsibility for reducing incursions rests on the FAA. Inspector General Mead said "it is apparent that FAA's efforts, along with those of the aviation industry and airports are not sufficient. The number of runway incursions continues to go in the wrong direction." He called for "strong

Continued on page 6

IN BRIEF

Top Environmental Specialist Leaves Port, Joins ACC Staff

On 5 July, Barbara Hinkle, Senior Environmental Manager at Sea-Tac Airport, responsible for environmental oversight on all Airport expansion plans (including the third runway) left that job to join the staff of the Airport Communities Coalition, which is leading the legal fight against Sea-Tac expansion.

Ms. Hinkle became disenchanted with the mindset within the Airport staff toward the environmental rules that airport construction. She was quoted as saying that the Port does not follow through on its own environmental studies. Pressure from above to "get the job done", regardless of environmental consequences and applicable laws, was cited as a major factor in Ms Hinkle's leaving the Port. She said, "the pressure to put aside environmental concerns is growing, and with the number of projects coming on-line over the next several years, I can be more effective at the ACC, for the environment, that I ever could be at the Port of Seattle".

Announcing her employment change to the U.S. Environmental Protection Agency, she commented that she "could no longer work within a system that continually turned a deaf ear toward its obligation of public stewardship."

No interchange on SR 509 for third-runway fill trucks this year

Port of Seattle plans to build its own private interchange on SR 509 at So. 174th, for the exclusive use of trucks hauling fill, have been stopped, at least for this year, by actions of the Department of Ecology, as the result of strong pressure from the Airport Communities Coalition (ACC).

In a sternly-worded letter, Ecology told the Port that the project requires a "major modification" of a critical environmental permit — a detail that the Port conveniently overlooked in its planning. In addition, the project requires a hydraulic permit from the Department of Fish & Wildlife. Ecology also advised the Port that no action should be taken until the U.S. Army Corps of Engineers has decided whether the project falls under the federal Clean Water Act (which it does). Construction was to have begun on 1 June, according a mailing from the Port had written to the handful of folks still living in what is called the "Westside acquisition area".

Truth in Aviation

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Vol. 6, No. 2

Summer 2000

FAA, Port Sued Over Violations of Federal Endangered Species Act

The federal courts have been asked to order a halt to all Sea-Tac Airport construction projects until the Federal Aviation Administration has completed formal "consultations" with federal fish and wildlife agencies, as required by the Endangered Species Act (ESA). If endangered species exist in or near an area where a federal agency is sponsoring or funding a project, the sponsoring agency must complete a "consultation" with federal wildlife agencies as to the need for special protections before allowing work to begin (or to continue).

The endangered sea bird, the marbled murrelet, has been recently sighted within two miles of the Airport by Audobon Society observers. Endangered chinook salmon are

known to spawn in the Green River, which receives Airport run-off water via Gilliam Creek, a tributary of the Green; juvenile chinook have been observed in the upper reaches of Gilliam by a City of Tukwila fish biologist. Whether chinook could spawn in Miller Creek is disputed. There is no dispute that bull trout, also listed, and coho, cut-throat, and other salmonid fish occur in local streams.

When advised of these concerns by the Airport Communities Coalition (ACC), the FAA sought to brush off the legal requirements. Correspondence and negotiations have not persuaded the FAA that it, too, is bound by federal law, and

Continued on page 6



Photo credit: Chris Cowar

Photo of "clean fill" taken Wednesday, August 9, 2000 on S. 192nd Street, near the entrance to the Tyee Golf Course. See story, p. 4

Agencies Talk Tough As Deadlines Loom Over Sea-Tac Third Runway Project

As this issue of *Truth in Aviation* heads toward the printer, major deadlines loom over the Sea-Tac third-runway project. By 28 September, the U.S. Army Corps of Engineers is to rule on the application of the Port of Seattle to fill in wetlands (a "section 404" permit). The Engineers are waiting for a ruling by the Department of Ecology as to whether the Port's project will meet water-quality standards ("section 401 certificate"). Ecology has given the Port till 5 September to file all complete, accurate documents in support of its plan. Ecology has pledged to issue its ruling by Friday, 8 September.

Ecology has repeatedly told the Port and its major water-quality consultant, Parametrix, Inc.,

about grave deficiencies in the supporting technical studies. On 11 August, the Corps of Engineers sent a 3-page letter covering a 19-page memorandum, pointing out in detail a long list of errors, inaccuracies, and so on in the paperwork filed with the Corps, and demanding that everything be tidied up as soon as possible.

The Engineers are plainly dissatisfied with the documents already submitted, and they are, in essence, demanding a major re-write. They politely say that the final document "will require some rethinking and the provision of a rationale and much added detail". They "look forward to receiving a comprehensive, better-organized and

Continued on page 6

IN BRIEF

What Killed The Fish?

Starting on October 31, and continuing into December, dozens of seemingly-healthy adult Coho salmon have died in Miller Creek, before spawning. Stream-side residents have watched (and filmed) Coho struggling to breathe. Preliminary laboratory exams have not revealed any obvious causes of death, although suspicion naturally falls on pollutants that might come from a sewage-treatment plant nearby or from Sea-Tac Airport, at the headwaters of the creek. Shortly before the first kills, the Airport experienced an overflow from its settling ponds upstream. Locals strongly suspect Airport-related pollution as the cause of the unusual fish kill.

This winter's run of returning salmon was one of the strongest in recent memory (bearing out the contention that Miller Creek is indeed an historic salmon stream).

No Floatplanes for Seattle Waterfront

Seattle's downtown waterfront is no long threatened by increased noise from a proposed floatplane base near Pier 54 (Ivar's). Faced with strong opposition, floatplane operator Kenmore Air has withdrawn its application for a City-issued shorelines permit. The Seattle City Council has put a moratorium on applications while it looks at the whole issue.

Kenmore had planned as many as 16,000 sightseeing flight operations during the summer tourist season. Two downtown Seattle residential associations, and the Washington State ferry system, were concerned with impacts of the proposal, and appealed the City-granted permit to the Shorelines Management Hearings Board. Kenmore and Ivar's then withdrew the application, not wishing to "go out and fight the public," as Robert Munro, owner of Kenmore, put it.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

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Winter 2000

CROWD PACKS SEA-TAC WETLANDS HEARING

On November 3, a crowd of more than 500 people overflowed the auditorium at Foster High School in Tukwila for a hearing on the revised application of the Port of Seattle for permission to destroy 18-plus acres of wetlands as part of its third-runway project.

Both the Department of Ecology and the U.S. Army Corps of Engineers must determine that there will be no needless, unmitigated impacts on wetlands and wildlife before they can give permission for the Port to begin construction of the third runway in the headwaters of Miller and Des Moines Creek, west of the existing airport. The hearing was sponsored by the two agencies. The Corps is responsible for clearing the so-called "404" permit, which is needed to fill any wetland. Ecology is responsible for

issuing a "401" certificate, which concerns the water quality in State waters, wildlife issues, and impacts on the coastal zone.

The auditorium was too small for the crowd, so the fire marshal turned away many latecomers. Only 59 of those who signed up to speak were called to the podium. Local elected public officials led off the testimony with vigorous complaints about the over-all project, the details of the wetlands damage, and the inadequate process. Aside from some Port-paid "experts", almost all of the speakers pointed out serious deficiencies in the Port's revised application.

RCAA President Larry Corvari said after the hearing, "This huge turn-out shows that opposition to the third runway and its unacceptable

Continued on page 5



Leschi News

Concerned Highline Residents Sue Water District To Void Backroom Deal with Airport

Citizens Against Sea-Tac Expansion (C.A.S.E.), a citizens' group based in the Highline area, has sued the Highline Water District and the Port of Seattle in King County Superior Court, asking for a declaration voiding the District's attempt to transfer water rights to the Port of Seattle.

According to the complaint, the Water Dis-

trict and the Port of Seattle have secretly made an agreement to transfer one of the District's wells (Well #1) and associated water rights to the Port. The agreement was never discussed by the District Commissioners in open session, only in closed-door meetings. And the agreement's terms were kept secret until after the Commis-

Continued on page 6

IN BRIEF

KIK Organizes Students

Maria Wardian, eighth-grade student at Sylvester Middle School, in the Highline School District, has started a no-third-runway group for students, "KIK" (short for "Kids Involving Kids"). The group's goal is to get "more kids informed about what the Port of Seattle is doing to us and our future", in terms of water pollution, air pollution, and impacts on schools.

Ms Wardian and fellow students recently attended a meeting of C.A.S.E., and came away incensed by video recordings of fish dying in Miller Creek (one of the area streams hard hit by pollution from Sea-Tac Airport). She points out that the same water that flows down the creek also finds its way into local drinking-water aquifers.

Demonstration Planned

Maria is working via e-mail to bring together hundreds of kids later this winter for a demonstration "against the violence of the Port on our environment and health". She is looking for volunteers to act as representatives at every area school. Volunteers are also needed to hang posters, to make phone calls, and to spread the word, as well as telling their own stories on how the Port is affecting their own lives.

How Sea-Tac Hurts Kids

Jet noise disrupts classrooms in many schools in the Highline School District, and also in South-East Seattle. The proposed third runway at Sea-Tac would bring flight corridors closer to several Highline schools. There would also be flights directly over elementary schools in South Park and Georgetown, and over Cleveland High School on Beacon Hill. Recent studies demonstrate that airport noise elevates blood pressure in children living near the airports.

Around big airports everywhere, health data show that more kids have asthma than kids who live in other areas. Two recent studies show that airport noise raises persistent blood pressure levels in children living near airport. Jet exhausts contain compounds that are known to cause cancer. Cancer takes a long time to develop, but every child living near a major airport—like Sea-Tac—is at risk for life-threatening cancer later in life.

Contact Maria by e-mail at kiktherunway@hotmail.com or by phone at 206.244.4888.

Truth in Aviation

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Fall 2000

Port Resubmits Permit, Demands Fast-tracking

As most readers know, on 28 September the Port of Seattle formally withdrew its second application to the Department of Ecology and to the U.S. Army Corps of Engineers for official approval to destroy wetlands west of the present Airport, and to relocate part of Miller Creek, for its third-runway project at Sea-Tac Airport.

Under the federal Clean Water Act, the Department of Ecology is charged with determining whether an applicant's plan to build in wetlands provides "reasonable assurance" that State water-quality criteria will not be violated. The Corps of Engineers then determines whether the harm to wetlands is "in the public interest" and otherwise in compliance with the Clean Water Act. Without approval from the two agencies, the Port cannot legally proceed with its third-runway construction work in the wetlands.

The best way to understand what has happened is to review the chronology.

29 September 1999. The Port submitted its second application to the Corps and Ecology, after having to withdraw its 1997 application because of gross under-statement of the amount of wetlands involved. Ecology had 365 days to pass on the application. The Engineers had previously announced that they would not decide till after Ecology had finished its work.

Spring & Summer 2000. Port of Seattle submitted voluminous revised documents, attempting to justify the plan, some as late as late August. Ecology, Engineers, and King County stormwater experts, as well as experts retained by Airport Communities Coalition, RCAA, and C.A.S.E., raised a host of questions, many of which remain unresolved (even in late November).

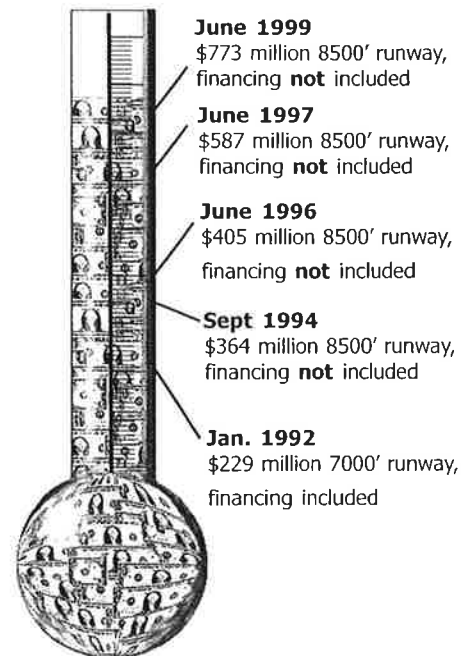
28 September 2000. A meeting—not publicly announced—was held at the office of M.R. ("Mic") Dinsmore, Executive Director of the Port of Seattle. Those present included: Joe Dear, the Governor's Chief of Staff; Mr Dinsmore; Tom Fitzsimmons, the head of the Department of Ecology; Ray Hellwig, head of the regional office of Ecology; and others. Mr Dinsmore was a major fund-raiser for Gov. Gary Locke in the last general election. The Governor and Ecology have denied that there is any political pressure in this affair, though Ecology has been officially warned that there is interest in this project "at the highest levels" of State government.

The Ecology folks brought with them their draft letter of decision on the sec. 401 application, dated that day, and shared it with the others. The letter flatly denied the application, because of multiple shortcomings. "At this time, Ecology does not have reasonable assurance the proposed project will comply with the applicable federal and state water quality requirements..." The letter referred questions to Ecology staffer Tom Luster. The letter acknowledged that the Port intended to resubmit, and pledged to "work with" the Port, and to "provide guidance to the applicant to help develop documents with the necessary level of detail and information for our review."

What else happened next at that meeting is not known.

However on that same day (28 September), the Port announced that it was withdrawing its applications under sec. 401 and sec. 404 of the federal Clean Water Act. In a letter dated that day

Continued on page 2



Late this summer, the Port of Seattle began publicly using the figure of \$5.6 billion for the Sea-Tac Expansion, without mentioning that the entire new Denver Airport cost their taxpayers around \$4.2 billion. See our editorial on page 5.

IN BRIEF

Runway Safety Challenged

Pilots and aviation experts raised eyebrows at the public hearings commenting on difficult safety problems caused by almost-vertical walls along the west side and by the need to cross two active runways to reach the terminal. See Page 4.

A Highline student speaks:

Hi, I'm Maria W.

I represent KIK, the kids at the Highline School District. When I go to my school and can't hear my teacher, when I walk outside my door and smell jet fuel, I think, we need to move away from this stupid airport. But I love my school. I can't move.

When I swing by Miller Creek and see the dying salmon, when I watch the big dump trucks filling in the headwaters of my creek, I think, we need to move away from this stupid airport. But I love my friends. I can't move.

When I know cancer rates are much higher and I visit my Grandpa in Burien dying of cancer I think, we need to move away from this stupid airport. But I love my family here. I can't move.

Then my Mom says the Port guys are going to build another runway. They're go-

Continued on page 6

Port Out Of Money?? Audit Ordered

On 25 May 1999, the Department of Ecology issued an agreed order under the Model Toxics Control Act, requiring the Port of Seattle to complete a "Phase I" groundwater study and to issue a report on results by 22 December 1999. According to Greg Wingard, Director of Waste Action Project (and consultant to RCAA), the Port has not only failed to complete the study but has stopped all work on it because they claim there is no more money in the budget (a large part of which was a grant from Ecology). An audit is underway to determine if the Port mis-spent the funds for the study.

Observers wonder if this is the way the Port plans to keep mitigation promises made to DOE and the Corps of Engineers in order to get wetlands permits.

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The Newsletter of the Regional Commission on Airport Affairs

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Spring 2001

Third Wetlands Hearings Highlight Runway Problems

Not once, not twice, but three times, the Port of Seattle, owner-operator of Sea-Tac Airport, has sought official permission to destroy wetlands with its third-runway construction project west of the existing airport. And three times the community has turned out in great strength to tell the regulating agencies that this is a bad idea—bad for the environment, bad for people—and wasteful. Each of the first two applications had to be withdrawn, re-written, and resubmitted, because of fatal flaws.

On 26 and 27 January, the Army Corps of Engineers and the Department of Ecology held hearings on the latest proposal submitted by the Port. Hundreds of residents in attendance heard

nearly one hundred speakers tell the agencies about their concerns with the proposal. Most of the 117 speakers were in opposition, citing numerous issues—airport safety, damage to local streams, concerns with the environmental mitigation plans, lack of community mitigation, and, over and over again, the problems posed by the four vertical embankment walls.

—Against—

In their five-minute comments, a stream of residents and local elected officials carried a few basic messages to the two regulatory agencies.

* The environmental planning is questionable and incomplete in many details, especially as to

Continued on page 2

EXHIBIT 2

Aircraft Adjacent to 179 Drop From Third Runway

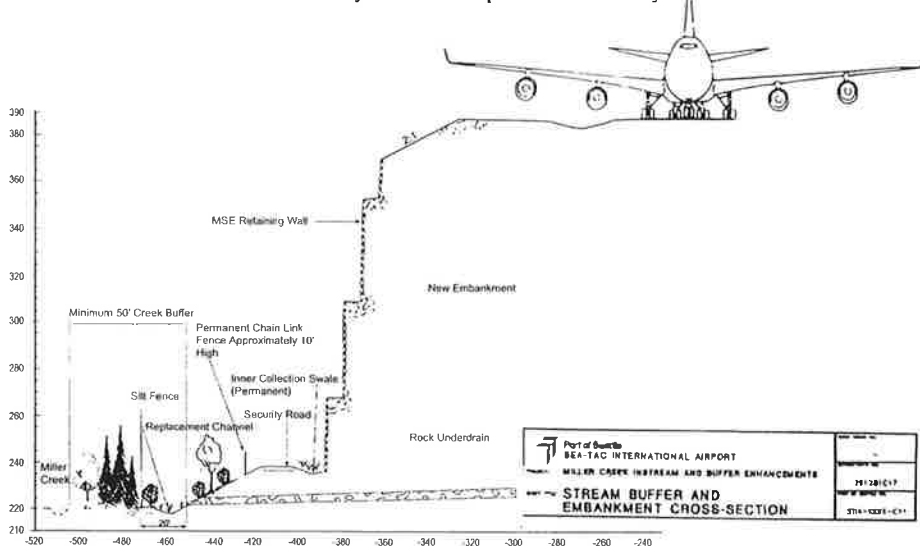


Illustration prepared from written testimony of Dr. Stephen Hockaday for Airport Communities Coalition showing a large body jet at the edge of the third runway runway safety area, 100 ft. from the 153 ft. high "mechanically stabilized wall" over Miller Creek.

Earthquake Raises Airport Seismic Safety Issues

Planners at Seattle-Tacoma International Airport have a grand vision: nearly 30 million tons of third-runway fill placed on 18 acres of wetlands, and held in place by gravity, compaction, wire mesh, and an array of concrete blocks.

People downstream from Sea-Tac Airport have another vision: nearly 30 million tons of fill—and a great amount of runway concrete—cascading toward Puget Sound when the next big near-surface earthquake strikes the Puget Sound Region. The Seattle Fault is runs just North of the Airport.

Western Washington's most recent earthquake, on 28 February, showed dramatically that airport planning and construction techniques are not adequate to withstand the known seismic hazards in the Puget Sound. Boeing Field's main runway (built on fill) broke up in places, so that the airport had to be closed. Sea-Tac Airport's control tower was knocked out of operation by damage. Yet, the quake was the least damaging of the three types of quakes: surface, tectonic-plate movements, and deep "slab" quakes.

Continued on page 3

IN BRIEF

The Decade In Review

It's been over ten years since the Port first decided to try to expand Sea-Tac, including a third runway. What's the outlook for this huge project?

See article on page 2

Seattle Neighborhood Sues King County

The Georgetown neighborhood in Seattle has sued the County over failure to write an EIS for King County Airport expansion.

See article on page 4

Floatplane Hearing Set

On Wednesday, February 24, at 5:30 p.m. in the City Council Chambers (Municipal Building 4th & Cherry, 9th floor) a Seattle City Council Committee will hold a public hearing on the temporary moratorium on seaplane operations or facilities on the downtown Seattle waterfront. The proposal forbids issuance of permits for seaplane operations on the Downtown harborfront, pending further study. The application of Kenmore Air is unaffected.

CASE Election

The following are the newly elected officers of C.A.S.E. for 1999:

Larry and Candy Corvari—Co-presidents
Arlene Brown and Claudio Parazzoli—Co-Vice Presidents
Wally Meyers—Treasurer.

The post of Secretary remains to be filled. Board Members include: Audrey Richter, Pat Pompeo, Helen Kludt, Peg Springer, Minnie Brasher, Debi Wagner, Rod Blalock, Jim Bartlemay, and Dan Caldwell (a new member).

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 5, No. 3

Winter 1999

Conveyor Belt Issue Stirs Crowd

On January 14, an overflow crowd attended the Des Moines City Council meeting to express continued opposition to a proposal to construct a five-mile conveyor belt over the Des Moines beach, up through Beach Park to Sea-Tac Airport. The purpose of the conveyor belt would be to haul 18 million cubic yards (27 million tons) of fill for the third runway from Maury Island to the Airport. The proposal was thought a dead issue when the Port's own poll last year showed that Des Moines residents opposed it by nearly two to one.

The idea apparently revived when one Port commissioner opined that the Des Moines City Council could be bought off. In December, the Port put out "feelers" to ACC about discussions of a possible settlement, in hopes that the Port

could cut a deal to make a large cash payment to Des Moines or ACC in return for approval of the conveyor and dropping all lawsuits.

Although Des Moines is a member of ACC, the ACC cannot commit the city to any deal nor can it bind citizens groups involved in the runway fight. At the

(Continued on page 6)

Hearing to be Held

The public hearing on the conveyor belt E.I.S. may be held as early as mid-March. Check the RCAA website (www.rcaanews.org) or with the RCAA office by phone (824-3120) for time, date, & place.

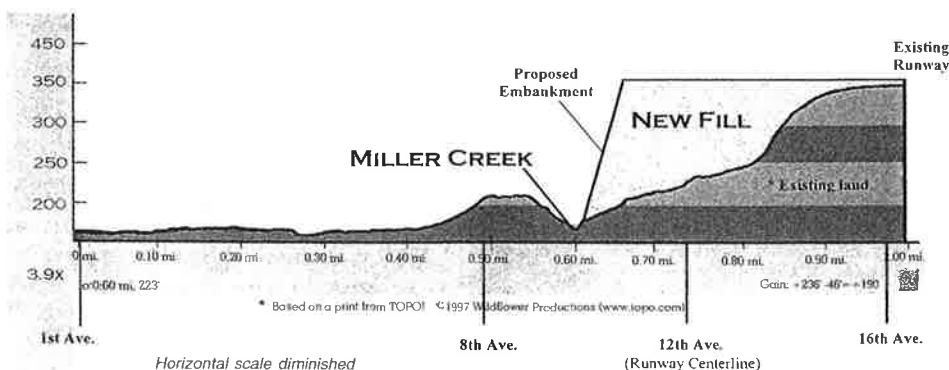
Third Runway Still "No Go" As Wetlands Stall Project

Sea-Tac's third-runway project remains at a total standstill, while the Port of Seattle attempts to solve legal problems related to wetlands permits, with no end in sight. As we reported in our Fall issue, the Port of Seattle announced in September that it needs to fill at least 8 more acres of wetlands for the third runway, a significant increase from the 11.42 acres mentioned in filings with the Department of Ecology and the Army Corps of Engineers. The Port has released no figures since its initial report, but wetlands continue to be found by Port consultants surveying land in

the acquisition area west of the airport. Unofficial reports put the present total at 25 to 30 acres. The Port has told Jonathan Freedman of the Corps that it expects to complete the survey in February 1999. This seems optimistic, considering the present pace, in part because some homeowners refuse to let the Port on their properties until acquisition is settled.

The property acquisition project is behind schedule as well, although recent increases in Port offers have speeded it up lately. According to the Westside

(Continued on page 6)



IN BRIEF

Seattle Okays Downtown Float Planes

On 17 June, two Downtown condominium associations and the State ferry system filed appeals against a permit granted on 27 May by the City to Kenmore Air for a float plan base at Pier 54 (Ivar's) on the Downtown Seattle waterfront.

Operations are limited to flights by certain non-piston aircraft, with a temporary ban on sight-seeing flights. Only on Sunday is there a night-time curfew. Day-time take-offs must occur at least 2000 feet off-shore. Evening take-offs must occur 3000 feet off shore. No float planes may land closer than 1000 feet. The ferry system is concerned about safety hazards, and the condo-owners, about noise.

Boeing Field Choppers

Although it has yet to present its Master Plan to the King County Council, KClA management proposed in June to sign a 29-year lease with Classic Helicopters to expand their facilities at Boeing Field. "They are doing this backwards," protested Seattle Commission on Airport Affairs President Mike Rees. "They are signing the long-term leases, then making the plan, and finally studying the noise and pollution. This effectively cuts citizen participation out of the planning process." Nevertheless, the lease was pushed through the King County Council's Commerce, Trade and Economic Development Committee by its chair Dwight Pelz and later adopted by the full council. Classic Helicopters is owned by Karen Walling, who also serves on the KClA Roundtable, an advisory body to airport management. After approval of the lease, Councilman Pelz proposed a reformed process for all subsequent leases.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol.5, No. 4

Summer 1999

Third Runway Costs Jump Another 31%

On 22 June, the Seattle Port Commission voted, 3-0, to accept a staff plan to add another \$186 million to its budget for construction of the third runway proposed at Sea-Tac Airport. This 31% increase brings the official estimated construction cost to \$773 million — for the runway alone. Port Commissioners blamed environmental laws and regulations for the increase in costs. However, no new laws or regulations affecting the project have come into force since the last increase in cost estimates, in 1997.

In the public-comment period just before the vote, RCAA President Al Furney, Len Oebser (speaking for C.A.S.E.), and members of the public urged the Commission to abandon the hugely over-budget project. Members of the Commission responded that the project was necessary to increase capacity at the Airport. Previously, the Port, FAA, and Puget Sound Regional Council have consistently stated that the new runway would NOT increase capacity, and that the sole purpose of the runway is to reduce bad-weather delay for arrival of passenger jets.

What About Interest?

Mr. Furney pointed out to the Commissioners that the staff proposal failed to make any allowance for the cost of borrowed money. Most Sea-Tac expansion projects must be paid for with borrowed money, and the Port has already incurred an obligation of an additional \$255 million for interest on one third-runway bond issue. No estimate of interest charges was provided to the Commissioners, even after Mr. Furney's re-

marks. The Port has in hand only \$293 million in grants and bond proceeds. Under the latest estimate, the shortfall is \$479 million. Port staff attending the Commission meeting suggested that this sum would be made up from revenue, grants, and borrowing, but did not provide any

"Our Clueless Port Commission"

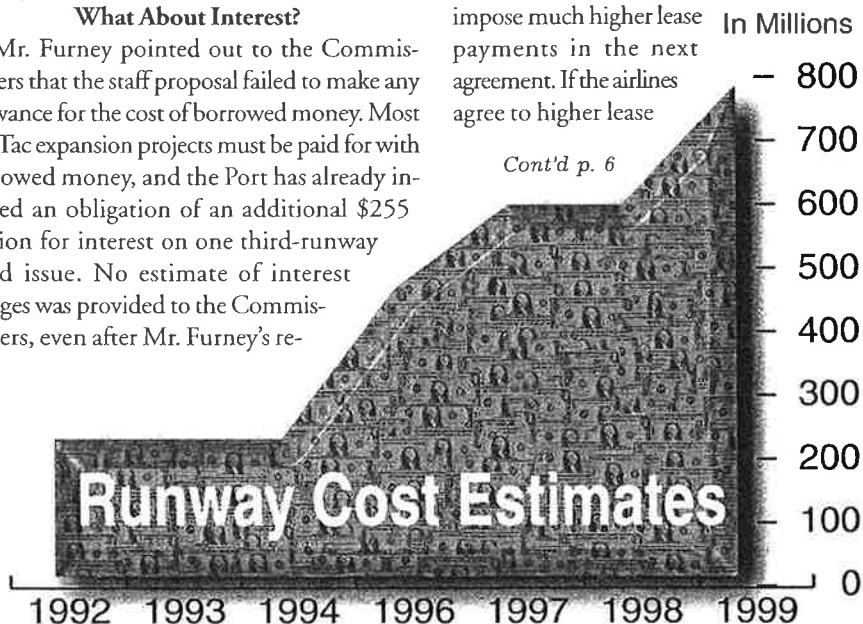
—An editorial view
page 5

estimate of how much would be forthcoming from any source. Nor did they identify any source that had actually committed to provide an additional funding. No report on negotiations with airlines for higher lease payments was presented.

Higher Lease Payments? Passengers Pay

One possible source would be an increase in the amounts paid to the Port by the airlines for lease of facilities. The existing leases will expire 31 December 2001, and the Port hopes to impose much higher lease

payments in the next agreement. If the airlines agree to higher lease



IN BRIEF

Port Can't Fund Runway

Port has only part of money to build runway. Airlines balk at funding the expansion. Cost of borrowing money likely to drive actual price tag over \$1.5 billion.

See article on page 3

Dirt Trucks Roll, But Not to Runway Site

The Port sent out press releases announcing the start of third runway construction and set the trucks a-rolling, but they aren't rolling to the third runway construction site. What's going on?

See article on page 4

Port to Settle with C.A.S.E. On Discharge Permit

Contaminated water from Sea-Tac Airport will be treated in a new \$20 million facility, according to sources involved in negotiations between the state Department of Ecology, C.A.S.E., and the Airport. Both C.A.S.E. and the Airport appealed the terms of a waste-water discharge permit issued earlier this year by the Ecology. C.A.S.E. has held out for much more stringent conditions, including a new facility to treat all waste-water. Settlement documents will be signed in early September, with the Port conceding most of what C.A.S.E. demanded. Good news for the people, fish, and birds along Miller and Des Moines Creeks.

Floatplanes May Fly From Seattle Waterfront

Kenmore Air spokesperson Tim Brooks said in late August that in the next few weeks the firm will probably re-activate its application to run 72 floatplane flights per day from Seattle's central waterfront. Brooks expects speedy approval from Seattle's Department of Construction and Land Use.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 5, No. 2

Fall 1998

New Wetlands Discovery Voids DOE OK *Army Corps of Engineers Delays Permit Decision*

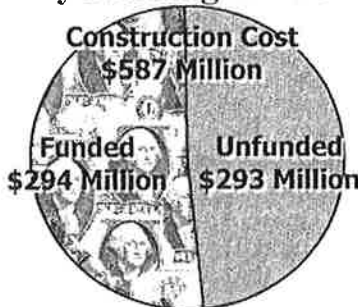
Sea-Tac third-runway construction schedules have been set back again, this time because of problems with permits for construction in wetlands in the headwaters of Miller Creek. The Airport's application now pending with the U.S. Army Corps of Engineers must be rewritten and re-submitted, owing to serious underestimates of the amount of wetlands to be filled. At least 8 and possibly more acres have been found, with more studies to do. A prior approval issued by the Department of Ecology has been rescinded.

As Sea-Tac expansion plans come under increasingly professional scrutiny, more and more problems emerge. Secur-

ing approval to fill in wetlands and to alter the headwaters of local creeks requires the Port of Seattle to obey tightly crafted regulations and specific plans, increasingly difficult to comply with, endangering success of the project.

To grant certification of the Port's compliance with sec. 401 of the federal Clean Water Act, the Department of Ecology has imposed what one observer calls the most stringent rules ever imposed on the Port, with tables of automatic penalties ranging up to \$1000 per day for relatively minor water-quality violations, accompanied by continuing requirements for a host of reports and follow-up plans. To the distress of local conservationists, however, Ecology also gave the Port approval for destruction of 11.42 acres of wetlands in the Miller Creek watershed on the promise of replacement wetlands in Auburn, in the watershed of the Green River. This action was rescinded because of the newly discovered wetlands. The Corps has a strong preference for not allowing wetlands to be filled at all and has told the Port to rework its plan so as to locate any replacements in the same drainage system.

Runway Funding Falls Short



See Story Pg. 3

Cancer Rates Higher Near Airport

Unusually high incidences of cancers, including rare brain cancers, have been reported in areas within three miles of Sea-Tac Airport. Area residents Rose Clark and Audrey Richter have been collecting cancer and other health data for years. Their work, summarized in an area map, shows higher than expected levels of cancers among past and present residents in the area, a finding confirmed in early Summer by preliminary work of the State Department of Health as to all cancers and as to the rare brain cancer, glioblastoma.

In a series of meetings chaired by Sen. Julia Patterson (D., 33), the State and County health departments have

agreed on a work program for further studies of health concerns around Sea-Tac Airport. The first step will be to analyze data in the state cancer registry, to learn what types of cancers are most prevalent around the Airport, with a report to be issued in November 1998. An effort will be made to locate all cases of glioblastoma in the Sea-Tac area, by using cancer registries, community records, and all available medical records, including the resources of Fred Hutchinson Cancer Research Center. Then, discovered glioblastoma cases will be mapped, to determine spatial relationships to the Airport.



IN BRIEF

April 9th Hearing On Wetlands

After a flood of adverse public comments, the U.S. Army Corps of Engineers has announced a public hearing on April 9 on the Port of Seattle's request for Federal permission to destroy wetlands in the site of the proposed third runway. The Port offers to create new wetlands in Auburn, in an unrelated watershed, as compensation. The hearing will be begin at 7 p.m. at the Performing Arts Center, Foster High School, 4242 So. 144th Tukwila. Please phone the RCAA office (206) 824-3120 to reserve seats on the bus.

See article on page 3

Federal Way, Tacoma Seek FAA OK For Flight Changes

Revised flight tracks, to lessen noise over Tacoma and Federal Way, will be discussed in a meeting on April 16 between a citizens' task force from the two cities and FAA. U.S. Rep. Adam Smith is spear-heading efforts to lessen impacts from the four-post plan (implemented in 1990.)

KCIA Management Wants Longer Runway

Plans for an 800-foot extension of King County International Airport's runway, to 10,000 feet, bringing jet traffic even closer to Georgetown's residential area, were unexpectedly announced to the public on February 18 by KCIA Management.

See article on page 2

Fuel Dumping?

Report suspected fuel dumping and unusual jet exhaust fumes to the Puget Sound Air Pollution Control Agency (PSAPCA), at (206) 343-8800 or 1 (800) 552-3565.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs
Vol. 5, No. 1 Spring 1998

AIRPORT EXPANSION PROGRAM TOO BIG FOR PORT STAFF TO HANDLE

Ambitious expansion projects at Sea-Tac Airport are starting to unravel, thanks to massive underestimates of costs and ever-growing scheduling problems. Trouble came to light on January 13, when a revised cost estimate for the new parking garage was released to the Port Commission, showing a 24 percent increase from a \$52.8 million estimate published only 11 months earlier. Undaunted, the Commission voted, 3-1, Jack Block dissenting, to plunge forward. Commissioner Gary Grant was asked, how much more will the price tag for other expansion projects increase in the next eight years? Grant replied, "That's a legitimate question, and one we'll be asking as well".

On January 23, a memorandum to the Commission reported that the complexity of managing all the 100-plus airport expansion projects was beyond the capability of Port staff. Gina Marie Lindsey, Director of the Aviation Division, and Michael Feldman (who now holds the title of Director of Aviation Professional & Technical Services) sug-

gested a slow-down of projects, new controls over capital outlays, and hiring more consultants to do such work as detailed engineering scheduling, design review, and contract administration. Lindsey and Feldman reported that the Port does not even have enough office space for all the needed staff.

In response, the Commission voted on February 24 to accept the staff proposal to seek consultants for a multi-year contract for program and construction management services for the expansion projects, at a cost of \$10.5 million for 1998 alone. During discussion, Mr Feldman commented that the present schedule for completion on various projects would require a tripling or quadrupling of the Port's normal rates of capital expenditure. He added, "... while there is urgency, certainly, to get on with the improvement program, we want to do it right, we are not interested in doing it fast." His conclusion: "Our current resources, and our delivery system, really are not adequate to deliver a program of this magnitude."

Continued on page 6

Port Changes Course, Supports Highline Schools Noise Study

Abandoning hope of favorable outcome in negotiations with the Port of Seattle, on February 12 the Highline School District announced an independent study of airport-related noise pollution in the District's schools, and the costs of solving classroom learning interference. The Highline school board has committed \$330,000 to the project, half of which comes from a grant by Governor Locke from his discretionary funds.

Announcement of the study was first belittled by the Port, but on March 4, Aviation Director Gina Marie Lindsey announced, "There is no cap at \$50 million" on the Port's potential contribution to noise remedies in the Highline Schools. She also retreated from the Port's refusal to consider paying for air

conditioning in schools. Highline School Superintendent Joe McGeehan warmly welcomed Lindsey's change of position.

In Spring 1997, the District had proposed to the Port that the two agencies jointly sponsor pilot studies of the noise problem. The negotiations failed: The Port would not commit to any assistance to the District unless the District accepted the third runway without further mitigation. While the Port public-relations machine claimed that the Port had offered \$50 million to deal with the problem, in fact, as of February 12, the Port had never made any written offer of cash assistance, in any amount, according to Highline board member Shay Shual-Berke, M.D., and the District's attorney, David Hokit.

The district plan has several steps. First, an opinion survey of residents in the district, followed by direct communication with the residents in public meetings (two were held on March 4 and

Continued on page 5

20 September 2002

Tony Piasecki
City Manager, City of Des Moines
21630 11th Ave. So
Des Moines, Washington
WA 98198-6838

Re: RCAA invoice to City of Des Moines, third-quarter, 2002

Dear Mr Piasecki:

Please find enclosed for staff & council review & action our invoice for services for the third quarter, 2002, per our contract with the City.

I note that no presentation to Council has been requested of us so far this year, though it has been the practice in the past to have such presentations on a quarterly basis.

Also, newspaper accounts of a recent Council meeting quote Mr Wasson as complaining that requests from the City for financial data have not been honored by RCAA. If that is what Mr Wasson said, he was in error. We have had no requests from the City this year until your letter terminating the contract between the City and RCAA. We did receive requests from an individual Councilmember but not from the City: it is our Board's understanding that requests for information (like all other communications) come to RCAA through the Administration. Further, our office has in fact furnished a complete record of RCAA's expenditures and income for all of 2001, mailed to each Councilmember (but never acknowledged) and, more recently, for 2002 through early September, to yourself.

Yours very truly,


Chas. H. W. Talbot
Office Administrator

encl

L02-263-DM



19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
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Jim Bartlemay
Frank Bosl
Clark Dodge
Brett Fish
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Dennis Hansen, M.D.
Jeanne Moeller
Len Oebser
Jane M. Rees

Affiliates

CANE

C.A.S.E. (Citizens
Against Sea-Tac
Expansion)

Seattle Community
Council Federation

Seattle Council on
Airport Affairs

REGIONAL COMMISSION ON AIRPORT AFFAIRS

19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

20 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, third quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: \$7,000

INV02-03-DM

6 September 2002

Tony Piasecki
City Manager, City of Des Moines
21630 11th Ave. So
Des Moines, Washington
WA 98198-6838

Re: RCAA invoice to City of Des Moines, first & second-quarters, 2002

Dear Mr Piasecki:

Please find enclosed for staff & council review & action our invoices for services for the first and second quarters, 2002, per our contract with the City.

The general practice in years past has been for an RCAA representative to be scheduled to make a short presentation to Council from time to time (usually quarterly), at Council's request. We have not received such a request this year, but a presentation can be arranged easily enough; let me know the date.

Also, I am instructed to send you our standard year-to-date report on income & expenditures, which gives some idea of what our activities have been this year. It is current through today.

And may I call your attention to our new electronic newsletter? The first issue was posted on 12 August, focussing in a preliminary way the order of the PCHB on the sec. 401 case. We're rather pleased with it, & see this as replacing the print newsletter of the past. Find the first in the section for newsletter on our website, www.rcaanews.org. In future, there will be a special "button" for the current webletter. We'll have a new one up in a few days.

Yours very truly,

Chas. H.W. Talbot
Office Administrator

encls

L02-249-DM



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C.A.S.E. (Citizens
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19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

6 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, first quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: \$7,000.00

INV02-01-DM

REGIONAL COMMISSION ON AIRPORT AFFAIRS

19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

6 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, second quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: \$7,000.00

INV02-02-DM

Itemized Categories Report

1/1/02 Through 9/6/02

Page 1

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
INCOME							
0001 - Petty cash							
	8/1/02	RCAA2000	2685	Cash			-75.00
TOTAL 0001 - Petty cash							-75.00
6000 - i...							
6002 - Burien							
	1/9/02	Savings	DE...	Burien Qr 01-IV, Public	Qr 01-IV		7,000.00
	6/6/02	Savings	DE...	N Pk, Burien, Qr. 02-01			7,000.00
	8/9/02	Savings	DEP	Burien Qr. 02-1	Dep. 085		7,000.00
TOTAL 6002 - Burien							21,000.00
6003 - Des Moines							
	1/3/02	Savings	DEP	DM Qr 01-IV	078		7,000.00
TOTAL 6003 - Des Moines							7,000.00
6005 - Normandy Park							
	2/15/02	RCAA2000	DEP	Normandy Park Qr 01-IV	Dep 081		8,000.00
	6/6/02	Savings	DE...	N Pk, Burien, Qr. 02-01			8,000.00
TOTAL 6005 - Normandy Park							16,000.00
TOTAL 6000 - income contracts w cities							44,000.00
6700 - ...							
6701 - public - gen'l							
	1/9/02	Savings	DE...	Burien Qr 01-IV, Public	public contributions		65.00
TOTAL 6701 - public - gen'l							65.00
TOTAL 6700 - Contribs rec'd							65.00
6800 - interest income							
	1/7/02	Savings	DEP	Interest Earned	Dec 2001		1.95
	2/6/02	Savings	DEP	Interest Earned	Jan 2002		11.72
	3/6/02	Savings	DEP	Interest Earned	Feb 2002		6.97
	4/4/02	Savings	DEP	Interest Earned	March 02		6.61
	5/6/02	Savings	DEP	Interest Earned	Apr 02		4.09
	6/6/02	Savings	DEP	Interest Earned	May 02		2.69
	7/5/02	Savings	DEP	Interest Earned	Jun 02		9.97
TOTAL 6800 - interest income							44.00
TOTAL INCOME							44,034.00
EXPENSES							
7050 - ...							
7052 - water quality consultant							
	2/14/02	RCAA2000	2614	Greg Wingard	refresh depost, inv rec'd 23 ...		-632.00
	4/4/02	RCAA2000	2644	Greg Wingard	refresh depost, inv rec'd 23 ...		-993.88
	5/10/02	RCAA2000	2659	King County Dept Natural Re...	docs req'd by Greg Wingard		-35.00
	5/22/02	RCAA2000	2661	Greg Wingard	April special billing		-688.00
	7/12/02	RCAA2000	2672	Greg Wingard	Third-qr retainer		-2,560.00
	9/6/02	RCAA2000	2711	Greg Wingard	August arsenic work		-996.00
TOTAL 7052 - water quality consultant							-5,904.88
7055 - video, photo services							
	4/4/02	RCAA2000	2645	Brett Fish	PCHB hearing video-taping		-1,500.00

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	8/1/02	RCAA2000	2680	Brett Fish	DM HE hearing; copy, video...		-43.52
	8/2/02	RCAA2000	2687	Brett Fish	aerial photo proj - 2002		-750.00
	9/6/02	RCAA2000	2704	Brett Fish	aerial photo proj - 2002 - ov...		-120.59
TOTAL 7055 - video, photo services							-2,414.11
7059 - office staffing							
	1/4/02	RCAA2000	2606	Chas. H.W. Talbot	office clerk sevices, inv 01-1...		-350.00
	1/4/02	RCAA2000	2607	Chas H.W. Talbot	Dec. off adm services; GL ...		-1,120.00
	2/14/02	RCAA2000	2618	Chas H.W. Talbot	Inv. 02-01-T; GL 7050-7059		-1,120.00
	2/14/02	RCAA2000	2619	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-360.00
	3/7/02	RCAA2000	2626	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-510.00
	3/7/02	RCAA2000	2627	Chas Talbot	Jan-Feb. office admr servic...		-1,400.00
	4/4/02	RCAA2000	2640	Chas H.W. Talbot	Mar. off adm services; GL ...		-1,120.00
	4/4/02	RCAA2000	2641	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-275.00
	5/2/02	RCAA2000	2655	Chas H.W. Talbot	Inv 02-04-T		-1,120.00
	5/2/02	RCAA2000	2656	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-315.00
	6/6/02	RCAA2000	2667	Chas H.W. Talbot	Inv 02-05-T		-1,400.00
	6/6/02	RCAA2000	2668	Chas H.W. Talbot	Inv 02-04-1-H, 05-H		-586.50
	7/12/02	RCAA2000	2673	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	7/12/02	RCAA2000	2674	Chas Talbot	Jan-Feb. office admr servic...		-1,120.00
	7/12/02	RCAA2000	2676	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-150.00
	8/1/02	RCAA2000	2678	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	8/1/02	RCAA2000	2683	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	8/1/02	RCAA2000	2684	Chas Talbot	June Jly office admr service...		-1,400.00
	9/6/02	RCAA2000	2706	Chas. H.W. Talbot	office clerk sevices, inv 02-1...		-110.00
	9/6/02	RCAA2000	2710	Chas Talbot	Aug office admr services, In...		-1,120.00
	9/6/02	RCAA2000	2714	Chas. H.W. Talbot	office clerk sevices, inv 02-1...		-190.00
TOTAL 7059 - office staffing							-14,336.50
TOTAL 7050 - consultants							-22,655.49
7120 - ...							
7122 - webmaster							
	9/6/02	RCAA2000	2712	Means Talbot Associates	website maint, June - Aug; ...		-312.50
TOTAL 7122 - webmaster							-312.50
TOTAL 7120 - Website maint.							-312.50
8150 - Books, publs, subs							
	1/4/02	RCAA2000	2599	South County Journal	13-week sub., acct 6109634...		-35.00
	3/7/02	RCAA2000	2623	South County Journal	13-week sub., acct 6109634...		-35.00
	3/7/02	RCAA2000	2632	Des Moines News	inv dtd 6 March 2002, half-y...		-13.00
	4/18/02	RCAA2000	2647	Aviation Week Newsletters	Aviation & Aerospace Alma...		-106.00
	5/2/02	RCAA2000	2651	Federal Way News	half-year sub		-13.00
	6/6/02	RCAA2000	2664	South County Journal	13-week sub., acct 6109634...		-35.00
	6/6/02	RCAA2000	2670	West Seattle Herald	half-year sub.; GL 8150; in...		-21.00
	9/6/02	RCAA2000	2708	South County Journal	13-week sub., acct 6109634...		-35.00
TOTAL 8150 - Books, publs, subs							-293.00
8280 - ...							
8281 copier repairs, maint.							
	2/14/02	RCAA2000	2612	Seattle Photocopy Co.	inv. 32189		-195.24
	4/4/02	RCAA2000	2643	Sea/Tac Copy Systems	inv. 30107; dtd 3 iv 02		-441.72
	9/6/02	RCAA2000	2707	Seattle Photocopy Co.	inv. 32513 dtd 15 viii 02		-375.36
TOTAL 8281 copier repairs, maint.							-1,012.32
TOTAL 8280 - Copier expenses							-1,012.32
8600 - ...							
8601 - misc.							

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	3/7/02	RCAA2000	2624	Vilma Signs	inv. dtd 21 Fb 02		-565.76
	3/7/02	RCAA2000	2625	**VOID**Labels & Lists, Inc.	inv. 34127-8, dtd 21 ii 02	R	0.00
	3/7/02	RCAA2000	2628	J. Beth Means	inv 2002-01 -- flier design		-261.25
	3/7/02	RCAA2000	2630	The Copy Company	inv. 39981: #rd RW flier		-576.56
	3/7/02	RCAA2000	2631	The Copy Company	DM insert		-592.58
	3/19/02	RCAA2000	2634	**VOID**Labels & Lists, Inc.	inv. 34373-8, dtd 15 iii 02	R	0.00
	3/21/02	RCAA2000	2635	**VOID**U. S. Postal Service	refresh bulk-mail acc 01875	R	0.00
	4/4/02	RCAA2000	2637	The Copy Company	DM insert		-921.68
	6/6/02	RCAA2000	2665	Labels & Lists, Inc.	inv. 34127-8, replacement ck		-251.80
	6/6/02	RCAA2000	2666	Labels & Lists, Inc.	373		-387.68
	9/6/02	RCAA2000	2703	JR Mailing Services, Inc.	"Let's Be Clear", DM mailing		-1,476.02
TOTAL 8601 - misc.							-5,033.33
8604 - outreach - media adv.							
	1/29/02	RCAA2000	2609	Entertainment Communicatio...		c	-10,000.00
TOTAL 8604 - outreach - media adv.							-10,000.00
TOTAL 8600 - Outreach							-15,033.33
9350 - Office supplies							
	1/4/02	RCAA2000	2602	Office Depot	acct 6011-5666-0001-7572;...		-221.63
	2/14/02	RCAA2000	2613	Office Depot	acct 6011-5666-0001-7572;...		-142.92
	2/14/02	RCAA2000	2615	xpedx -- Stores Division	Acct # 003-2000081; inv dtd...		-74.09
	3/7/02	RCAA2000	2629	Office Depot	acct 6011-5666-0001-7572;...		-58.71
	4/4/02	RCAA2000	2638	Office Depot	acct 6011-5666-0001-7572;...		-84.75
	5/2/02	RCAA2000	2654	Office Depot	acct 6011-5666-0001-7572;...		-136.99
	7/12/02	RCAA2000	2677	xpedx -- Stores Division	Acct # 003-2000081; inv dtd...		-33.83
	8/1/02	RCAA2000	2679	xpedx -- Stores Division	Acct # 003-2000081; purch ...		-53.81
	8/1/02	RCAA2000	2681	Jim Bartlemay	office supplies		-21.69
	9/6/02	RCAA2000	2713	xpedx -- Stores Division	Acct # 003-2000081; inv. dt...		-58.64
TOTAL 9350 - Office supplies							-887.06
9425 - printing, copying ex hous							
	2/14/02	RCAA2000	2611	Port Of Seattle	inv.1148, dtd 10 i 02; cust n...		-8.40
	2/14/02	RCAA2000	2617	Kinko's Inc.	acct 0000130082 inv dtd 3...		-135.68
	2/14/02	RCAA2000	2622	Port Of Seattle	inv.1152, dtd 12 ii 02; cust n...		-1.05
	4/18/02	RCAA2000	2646	Port Of Seattle	3000 pp., 3rd RW project		-450.00
	4/18/02	RCAA2000	2648	Department of Ecology	v.2 Sea-Tac Recv'g Report	R	-126.89
	4/18/02	RCAA2000	2649	Phil Emerson	A/L lease docs		-47.70
	5/10/02	RCAA2000	2658	Port Of Seattle	fiscal documents		-14.25
	5/10/02	RCAA2000	2660	Port Of Seattle	fiscal documents		-51.90
	8/1/02	RCAA2000	2682	Chas H.W. Talbot	DM Creek Plan docs		-39.75
	8/29/02	RCAA2000	2689	Department of Ecology	GW RDPR 6 viii 02		-37.80
TOTAL 9425 - printing, copying ex hous							-913.42
9440 - ...							
9441 - NL - editorial services							
	9/6/02	RCAA2000	2705	Means Talbot Associates	design new webltr; inv dtd 1...		-231.25
	9/6/02	RCAA2000	2709	Means Talbot Associates	editorial & web work, webltr ...		-637.50
TOTAL 9441 - NL - editorial services							-868.75
9443 - NL -- postage							
	6/6/02	RCAA2000	2671	U. S. Postmaster	Permit 01875; std mail; imp...		-125.00
TOTAL 9443 - NL -- postage							-125.00
TOTAL 9440 - Newsletter							-993.75
9450 - Professional fees							
	1/4/02	RCAA2000	2603	Smith & Lowney, PLLC	inv. 10968, dtd 28 xii 2001 (...)		-50.00
TOTAL 9450 - Professional fees							-50.00

Itemized Categories Report

1/1/02 Through 9/6/02

Page 4

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
9480 - ...							
9483 - AA&M -- postage	5/2/02	RCAA2000	265...	JR Mailing Services, Inc.	pstage		-1,440.19
TOTAL 9483 - AA&M -- postage							<u>-1,440.19</u>
TOTAL 9480 - Action Alerts &c							<u>-1,440.19</u>
9484 AAM Mailing Services							
5/2/02	RCAA2000	265...	JR Mailing Services, Inc.				-638.16
TOTAL 9484 AAM Mailing Services							<u>-638.16</u>
9700 - Telcom							
1/4/02	RCAA2000	2600	Qwest	acct 206-824-3120 173-37			-154.12
1/4/02	RCAA2000	2601	Verio, Inc. - 15	Acct 10041778, inv. 563 08...			-60.00
1/4/02	RCAA2000	2604	Zone Telcom, Inc.	acct #24880; inv dtd 28 Dec...			-25.07
2/14/02	RCAA2000	2616	Qwest Dex	inv. 000005410535, dtd 27 i...			-29.59
2/14/02	RCAA2000	2620	Zone Telcom, Inc.	acct #24880; inv dtd 31 Jan ...			-23.98
2/14/02	RCAA2000	2621	Qwest	acct 206-824-3120 173-37; i...			-151.74
3/7/02	RCAA2000	2633	Qwest	acct 206-824-3120 173-37; ...			-165.00
4/4/02	RCAA2000	2636	Qwest	acct 206-824-3120 173-37; ...			-165.00
4/4/02	RCAA2000	2639	Zone Telcom, Inc.	acct #24880; inv dtd 31 Jan ...			-18.17
4/4/02	RCAA2000	2642	Earthlink, Inc.	acct 0000-000004457265; ...			-65.85
5/2/02	RCAA2000	2653	Qwest	acct 206-824-3120 173-37; ...			-147.63
6/6/02	RCAA2000	2662	Zone Telcom, Inc.	inv rec'd 7 May			-11.57
6/6/02	RCAA2000	2663	Qwest	acct 206-824-3120 173-37; ...			-149.40
6/6/02	RCAA2000	2669	Earthlink, Inc.	acct 0000-000004457265; ...			-65.85
7/12/02	RCAA2000	2675	Qwest	acct 206-824-3120 173-37; ...			-176.92
8/1/02	RCAA2000	2686	Qwest	acct 206-824-3120 173-37; ...			-165.00
9/6/02	RCAA2000	2715	Qwest	acct 206-824-3120 173-37; ...			-165.00
TOTAL 9700 - Telcom							<u>-1,739.89</u>
9755 - business taxes & licenses							
1/30/02	RCAA2000	2610	Department of Revenue	Qr. 01-IV B&O			-465.36
5/3/02	RCAA2000	2657	Department of Revenue	Qr. 02-0I B&O / 601 413 657			-346.82
8/6/02	RCAA2000	2688	Department of Revenue	Qr. 02-02 B&O			-236.46
TOTAL 9755 - business taxes & licenses							<u>-1,048.64</u>
9999 - US income tax							
1/4/02	RCAA2000	2605	U.S. Internal Revenue Service	advance pay't			-2,500.00
4/8/02	Savings	DEP	US IRS	Yr 99 tax refund?			2,000.00
7/11/02	Savings	DEP	USIRS	Dep 084 Yr 00 refund?			500.00
TOTAL 9999 - US income tax							<u>0.00</u>
Uncategorized Expenses							
1/29/02	RCAA2000	2608	**VOID**			R	0.00
TOTAL Uncategorized Expenses							<u>0.00</u>
TOTAL EXPENSES							<u>-47,017.75</u>
TOTAL INCOME - EXPENSES							<u>-2,983.75</u>
TRANSFERS							
RCAA2...							
1/9/02	Savings	TXFR	From Savings To Checking	#02-01			-2,000.00
1/30/02	Savings	TXFR	From Savings To Checking	#02-02			-10,000.00

Itemized Categories Report

1/1/02 Through 9/6/02

Page 5

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	3/21/02	Savings	TXFR	From Savings To Checking	#02-03		-2,000.00
	4/8/02	Savings	TXFR	From Savings To Checking	#02-04		-6,000.00
	5/3/02	Savings	TXFR	From Savings To Checking	#02-05		-1,700.00
	5/28/02	Savings	TXFR	From Savings To Checking	#02-06		-700.00
	6/17/02	Savings	TXFR	From Savings To Checking	#02-07		-2,700.00
	7/17/02	Savings	TXFR	From Savings To Checking	#02-08		-4,000.00
	8/5/02	Savings	TXFR	From Savings To Checking	#02-09		-3,000.00
TOTAL TO RCAA2000							-32,100.00
Savings							
	1/9/02	RCAA2000	TXFR	From Savings To Checking	#02-01		2,000.00
	1/30/02	RCAA2000	TXFR	From Savings To Checking	#02-02		10,000.00
	3/21/02	RCAA2000	TXFR	From Savings To Checking	#02-03		2,000.00
	4/8/02	RCAA2000	TXFR	From Savings To Checking	#02-04		6,000.00
	5/3/02	RCAA2000	TXFR	From Savings To Checking	#02-05		1,700.00
	5/28/02	RCAA2000	TXFR	From Savings To Checking	#02-06		700.00
	6/17/02	RCAA2000	TXFR	From Savings To Checking	#02-07		2,700.00
	7/17/02	RCAA2000	TXFR	From Savings To Checking	#02-08		4,000.00
	8/5/02	RCAA2000	TXFR	From Savings To Checking	#02-09		3,000.00
TOTAL FROM Savings							32,100.00
TOTAL TRANSFERS							0.00
OVERALL TOTAL							-2,983.75

A G E N D A I T E M

SUBJECT:

Revision of mobile home park regulations

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Community Development 

DATE SUBMITTED October 31, 2002

ATTACHMENTS:

1. Draft Ordinance 02-177

CLEARANCES:

[X] LEGAL 

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

Suggested Motion:

"I move to pass Draft Ordinance 02-177 on to second reading."

The purpose of this ordinance is to allow mobile home owners, with an approved site plan, the opportunity to fill their parks.

Background:

On June 27, 2002 Administration requested direction on mobile home parks. Currently, the mobile homes in the City are nonconforming uses. DMMC 14.48.270 required mobile home owners existing before July 1, 1992 to provide the city a site plan, prepared by a registered engineer showing the number of mobile homes on site, their location, lot dimensions, the location and size of all road, sewers, etc. This site plan was supposed to be part of the business license application.

Although the legislation was adopted, these provisions were never required under the business license process. Except for the mobile home parks in the Woodmont/Redondo area, staff has no site plans for any mobile home park in the city. Without this baseline Community Development staff is unable to adequately enforce the provisions of this chapter.

At this meeting Council directed staff to prepare an ordinance revision DMMC 14.48

Discussion:

After much debate among staff, Administration now recommends minor changes to this chapter. These changes include:

- Minor changes to the definition section of the chapter to provide more current language
- Requires annual inspection of mobile home parks for compliance with provisions of this chapter
- Includes language detailing failure to remedy corrections found at the annual inspection as a basis to revoke the business license
- Requires all fire lanes to be clearly marked and remain free of parking
- Requires all outdoor storage areas in and around mobile homes to be adequately screened acceptable to the Community Development Department
- Clarifies language requiring mobile home park owners to be responsible for collection and disposal of solid waste
- Allows the required site plan to be prepared by an engineer or surveyor or in a form acceptable to the Community Development Department
- Allows owners until June 30,2003 the opportunity to provide the required site plan

Under this draft ordinance mobile home parks established before July 1,1992 remain legal, nonconforming uses. Because of the enforcement and regulation issues, RV's remain prohibited uses.

Alternatives:

The Council has three options concerning this ordinance:

1. Adopt the draft ordinance as recommended by Administration
2. Direct staff to revise the draft ordinance based on Council discussion
3. Do not adopt the draft ordinance

Financial Impact:

There is no negative impact to the city in adopting this draft ordinance

Recommendation/Conclusion:

Administration recommends adoption of draft ordinance 02-177

Concurrence:

None

COMMUNITY DEVELOPMENT'S FIRST DRAFT 9/12/02

DRAFT ORDINANCE NO. 02-177

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON
relating to revision of mobile home park regulation code
and amending DMMC 14.48.

WHEREAS, the mobile home park regulation code was
established to provide orderly operation of these
facilities, and

WHEREAS, there is a need to require a high quality of
management of these parks to ensure that the occupants of
these parks and the community as a whole are protected from
potentially adverse impacts, and

WHEREAS, revisions to DMMC 14.48 will allow for
enhanced monitoring of these parks while providing mobile
home owners the opportunity to maintain the economic
viability of these parks, and

WHEREAS, well maintained mobile home parks provide
safe and affordable housing for many households priced out
of the conventional housing market, and

WHEREAS, it has been determined that textual code
amendments to Title 14 are a Type V land use action, and

WHEREAS, the City Council finds it is in the best
interest of the public health, safety and general welfare
to revise these regulations; now therefore:

**THE CITY COUNCIL OF THE CITY OF DES MOINES DO ORDAIN AS
FOLLOWS:**

Sec. 1 DMMC 14.48 and sections
143,144,145,146,147,148,149(part),149(A),149(B),149(C),
149(D),149(E),149(F),149(G),149(H),149(I),149(J),149(K),149
(L),149(M),149(N),149(O),150,151,152,153,154,155,156,,157,1
59,160,161 of ordinance 938 and section 1 of ordinance 978
are each amended to read as follows:

Chapter 14.48
MOBILE HOME PARK REGULATION CODE
Sections
14.48.010 Short title.
14.48.020 Findings and policy.
14.48.030 Definitions.

14.48.040 General requirements.
14.48.050 Business license required.
14.48.060 Density requirements.
14.48.070 Development standards - Compliance.
14.48.080 Development standards - Lots.
14.48.090 Development standards - Lot coverage.
14.48.100 Development standards - Setbacks.
14.48.110 Development standards - Parking spaces.
14.48.120 Development standards - Streets and access.
14.48.130 Development standards - Building heights.
14.48.140 Development standards - Landscaping - Recreation space.
14.48.150 Development standards - Drainage.
14.48.160 Development standards - Sewers.
14.48.170 Development standards - Utilities.
14.48.180 Development standards - Lighting.
14.48.190 Development standards - Recreation areas.
14.48.200 Development standards - Screening.
14.48.210 Development standards - Garbage and recycling.
14.48.220 Development standards - Skirting.
14.48.230 Adoption of mobile home regulations by reference.
14.48.240 Smoke detectors.
14.48.250 Furnace controls - Power switch.
14.48.260 Tie downs.
14.48.270 Site plan required - Preexisting parks.
14.48.280 Preexisting mobile home parks.
14.48.290 Administration.
14.48.300 Inspections.
14.48.310 Repealed.
14.48.320 Mobile/manufactured home installation.
14.48.330 Permits for accessory structures.
14.48.340 Park administration.

14.48.010 Short title.

This chapter shall be known and may be cited as the "mobile home park regulation code." [Ord. 938 § 143, 1992.]

14.48.020 Findings and policy.

(1) The city finds that properly planned and operated mobile home parks:

- (a) Promote the safety and health of the residents of such parks and of other nearby neighborhoods; and
 - (b) Encourage economical and orderly development of such parks and other nearby neighborhoods.
- (2) It is, therefore, declared to be the policy of the city to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land by providing for planning and operating mobile home parks and by providing for the standards and regulations necessary to accomplish these purposes. [Ord. 938 § 144, 1992.]

14.48.030 Definitions.

(1) Use of Words. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Factory-built housing" means any structure designed primarily for human occupancy which is either entirely or substantially prefabricated or assembled at a place other than a building site, meets the requirements of the Uniform Building Code, and bears the insignia of the Washington State Department of Labor and Industry. Factory-built housing may also be called industrialized, modular, sectional, or sectionalized construction.

(3) "Mobile/manufactured home" means a factory-assembled structure or structures designed for human occupancy and equipped with the necessary service connections and constructed so as to be readily movable as a unit or units upon running gear. The support system of a mobile home shall be constructed so that the mobile home may be placed thereon and may be moved from time to time at the convenience of the owner. Mobile homes must bear the insignia of the state Department of Labor and Industries and built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974. The terms mobile home and manufactured home are considered to be interchangeable in the context of this chapter. A commercial coach, recreational vehicle, or motor home are not a mobile/manufactured home.

(4) "Mobile home park" means an approved residential development as shown in the records of the community development department, and designed and approved in accordance with either the subdivision or the planned unit development regulations of the city, together with certain service/utility buildings and uses providing for the enjoyment and benefit of the residents of the mobile home park in which individual spaces are provided for the placement of a mobile home for dwelling unit purposes. Lots for mobile homes may be either rented or purchased.

(5) "Leasable" space means that area within the mobile home park designated on an approved site plan as lots for locating mobile home units with full utility hook-ups.

(5-6) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use with or without motive power of such size and weight as not to require a special highway movement permit and certified as approved as such by the State Department of Labor and Industries. Recreational vehicles shall include but are not limited to campers, motor homes, travel trailers, and camping trailers.

(6 7) "Recreational vehicle storage area" means a surfaced area enclosed by appropriate fencing provided for the storage of recreational vehicles. All recreational vehicle storage within the mobile home park shall occur in this designated area.

(7 8) "Service building" means a building for the purpose of housing mobile home park community facilities.

(8 9) "Utility building" means an accessory structure intended for the storage of typical outdoor equipment incidental to the occupants of the mobile home, i.e., lawn mower, lawn chairs, barbecue, etc. Utility buildings are limited to one per mobile home lot. [Ord. 938 § 145, 1992.]

14.48.040 General requirements.

(1) Mobile homes are a permitted use in mobile home parks only. Mobile home parks shall be developed in accordance with the requirements of

either Title 17 DMMC or chapter 18.52 DMMC together with the requirements of this chapter.

(2) No recreational vehicle shall be occupied for residential or commercial purposes anywhere in the city except in the case of temporary uses as authorized by the city manager or their designee; provided, that under no circumstances shall a recreational vehicle be occupied more than 30 days. Under no circumstances shall a recreational vehicle be parked overnight on a public street.

(3) Mobile/manufactured homes shall be used for residential purposes only, except for home occupations as defined in Title 18 DMMC.

(4) No space shall be rented or sold for any purpose within a mobile/manufactured home park except for a permanent residence.

(5) No person, company, or corporation shall establish a new mobile/manufactured home park, or enlarge the size of or increase the allowed density of an existing mobile/manufactured home park, without first complying with the provisions of this chapter.

(6) Where there is a conflict between the requirements of either Title 17 DMMC, chapter 18.52 DMMC, and this chapter, the most stringent provisions shall control.

(7) The provisions of this chapter shall not apply to factory-built housing. [Ord. 938 § 146, 1992.]

14.48.050 Business license required.

All persons who rent or sell lots in a mobile home park for mobile homes and/or who sell mobile homes therein, shall possess a valid business license from the city. In addition to meeting all requirements of chapter 5.04 DMMC, relating to business licenses, the mobile home park shall be inspected by the Seattle-King County department of public health prior to issuance of a business license by the city clerk. The applicant shall remedy all unsanitary conditions found by the health department. Failure to remedy such conditions shall be grounds for denial or revocation of the business license by the city manager. All mobile home parks shall be inspected by the community development department

annually for compliance to this chapter. Failure to remedy corrections in a timely manner shall be ground for denial or revocation of the business license by the city manager. [Ord. 938 § 147, 1992.]

14.48.060 Density requirements.

(1) Mobile home parks shall be not less than three acres in size. The maximum site area of a mobile/manufactured home park, or combination of adjacent parks, shall be 10 acres. Parks shall be considered to be "adjacent" to one another unless they are separated by an unrelated land use, and not merely by a public or private street, easement, or buffer strip.

(2) The number of mobile homes in the mobile home park shall not exceed the allowable number of dwelling units in the zone district in which the mobile home park is located. [Ord. 938 § 148, 1992.]

14.48.070 ~~Development standards~~— Compliance.

In addition to the requirements of either Title 17 DMMC or chapter 18.52 DMMC, mobile home parks shall comply with the following development standards and requirements. [Ord. 938 § 149(part), 1992.]

14.48.080 ~~Development standards~~— Lots.

(1) Every mobile home lot shall be at least 2,400 square feet with a 40-foot frontage.

(2) Each mobile home lot shall be identified with an individual site number, each number a minimum of four inches tall in a logical numerical sequence, subject to approval by the building official, displayed in a uniform manner throughout the mobile home park and readily identified from the roadways within the park. In addition, these numbers must be shown on the official ~~plat~~ site plan for the mobile home park. Site numbers shall not be mounted on the mobile homes.

(3) Every mobile home lot shall have a pad hard surfaced with concrete or asphaltic concrete of minimum thickness of four inches. It shall be of a size not less than that of the mobile home to be parked on the lot. [Ord. 938 § 149(A), 1992.]

14.48.090 ~~Development standards~~ - Lot coverage.
All impervious surfaces, including but not limited to mobile homes, service/utility buildings, carports, patios, driveways, and streets shall not exceed 50 percent of the lot area. [Ord. 938 § 149(B), 1992.]

14.48.100 ~~Development standards~~ - Setbacks.

- (1) Minimum front yard setbacks for all structures shall be 10 feet.
- (2) Minimum rear yard setbacks for all structures shall be 15 feet.
- (3) Minimum side yard setbacks for all structures shall be 10 feet.
- (4) Corner lots shall observe a minimum 15-foot setback from all streets and alleys.
- (5) The minimum clearance between mobile homes shall not be less than required by the fire code.
- (6) The clearance between mobile homes and any service/utility building(s) situated on the same lot shall not be less than required by the Uniform Fire Code.
- (7) Eaves may project up to a maximum of 18 inches into any required setback area. [Ord. 938 § 149(C), 1992.]

14.48.110 ~~Development standards~~ - Parking spaces.

- (1) A minimum of two off-street parking spaces per mobile home shall be provided on the lot on which the mobile home is located.
- (2) In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each two mobile/manufactured lots, and shall be distributed for convenient access to all lots and may be provided by a separate parking area. Clubhouse and community building parking facilities may account for up to 50 percent of this requirement.
- (3) Setbacks for mobile/manufactured home units shall not be calculated for purposes of meeting the minimum parking requirements. All off-street parking spaces shall conform to the dimensional requirements contained in chapter 18.44 DMMC.
- (4) Vehicles over 8,500 pounds gross license weight and recreational vehicles shall not be

parked or stored on the individual lots or on any street. A separate storage area shall be provided with appropriate fencing and visual screening as determined by the community development department. [Ord. 938 § 149(D), 1992.]

14.48.120 ~~Development standards~~ — Streets and access.

(1) Access to and from the mobile home park shall be from a minor arterial or collector street. Access to mobile home lots shall be from interior streets only. No individual access to any mobile home lot shall be from streets adjacent to the exterior of the mobile home park.

(2) All streets shall be constructed to city standards contained in chapter 12.28 DMMC.

(3) Pedestrian sidewalks shall be of concrete pavement a minimum of five feet wide on both sides of all streets.

(4) Driveways providing entrance or exits to the mobile home park shall be no closer than 150 feet from an intersection, measured from the existing or proposed right-of-way, whichever is the greater.

(5) All streets and access roads so designated either in the subdivision or PUD review process shall be completed prior to occupancy of any mobile home. [Ord. 938 § 149(E), 1992.]

(6) All fire lanes shall be clearly marked and no parking shall be allowed in these areas.

14.48.130 ~~Development standards~~ - Building heights.

The maximum building height shall be 25 feet. [Ord. 938 § 149(F), 1992.]

14.48.140 ~~Development standards~~ - Landscaping - Recreation space.

(1) At least 15 percent of the gross area within the mobile home park shall be set aside as active recreation space. The 15-foot buffer area required by subsection (2) of this section shall not be counted towards meeting the 15 percent requirement.

(2) A 15-foot minimum buffer area around the perimeter of the mobile home park is required. The buffer area shall contain perimeter screening

of dense evergreen plantings, a minimum of five feet in height when installed, which will grow to a minimum of eight feet in height within five years.

(3) The developer shall furnish to the city a performance bond or other suitable security in a form approved by the city attorney and in an amount approved by the community development department to insure installation of the landscaping prior to any construction in the mobile home park. [Ord. 938 § 149(G), 1992.]

14.48.150 ~~Development standards~~ - Drainage. Drainage and runoff plans shall be approved by the public works director. [Ord. 938 § 149(H), 1992.]

14.48.160 ~~Development standards~~ - Sewers. Each mobile home shall be connected to sanitary sewers. A valid side sewer permit shall be obtained prior to any connection to any sewers. [Ord. 938 § 149(I), 1992.]

14.48.170 ~~Development standards~~ - Utilities. Every mobile home shall be permanently connected to electric power, water supply, sewage disposal, gas, cable television, and telephone service lines in compliance with applicable municipal codes. All utilities shall be placed underground in accordance with the provisions of chapter 17.36 DMMC. [Ord. 938 § 149(J), 1992.]

14.48.180 ~~Development standards~~ - Lighting. Artificial lighting shall be provided sufficient to illuminate walks, driveways, and parking areas to ensure the safe movement of pedestrians and vehicles at night. Artificial lighting shall be high pressure sodium lamps or equivalent. These exterior lights shall be such as will turn on and off automatically with dawn and dusk. Lighting shall be directed away from adjacent properties. [Ord. 938 § 149(K), 1992.]

14.48.190 ~~Development standards~~ - Recreation areas. Playground facilities or play area shall be conveniently situated, containing a minimum of

five percent of the total gross area of the park and shall be restricted to such use. Such an area shall further be placed within the mobile home park so as to be properly protected from streets, highways, roadways, and parking areas. Such playground space may be provided in one or more locations within the mobile home park. [Ord. 938 § 149(L), 1992.]

14.48.200 ~~Development standards~~ - Screening.

(1) An ornamental wall, fence, or screen planting acceptable to the community development department ~~and~~ not less than six feet and not more than ten feet in height shall be erected and maintained along the side and rear boundaries of a mobile home park. Where, in the opinion of the community development department, it is unreasonable to require a wall or fence due to the nature of the existing topography or other existing conditions that might render such a wall or fence ineffective, the department, at its discretion may waive or modify the requirements as specified in this section. [Ord. 938 § 149(M), 1992.]

(2) All outdoor storage in and around mobile homes shall be screened as prescribed in 18.41.040 except that a five-foot deep landscape area shall not be required. All screening shall be approved by the community development department.

14.48.210 ~~Development standards~~ - Solid waste and recycling.

(1) The storage, collection, and disposal of solid waste in the mobile home park shall be conducted so as to prevent health hazards, rodent harborage, insect breeding areas, accidents, fire hazards, and air pollution. It shall be the responsibility of the mobile home park owner to ensure safe and sanitary storage, collection and disposal of refuse as required in DMMC 7.04.090.

(2) Community-type containers will be required and shall be located not more than 150 feet from any mobile home lot.

(3) These collection areas shall be screened according to the provisions of chapter 18.41 DMMC.

(4) Recycling facilities shall be provided as determined by the community development department. [Ord. 938 § 149(N), 1992.]

14.48.220 ~~Development standards~~ - Skirting. Skirtings are required and shall be constructed of nonflammable material. Every mobile home skirt shall be provided with a door or easily removed portion thereof through which an inspector may gain access to the crawl space under the unit. [Ord. 938 § 149(O), 1992.]

14.48.230 Adoption of mobile home regulations by reference.
Chapter 296-150B WAC (Standards for Mobile Homes, Commercial Coaches, and Recreational Vehicles), as presently constituted or as may be subsequently amended, is adopted and shall be applicable within the city. [Ord. 938 § 150, 1992.]

14.48.240 Smoke detectors.
Smoke detectors, of a type approved by the building official, shall be installed in all newly set mobile homes. [Ord. 938 § 151, 1992.]

14.48.250 Furnace controls - Power switch.
All furnace controls and power switches shall be placed on the exterior of the furnace enclosure. [Ord. 938 § 152, 1992.]

14.48.260 Tie downs.
All mobile homes shall be equipped with tie downs of a type that has been approved by the building official. [Ord. 938 § 153, 1992.]

14.48.270 Site plan required - Preexisting parks.
The owners of mobile home parks existing before July 1, 1992, shall provide the city with a site plan, prepared by a registered civil engineer professional surveyor or engineer and/or in a form acceptable to the community development department showing the number of mobile homes presently on the site, their location, and the dimensions of all lots and the location and size of all roads, sewers, water lines, all other utilities and other structures on the property.

The site plan shall be submitted in conjunction with the application for a business license as required by DMMC 14.44.050. [Ord. 938 § 154, 1992.]

14.48.280 Preexisting mobile home parks.

All mobile home parks existing before July 1, 1992, and which were in compliance with existing city or county codes at the time of their establishment, shall be legal, nonconforming uses and are entitled to the number of mobile homes which was permitted by the applicable ordinance in effect at the time the mobile home park was established, the number of individual spaces which are provided for placement of a mobile home for dwelling unit purposes existing on July 1, 1992, and the privilege of locating in such spaces mobile homes of a size suitable to the dimensions of the individual spaces which are provided for mobile home placement; provided:

(1) The owner of the mobile home park shall provide the city community development department by ~~December 28, 1992~~ June 30, 2003, a plan or schematic of the mobile home park drawn to scale, showing the location and dimension of each space for the placement of mobile homes;

(2) All other provisions of this mobile home park regulation code shall be applicable; and

(3) No increase in density and no increase in the number of mobile homes are allowed unless all of the provisions of this chapter are met. [Ord. 978 § 1, 1992: Ord. 938 § 155, 1992.]

14.48.290 Administration.

The community development director or his/her designee shall enforce the terms of this chapter according to the provisions of this title. [Ord. 938 § 156, 1992.]

14.48.300 Inspections.

(1) No person may occupy or allow or suffer another person to occupy a mobile/manufactured home before the same has been inspected and approved by the State Department of Labor and Industries, and the installation has been approved by the building official.

(2) The installer/owner shall request an inspection after all aspects of the installation, other than installation of the skirting, have been completed. If the inspection is not completed within 10 business days, the tenant or owner may occupy the mobile/manufactured home at his or her own risk. Occupancy before inspection does not imply city approval. [Ord. 938 § 157, 1992.]

14.48.310 Authority to issue permits for and inspect installation of mobile/manufactured homes.

Repealed by Ord. 946. [Ord. 938 § 158, 1992.]

14.48.320 Mobile/manufactured home installation. No person may install a mobile home unless that person owns the mobile home, is a licensed mobile home dealer, or is a contractor registered under chapter 18.26 RCW, as presently constituted or as may be subsequently amended. [Ord. 993 § 16, 1992: Ord. 938 § 159, 1992.]

14.48.330 Permits for accessory structures. Building permits shall be required pursuant to chapter 14.08 DMMC for all accessory structures on a mobile/manufactured home lot, including but not limited to awnings, porches, steps, decks, storage sheds, and carports. [Ord. 938 § 160, 1992.]

14.48.340 Park administration.

(1) The owner(s) of a mobile/manufactured home park shall be responsible for the development and maintenance of the park in strict conformity with this chapter, the building site plan, and all other applicable laws and ordinances.

(2) A mobile/manufactured home park shall have internal rules and regulations governing, at a minimum, the following:

(a) A requirement that all tenants comply with state inspection codes at the time a mobile/manufactured home is installed or modified.

(b) A requirement that all tenants comply with zoning code restrictions relating to the use of their mobile/manufactured home and lot.

(c) A requirement that all landscaping, buffer areas, recreational areas and facilities, storage areas, streets, walkways, and other common areas and facilities be continuously maintained to at least the minimum standard required by the city and approved by the enforcing agency at the time of initial occupancy.

(3) A mobile/manufactured home park shall have a full time resident manager on site who shall be the agent of the owner with authority to communicate directly with city officials regarding compliance with codes and requirements and who shall be responsible for the enforcement of park rules and regulations. [Ord. 938 § 161, 1992.]

NEW SECTION. Sec. 2 Severability-Construction

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

NEW SECTION. Sec. 3. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY THE City Council of the City of Des Moines this ____ day of _____, 2002 and signed in authentication thereof this ____ day of _____, 2002.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Amendment to City Council Rules
Of Procedure, Rule 12.

ATTACHMENTS: Draft Resolution No. 02-237.

FOR AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: 11/07/02

CLEARANCES:

☒ Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL: AT

PURPOSE AND RECOMMENDATION

The purpose of this item is to amend the current City Council Rules of Procedure to more specifically identify the City Clerk's duties to keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, and to require a specific action item section in the minutes kept of each City Council meeting.

It is recommended that the City Council review the attached draft resolution and pass Draft Resolution No. 02-164 in its current or amended form to a second reading for adoption at a subsequent regular Council meeting in accordance with DMMC 4.12.030.

MOTION: "To place Draft Resolution No. 02-237, which amends Council Rule 12 regarding the City Clerk's duties, allowing for a specific action items section, on a subsequent regular Council meeting agenda for adoption."

BACKGROUND

During recent Council discussion regarding amendment to Council Rule 23, requiring minutes at Council committee meetings, it was recommended that minutes taken at Council meetings include a specific action items section. This resolution amends Council Rules of Procedure Rule No. 12 to provide that a specific action items section be added to the minutes of each of each Council meeting.

DISCUSSION

Adding a specific action items section to the Minutes of each Council meeting would simplify tracking of action items that need follow up.

ALTERNATIVES

No alternatives considered.

FINANCIAL IMPACT

Not considered.

CONCLUSION

This draft resolution is responsive to a request of the City Council to amend the Council Rules regarding the minutes taken at future Council meetings.

CITY ATTORNEY'S FIRST DRAFT 10/30/02

DRAFT RESOLUTION NO. 02-237

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, amending Rule 12 of the Des Moines City Council *Rules of Procedure* for City Council meetings to add a specific identification action item section to the City Council minutes, and amending Rule 12 of section 1 of Resolution No. 525.

WHEREAS, the DMMC 4.12.030 expressly provides that "The rules may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the council," and

WHEREAS, DMMC 4.12.030 further provides that "(A) any such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the council agenda under the order of new business," and

WHEREAS, DMMC 4.12.030 also provides that "A vote of the council to adopt such a resolution shall occur at a subsequent regular meeting," and

WHEREAS, the City Council finds it in the public interest to amend Rule 12 of the City Council *Rules of Procedure* to more specifically identify the City Clerk's duties to keep minutes of City Council meetings as required by the Revised Code of Washington and Robert's Rules of Order, and to add a requirement for a specific action item section in the City Council minutes; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Rule 12 of the Des Moines City Council *Rules of Procedure* and Rule 12 of section 1 of Resolution No. 525 are hereby amended as follows:

Rule 12. The City Clerk shall be ex-officio Clerk of the Council and shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, and including a specific action item section, and shall perform such other and further duties in the meeting as may be required

Resolution No. ____

Page 2 of ____

by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of ____, 2002 and signed in authentication thereof this ____ day of ____, 2002.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

DRAFTRES:02/237

AGENDA ITEM

SUBJECT: Councilmember Compensation

AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: AdministrationATTACHMENTS: DMMC 4.08 and
RCW 35A.13.040DATE SUBMITTED: January 10, 2002

CLEARANCES:

[] _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: **Purpose and Recommendation:**

The purpose of this item is to provide the City Council an opportunity to discuss Councilmember compensation. Mayor Wasson placed this item on the agenda at the request of Councilmember Steenrod.

Suggested Motion:

I move to direct staff to prepare an ordinance changing the compensation the Mayor and Councilmembers receive as follows: _____.

Background:

DMMC 4.08 and RCW 35A.13.040 governs the compensation the Mayor and Councilmembers receive for their service to the City. Per DMMC 4.08.020(1) and (2), Councilmembers receive \$250.00 per regular and special meeting attended while the Mayor receives \$350.00 per regular and special meeting attended. The total number of meetings for which the Mayor and Councilmembers may be compensated may not exceed 36 in a calendar year. DMMC 4.08.020(3) provides that Councilmembers may have their compensation reduced to a specific amount for a fixed period of time upon written request to the Finance Director.

RCW 35A.13.040 provides the authority for City Councils to establish compensation rates by ordinance. It also provides that City Council's may not change the rate of their own compensation but that any change will take effect after the next election and only for those positions (if elected in staggered years) for which an election was held.

Discussion:

It is Council's prerogative to set compensations rates. Council can direct staff to set the rates at whatever level Council feels is appropriate. Any new rates will take effect January 1, 2004 for those Council positions that are up for election in the fall of 2003.

Alternatives:

Council compensation rates are at the discretion of the Council.

Recommendation:

None.

Chapter 4.08

MAYOR – CITY COUNCIL COMPENSATION

Sections

4.08.010 Definitions.

4.08.020 Compensation – Mayor and councilmembers. (Effective beginning January 1, 2000)

4.08.020 Compensation – Mayor and councilmembers. (Effective beginning January 1, 2001)

4.08.025 Compensation – Mayor pro tem serving as presiding officer.

4.08.030 Compensation – Councilmember serving as a delegate or representative. (Effective beginning January 1, 1998)

4.08.040 Travel expenses – Reimbursement.

4.08.010 Definitions.

(1) Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) “Attendance” at a regular or special council meeting means being physically present at the city council meeting at any time between the roll call and adjournment.

(3) “Special council meeting” means a city council meeting, other than a regular city council meeting as defined in DMMC 4.04.020, that is called by the mayor or any three councilmembers by written notice delivered to each councilmember or each councilmember’s residence at least 24 hours before the time specified for the proposed meeting. [Ord. 1040 § 1, 1993; Ord. 418 § 1, 1977.]

4.08.020 Compensation – Mayor and councilmembers. (Effective beginning January 1, 2000)

(1) Except as provided in subsections (2) through (5) of this section, each member of the city council shall receive as compensation the sum of \$250.00 for attendance at each regular and special council meeting.

(2) Except as provided in subsections (3) through (5) of this section, the councilmember elected mayor shall receive as compensation the sum of \$350.00 for attendance at each regular and special council meeting.

(3) A councilmember may have their compensation reduced to a specific amount for a fixed period of time upon written request to the finance director.

(4) No councilmember shall receive compensation for attendance at more than a total of 36 regular and special council meetings per calendar year.

(5) No councilmember shall receive compensation for attendance at more than one regular or special council meeting per day. [Ord. 1152 § 3, 1995; Ord. 569 § 1, 1983; Ord. 418 § 2, 1977.]

4.08.020 Compensation – Mayor and councilmembers. (Effective beginning January 1, 2001)

(1) Except as provided in subsections (2) through (5) of this section, each member of the city council shall receive as compensation the sum of \$250.00 for attendance at each regular and special council meeting.

(2) Except as provided in subsections (3) through (5) of this section, the councilmember elected mayor shall receive as compensation the sum of \$350.00 for attendance at each regular and special council meeting.

(3) A councilmember may have their compensation reduced to a specific amount for a fixed period of time upon written request to the finance director.

(4) No councilmember shall receive compensation for attendance at more than a total of 36 regular and special council meetings per calendar year.

(5) No councilmember shall receive compensation for attendance at more than one regular or special council meeting per day. [Ord. 1253 § 1, 1999: Ord. 1152 §§ 1 – 3, 1995: Ord. 569 § 1, 1983: Ord. 418 § 2, 1977.]

4.08.025 Compensation – Mayor pro tem serving as presiding officer.

In the absence of the mayor the mayor pro tem shall act as presiding officer at meetings of the city council. When so acting, the mayor pro tem shall receive as compensation the same compensation the mayor receives for the meeting at which the mayor pro tem presides. [Ord. 1152 § 4, 1995: Ord. 720 § 1, 1987.]

4.08.030 Compensation – Councilmember serving as a delegate or representative. (Effective beginning January 1, 1998)

If a member of the city council attends a meeting as a city representative to an organization in which either (1) the city is a dues-paying member, or (2) any other meeting authorized by motion of the council during the time that a regular or special meeting of the city council is held, the member shall be compensated at the rate he or she would have received for attendance at the meeting of the city council. [Ord. 1152 § 6, 1995: Ord. 718 § 1, 1987: Ord. 418 § 3, 1977.]

4.08.040 Travel expenses – Reimbursement.

Each member of the council shall be reimbursed for the use of a private vehicle at the same monetary rate per mile the Internal Revenue Service allows for the first 15,000 miles of business travel and shall further be reimbursed for actual and necessary expenses

[Legislature Home](#)[About Us](#)[E-Mail Lists](#)[Search](#)[Help](#)[RCW TITLES >> TITLE 35A >> CHAPTER 35A.13 >> SECTION 35A.13.040](#)[Print Version](#)[35A.13.035](#) << [35A.13.040](#) >> [35A.13.050](#)**RCW 35A.13.040****Compensation of councilmen -- Expenses.**

The salaries of the councilmen, including the mayor, shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not become effective until the expiration of the term then being served by the incumbent: PROVIDED, That compensation of councilmen may not be increased or diminished after their election nor may the compensation of the mayor be increased or diminished after the mayor has been chosen by the council.

Until councilmen of a newly-organized council-manager code city may lawfully be paid as provided by salary ordinance, such councilmen shall be entitled to compensation in the same manner and in the same amount as councilmen of such city prior to the adoption of this council-manager plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, the first councilmen shall be entitled to compensation as follows: In cities having less than five thousand inhabitants -- twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants -- a salary of one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants -- a salary of four hundred dollars per calendar month. A councilman who is occupying the position of mayor, in addition to his salary as a councilman, shall be entitled, while serving as mayor, to an additional amount per calendar month, or portion thereof, equal to twenty-five percent of the councilmanic salary: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the compensation provided herein shall not be construed as fixing the usual compensation of such officers. Councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance.

[1979 ex.s. c 18 § 25; 1967 ex.s. c 119 § [35A.13.040](#).]

NOTES:

Severability -- 1979 ex.s. c 18: See note following RCW [35A.01.070](#).

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Amendment of Council Rule 36,
Videotaping of Council Meetings

ATTACHMENTS: 1. Draft Resolution No. 03-013
2. Attorney General Opinion
Dated November 30, 1998
3. Correspondence

FOR AGENDA OF: January 30, 2003

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: 1/13/03

CLEARANCES:

[X] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

RECOMMENDATION

It is recommended that the Council discuss Draft Resolution No. 03-013 at the regular session of January 16, 2002, and pass Draft Resolution No. 03-013 in its current or amended form to a second reading for enactment on a future calendar.

MOTION: "To pass Draft Resolution No. 03-013 to a second reading for enactment on a future calendar."

BACKGROUND

The Mayor has requested that the Council *Rules of Procedure* be amended to restrict persons, other than the City's official videographer, from videotaping or photographing Council meetings to an area defined as behind a line projected parallel to the Council dais at the rear of the public comment table and not to block the view of the City Council dais. The attached resolution reflects the requested amendment to the rules.

Council rules may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the Council. Proposed amendments or new Council rules require two meetings. As provided in DMMC 4.12.030, amendments or new rules must be submitted in resolution form at a regular meeting, during which such item is to be placed on the agenda as a new business item.

A final vote of the Council to adopt any resolution containing new rules or amendments to the rules shall occur at a subsequent regular meeting of the City Council. *Id.*

DISCUSSION

A 1998 Attorney General Opinion (copy attached) states that, for meetings subject to the Open Public Meetings Act, the “legislative body may impose restrictions on the use of [video or audio] recording devices, but only to the extent necessary to preserve the orderly conduct of the meeting.” To regulate video recording, the Council must make a finding that this amendment is necessary to preserve order.

CITY ATTORNEY'S FIRST DRAFT 01/13/02

DRAFT RESOLUTION NO. 03-013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, amending Rule No. 36 of the City Council Rules of Procedure.

WHEREAS, the DMMC 4.12.030 expressly provides that "new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the council", and

WHEREAS, DMMC 4.12.030 further provides that "(A)ny such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the council agenda under the order of new business", and

WHEREAS, DMMC 4.12.030 also provides that "A vote of the council to adopt such a resolution shall occur at a subsequent regular meeting", and

WHEREAS, the City Council finds that this amendment is necessary to preserve order because _____

and

WHEREAS, the City Council finds it in the public interest to amend the current Council Rules to amend Rule 36; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Sec. 1. The Des Moines City Council amends Rule 36 of its Rules of Procedure to read as follows:

Rule 36. All regular meetings of the City Council held in the Des Moines City Service Center at 21630 11th Avenue South are recorded on video tape and such tapes are cablecast within the City. Video taping or photographing of City Council meetings by any person other than the Official City videographer must be made from an area defined as behind a line projected parallel to the council dais at the rear of the public comment

Resolution No. ____
Page 2 of ____

table and shall not block the view of the City
Council dais by the official City video camera,
except with consent of the presiding officer.
(Res. 772, 1994).

ADOPTED BY the City Council of the City of Des Moines,
Washington this ____ day of _____, 2003 and signed in
authentication thereof this ____ day of _____, 2003.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

DRAFTRES:03-013



CHRISTINE D. GREGOIRE

ATTORNEY GENERAL OF WASHINGTON

[Index](#)

[Search](#)

[AGO Homepage](#)

**PUBLIC MEETINGS - OPEN PUBLIC MEETINGS ACT - COUNTIES -
RECORDING OFFICIAL PROCEEDINGS - Authority of county to restrict
video and/or sound recording of county meetings.**

1. A county does not have authority to ban video or sound recording of a meeting required to be open to the public by the Open Public Meetings Act (RCW 42.30); the county could regulate recording only to the extent necessary to preserve order at the meeting and facilitate public attendance.
2. A county has authority to ban video or sound recording of any lawful executive session of a public meeting.
3. If a meeting is not an "open public meeting" as defined in RCW 42.30, but is required to be an open meeting by some other statute, the extent of the county's authority to restrict recording of such a meeting would depend on the language and the intent of the controlling statute.
4. If a county officer conducts a "private meeting" as may be defined in law, the county has authority to restrict or prohibit the recording of such meetings.

November 30, 1998

The Honorable Randall K. Gaylord
San Juan County Prosecuting Attorney **Cite As:**
350 Court Street
P.O. Box 760
Friday Harbor, WA 98250

AGO 1998 No. 15

Dear Mr. Gaylord:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

May a county legislative body prohibit an individual from using a video or audio recording device to record a meeting or hearing conducted by county officials? If such recording cannot be prohibited, may the legislative body impose restrictions on the use of such recording devices?

BRIEF ANSWER

A county is subject to the Open Public Meetings Act which generally requires that meetings of the governing body be open to the public and that no conditions precedent to attendance by the public, except for orderly conduct, may be imposed. Therefore, a county legislative body may not ban the use of recording devices from the open portion of a meeting held pursuant to the Open Public Meetings Act. The county legislative body may impose restrictions on the use of recording devices, but

only to the extent necessary to preserve the orderly conduct of the meeting. Executive sessions held pursuant to the Open Public Meetings Act are not open to the public, and the county legislative body may ban the use of recording devices at executive sessions. The county legislative body may ban the use of recording devices at public meetings that are not subject to the Open Public Meetings Act or to some other state statute that limits county authority. A county legislative authority may ban the use of recording devices to record conversations at private meetings not open to the public.

ANALYSIS

1. Introduction

You have asked about the power of a county legislative body to prohibit or regulate private video or audio taping of meetings and hearings conducted by county officials. We begin with the principle that a county's legislative authority is limited by laws enacted by the Legislature. In AGO 1991 No. 17, we summarized this principle as follows:

The general rule is that municipal corporations are limited to those powers expressly granted to them by the Legislature and to powers necessarily or fairly implied in or incident to the powers expressly granted. *Chemical Bank v. WPPSS*, 99 Wn.2d 772, 792, 666 P.2d 329 (1983); *City of Spokane v. J-R Distributors, Inc.*, 90 Wn.2d 722, 585 P.2d 784 (1978). At least as to matters of local concern, however, this general rule does to [sic] apply to cities and counties that have adopted charters pursuant to article 11, sections 4 and 10, of the Washington Constitution, respectively, or to cities operating under the Optional Municipal Code, Title 35A RCW. These cities and counties have legislative power akin to that of the state, except that their actions cannot contravene any constitutional provision or legislative enactment. Thus, such a city or county has broad legislative power except when restricted by enactments of the state. *King Cy. Coun, [sic] v. Public Disclosure Comm'n*, 93 Wn.2d 559, 562-63, 611 P.2d 1227 (1980); *Winkenwerder v. Yakima*, 52 Wn.2d 617, 622, 328 P.2d 873 (1958); *La Mon v. Westport*, 22 Wn. App. 215, 217- 18, 588 P.2d 1205 (1978); *Chemical Bank v. WPPSS*, 99 Wn.2d 772, 792-93, 666 P.2d 329 (1983).

AGO 1991 No. 17 at 2. Thus, state law constitutes a limit on county legislative authority. Your question does not specify a particular type of meeting or hearing so our response is necessarily general and discusses broad categories. The first category is meetings held pursuant to the Open Public Meetings Act, RCW 42.30.

2. Open Public Meetings

The purpose of the Open Public Meetings Act is to allow the public to view the decisionmaking process of government. *Cathcart v. Andersen*, 85 Wn.2d 102, 107, 530 P.2d 313 (1975). RCW 42.30.030 provides:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

(Emphasis added.) This basic command that all meetings of the governing body of a public agency be open to the public applies to a county, because a county falls within the definition of public agency. RCW 42.30.020(1) defines “public agency” to mean:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies[.]

(Emphasis added.) The requirement for open meetings is reinforced by the Legislature's declaration of policy in RCW 42.30.010 which provides:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Emphasis added.) In addition, RCW 43.30.910 provides that: “The purposes of this chapter are hereby declared remedial and shall be liberally construed.”

Although, RCW 42.30.030 requires that meetings of the governing body of a county be open to the public, the Open Public Meetings Act does not specifically address the issue of recording by video or audio tape. However, other sections of the law lead us to the conclusion that such recording may not be prohibited. RCW 42.30.040 prohibits the imposition of conditions precedent to attending an open public meeting. RCW 42.30.040 provides:

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance.

(Emphasis added.) While RCW 42.30.040 does not specifically address taping, it prohibits a governing body from requiring, as a condition of attendance at the meeting, that a member of the public refrain from taping the meeting. In fact the only condition that can be imposed on a person attending an open public meeting is

orderly conduct. RCW 42.30.050 provides:

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

(Emphasis added.) These provisions of the Open Public Meetings Act persuade us that a county legislative body may not ban recording devices from open meetings conducted pursuant to that law.

Our conclusion that recording may not be prohibited is consistent with RCW 9.73.030(1), which prohibits an individual, partnership, corporation, association, or the state and its political subdivisions from recording:

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(Emphasis added.) RCW 9.73.030(1)(b) does not apply because conversations at an open meeting conducted pursuant to the Open Public Meetings Act are not private. In fact, the law requires the conversations to be public. Thus, if a member of the public used a small hand-held tape recorder to secretly tape an open meeting conducted pursuant to the Open Public Meetings Act, the individual would not be violating RCW 9.73.030(1).

We have found no Washington decisions on point. However, courts from other jurisdictions have considered this question. In *Belcher v. Mansi*, 569 F. Supp. 379 (D. R.I. 1983), the court considered a policy adopted by the city school committee in Rhode Island. The policy prohibited the use of electric or mechanical devices to tape record a school committee meeting without the approval of the school committee. *Belcher*, 569 F. Supp at 380. Like Washington's Open Public Meet Act, Rhode Island's Open Meeting Law "mandate[d] that the public be allowed to attend each and all of the Committee's meetings, except for those sessions dealing with a limited number of specified topics". *Id.* at 381 (*referring to* R.I. Gen. Laws § 42-46-5). Rhode Island's law also had a declaration of policy similar to RCW 42.30.010, which states:

"It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy."

Belcher, 569 F. Supp. at 382 (quoting R.I. Gen. Laws § 42-46-1). Based on the Rhode Island Open Meeting Law, the court concluded that the school committee could not ban tape recording devices. The court said:

In the court's judgment, a determination that the Act requires the Committee to allow members of the press and public to tape record its meetings follows inexorably from the policy set forth at R.I. Gen. Laws § 42-46-1, previously quoted.

Belcher, 569 F. Supp. at 382; *see also Nevens v. City of Chino*, 233 Cal. App. 2d 775, 44 Cal. Rptr. 50 (1965); *Mitchell v. Board of Educ. of the Garden City Union Free Sch. Dist.*, 113 A.D.2d 924, 493 N.Y.S.2d 826 *regional reporter? (1985); *Sudol v. Borough of North Arlington*, 348 A.2d 216 (N.J. Super. 1975).

In addition to these decisions we have found Attorney General's Opinions from other states that reach the same conclusion. *See* Op. Att'y Gen. 96-OMD-143 (Ky. 1996) [1]; 13 Op. Att'y Gen. 196 (Okla. 1981) [2]; Op. Att'y Gen. 24 (S.C. 1988) [3]; 66 Op. Att'y Gen. 318 (Wis. 1977) [4]; Op. Att'y Gen. 87 (Fla. 1991) [5].

The memorandum accompanying your letter suggests several rationales for banning recording devices from open meetings conducted under the Open Public Meetings Act. We have considered these justifications and do not find them persuasive. First, it might be argued that a ban on recording devices does not prohibit a person from attending the meeting but only from recording the meeting. We are not persuaded by this argument. If a person attending a meeting began to use a small hand held tape recorder in defiance of the ban, the governing body would have to enforce its prohibition. This could be done by confiscating the recorder or, if the person refused to surrender the device, by ejecting the person from the meeting. In effect, a ban on recording devices is a condition on attendance at the meeting: A person may only attend if he or she agrees not to record the meeting. Assuming the use of the recording device is not disruptive, the law prohibits the imposition of this requirement as a condition of attendance at the open meeting.

A second suggested rationale for banning recording devices is to avoid questions regarding the official records. RCW 42.32.030 requires that minutes of regular and special meetings be kept and open for public inspection. This rationale does not overcome RCW 42.30.040 and .050 which prohibit conditions precedent to attending an open meeting, except for orderly conduct. In addition, we see no problem arising between the official and unofficial records of meetings and agree with the court in *Belcher v. Mansi* which rejected a similar argument stating:

[K]eeping of an official record of the meeting by the Committee does not mean that unofficial records cannot and should not be kept. There is no evidence that informal records could or would be confused with official ones, and common sense argues strongly to the contrary. Moreover, the official records here in question—the Committee minutes—are summary in nature and do not, in any way, constitute a complete report of the proceedings. Thus, unofficial records may well be invaluable if the public is to taste the full flavor of the proceedings.

Belcher, 569 F. Supp. at 383 (footnote omitted).

A third suggested basis is that the presence of recording devices will inhibit free discussion between the members of the governing body or persons appearing before the governing body. Again, this does not overcome the general prohibition on conditions precedent to attendance. Moreover, we are not persuaded by this argument. As the court in *Belcher v. Mansi* stated:

While preserving public participation in certain facets of the Committee's meetings is an important consideration, defendants' assertion has no factual support on the record and is belied by common sense. If an individual is willing to stand up and talk in the sometimes volatile setting of a thronged public meeting, at which members of the press are customarily present, that person has little to fear (and much to gain) from the presence of a tape recorder. In any event, the argument, even if it has some marginal value, will not be allowed to defeat the salutary ends which are served by allowing Committee meetings to be taped, at least without convincing evidence to support the proposition.

Belcher, 569 F. Supp. at 383.

Having concluded that a county legislative authority may not ban recording devices from the open portion of a meeting held pursuant to the Open Public Meetings Act, we turn to the second part of your question: Whether a county legislative body may impose restrictions on the use of recording devices, short of prohibiting them entirely. The answer to this question is yes, but the power to impose restrictions is very limited in scope. As we previously noted, RCW 42.30.050 states:

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting . . .

Orderly conduct is the only condition that may be imposed on one attending an open public meeting. Applying this principle to your question we conclude that the use of recording devices may be restricted only to the extent that it is necessary to ensure that the open public meeting is not disrupted.

This conclusion is consistent with the court decisions and Attorney General's Opinions that have addressed this issue. See *Belcher*, 569 F. Supp. at 384 [6]; 13 Op. Att'y Gen. 196 (Okla. 1981) [7]; Op. Att'y Gen. 96-OMD-143 (Ky. 1996) [8].

We do not, in this opinion, undertake to set out a list of permissible restrictions. This would be a function of a number of factors including the size of the meeting room and the kind of recording device being used. One might reasonably require that a large video camera be placed in a particular part of the room so it does not interfere with public access to the meeting. Other kinds of restrictions such as requiring a person to tape the entire meeting and provide a copy of the tape to the governing body would not be permissible. This is because these restrictions are not related to preserving the orderly conduct of the meeting.

To summarize, a county legislative body may not prohibit the use of recording devices in the open portion of a meeting held pursuant to the Open Public Meetings Act, but may impose restrictions to the extent necessary to ensure the orderly

conduct of the meeting.

3. Executive Sessions

The type of meeting next considered is an executive session held pursuant to Open Public Meetings Act. Although RCW 42.30.030 requires meetings to be open to the public, RCW 42.30.110(1) provides that “[n]othing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting”. (Emphasis added.) A governing body may only hold executive sessions on certain topics such as the acquisition of real estate. RCW 42.30.110(1)(b). The question is whether a county legislative body can prohibit the tape recording of executive sessions. In our judgment, the answer to this question is yes.

We reach this conclusion because the public is excluded from an executive session when the presiding officers follow the statutory procedure set out in RCW 42.30.110 (2) which provides:

Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

(Emphasis added.) Since the public is excluded from executive sessions, there is no right to tape record those sessions. The discussions at executive sessions are intended to be private. The conclusion is reinforced by RCW 42.32.030, which governs minutes taken at meetings. RCW 42.32.030 provides: “The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.” (Emphasis added.) Thus, minutes of regular and special meetings must be taken and available for public inspections. This is not true of executive sessions.

Our conclusion is consistent with cases and Attorneys General Opinions that discuss this subject. In *Dean v. Guste*, 414 So. 2d 862 (La. 1982), the question was whether a member of the school board could tape record an executive session of the board. The board had adopted a policy that prohibited tape recording executive sessions. The court upheld the ban. It noted that the law permits taping by persons attending public meetings and then concluded:

There is no similar provision relating to the recordation of executive sessions. We interpret the legislature's silence on this matter to mean that each public body should have the prerogative to allow or prohibit the use of tape recorders at closed meetings.

Dean, 414 So. 2d at 866; see also *Zamora v. Edgewood Independent Sch. Dist.*, 592 S.W.2d 649, 650 (Tex. 1979) [9]; 66 Op. Att’y Gen. 318 (Wis. 1977) [10].

4. Other Public Meetings

We turn next to meetings that fall outside the Open Public Meetings Act. Although it is broad in scope, not all meetings are governed by the act. By its terms, RCW 42.30.030 only applies to the meetings of governing bodies of public agencies. *See* RCW 42.30.020(1), (2). There are also some kinds of meetings that are excluded from the act. RCW 42.30.140 provides that the Open Public Meetings Act does not apply to:

- (1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or
- (2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or
- (3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or
- (4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

The meetings described in RCW 42.30.140 are not governed by the Open Public Meetings Act. They may, nevertheless, be open to the public based on the requirement of some other state statute [11] or county ordinance or on a voluntary basis by the entity conducting the meeting. Meetings that fall outside the Open Public Meetings Act are not subject to the act's strong policy of open meetings set out in RCW 42.30.010. Moreover, the ban on conditions precedent to attendance, except for orderly conduct, does not apply to such meetings. RCW 42.30.040-.050. In this circumstance, we believe that the county legislative body has the authority to ban the use of recording devices. [12]

5. Private Meetings

Finally we turn to meetings that are private. [13] Here, the analysis is similar to executive sessions of meetings held pursuant to the Open Public Meetings Act. There is no right to record a private meeting. Indeed, RCW 9.73.030(1)(b) prohibits the taping of private conversations unless all participants agree. *See* AGO 1994 No. 18. This puts the decision about recording into the hands of the participants at the meeting or the county legislative body which could adopt a policy on this issue. For example, in *Op. Att'y Gen. 92-241* (Ark. 1992), the Arkansas Attorney General concluded that departmental faculties are not governing bodies subject to the state's Freedom of Information Act and that no other law required department faculty meetings to be public. The Attorney General looked to other applicable regulations

of the University stating:

The second part of your inquiry focuses on whether a faculty member may be prohibited from taping such departmental faculty meetings. Assuming, as an initial matter, that the FOIA is inapplicable to such meetings based on the foregoing discussion, the issue becomes whether another state statute guarantees the right to record such a meeting. I am unaware of any such statute. Applicable regulations of the University may address the issue, however, and should therefore be consulted as well. The University Handbook, for example, indicates that each college and school faculty shall make its own rules of procedure, provided that they not be in conflict with the rules and regulations of the Campus Faculty (Handbook, at 30). While there appears to be no similar provision in the Handbook with regard to departmental faculties, such a regulation may support the proposition that a particular departmental faculty can decide for itself whether to permit recording of its own meetings.

Op. Att'y Gen. No. 92-241 (Ark. 1992). Thus, we conclude that the county legislative body may ban the use of recording devices in private meetings of county officials.

We trust the foregoing opinion will be of assistance to you.

Very truly yours,

CHRISTINE O. GREGOIRE

Attorney General

WILLIAM B. COLLINS

Sr. Assistant Attorney General

Footnotes

[1] "It is, therefore, the decision of the Attorney General that a regulation, rule, or policy of a public body which uniformly prohibits the tape recording of a public meeting is arbitrary, capricious, restrictive, and unreasonable and a person should be permitted to tape record a public meeting so long as that person and his or her taping equipment do not interfere with the orderly conduct of the public meeting."

[2] "It follows that barring members of the press from using their professional tools, tape recorders and cameras, in public meetings would frustrate the underlying purposes and objectives of the Open Meeting Act."

[3] "[I]t is the opinion of this Office that, under the Freedom of Information Act, recording a public meeting of a public body by means of a home video camera would be permitted, assuming that such recording is done in a manner non-disruptive to the public meeting."

[4] "I would read Wisconsin's 'open meetings' law, absent any support from decisions such as *Nevens* and *Sudol*, to allow for recording open meetings."

[5] "A municipality may not prohibit a citizen from video taping the meetings of the city council through the use of nondisruptive video recording devices."

[6] "There may well be reasonable restrictions which could lawfully be imposed, e.g., those designed (i) to preserve the orderly conduct of a meeting by controlling noise levels, spatial requirements and the like . . .".

[7] "While members of the press cannot lawfully be prevented from using tape-recorders and cameras while covering the meetings of trustees of public trusts, nevertheless . . . all public bodies have the inherent power to maintain decorum and order in their meetings."

[8] "[A] person should be permitted to tape record a public meeting so long as that person and his or her taping equipment do not interfere with the orderly conduct of the public meeting."

[9] "The need for some subjects to be discussed in closed sessions is apparent and the Legislature recognized the importance thereof. To permit such private proceedings to be recorded against the desires of the majority of the Board would, we think, weaken or at times destroy the privacy required by an executive session."

[10] "While it is my opinion that a Dentistry Examining Board member has a right to tape-record an open meeting of the Board in a nondisruptive fashion, I do not believe he has such right as to a meeting of the Board convened 'in closed session' under sec. 19.85(1), Stats. The Legislature, in conferring on governmental bodies the power to hold closed meetings for certain carefully defined purposes, clearly intended that no one should have the right to report a closed meeting under circumstances that might mean that its private and secret nature could be violated."

[11] For example, at the state level RCW 34.05.449(5) requires adjudicative hearings to be open to public observation even though RCW 42.30.140(2) provides that meetings of quasi-judicial bodies related to quasi-judicial matters are excluded from the Open Public Meetings Act.

[12] We caution that the county's authority to ban recording devices must be exercised carefully. If the meeting is open to the public based on a state statute other than the Open Public Meetings Act, the county legislative body's authority would be limited by that state statute. As with the Open Public Meetings Act, the county legislative body could not prohibit recording devices if the state statute provided otherwise. Moreover, the county's authority to ban recording devices may be subject to constitutional limitation. *See, e.g., Blackstone v. Alabama*, 30 F.3d 117 (11th Cir. 1994); *Thompson v. City of Clio*, 765 F. Supp. 1066, 1070 (M.D. Ala. 1991); *CBS, Inc., v. Lieberman*, 439 F. Supp. 862, 865-66 (N.D. Ill. 1976).

[13] We do not, in this opinion, undertake to explain when a particular meeting is a private meeting.

Denis Staab

From: Brett Fish [bzdiving@yahoo.com]
Sent: Monday, January 13, 2003 1:59 PM
To: dwasson@cityofdesmoines.com
Cc: citycouncil@cityofdesmoines.com; Linda Marousek Des Moines City Attorney; 'Tony Piasecki City Manager Des Moines'
Subject: Video taping and the Press

*City of Des Moines
Mayor Don Wasson
Des Moines City Council Members
January 12, 2003*

Subject: Video Taping and the press:

Dear Mayor Wasson and City Council Members,

I've heard that there may be a rule change proposed regarding the location of where video taping and the press may be postioned within the chambers. This seems a bit drastic as I am part of the press but essentially a guest of the City and happy to film from a location you designate that is out of the way. The spot at the east wall provides a good overall view of everyone and does not block the public access or Councilmembers and staff. I can also assist the city videographer Dick Thomas with his second videocamera, not essential, but it certainly gives a more professional look to your proceedings. I'm always happy to assist him.

You need only ask if my current spot is uncomfortable in some way for you. It was chosen and is preferred simply because it is out of the way and secondarily it is the best overall view for a one camera operation.

Creating a law to govern this subject when a simple request would be sufficient seems a bit heavy handed. You may not want to set it in stone when you have special presentations or other important guests. Simple is better, again, even as press, I am the City's guest.

I would ask, regardless of whether you put the force of law behind this or not, that space be provided elsewhere that does not block the city videographer, the public or staff from safe passage. The back of the room usually has a large table in the way with chairs jammed up against it leaving no room to set up. The ramp area near the agenda and sign up podium is OK but can block staff and the public to some degree when there is a large audience. It is however, a workable positon and hopefully suitable for your concerns.

Thank you for your considerations in this matter,

Brett Fish

"Man did not weave the web of life, he is merely a strand in it. Whatever he does

01/14/2003

to the web he does to himself. ["Great Wall of SeaTac"](#) [Miller Creek History](#)

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PRELIMINARY
SPECIAL MEETING DES MOINES CITY COUNCIL

MINUTES

January 13, 2003

The special meeting of the Des Moines City Council was called to order at 7:34 p.m. by Mayor Wasson in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod, and Scott Thomasson. Absent: Councilmember Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek and Deputy City Clerk Angela Chaufy.

Councilmember Thomasson explained that it was not necessary to formally excuse Councilmember White from a special meeting (Council Rule 7).

AGENDA REVISION

Upon the Mayor's request, City Attorney Marousek announced that the first three items listed on the agenda would not be discussed during the meeting. As the items had been removed by the Mayor at the previous meeting, she explained that Council would review the items at the January 16, 2003 regular meeting and decide at which subsequent meeting the removed items would be discussed. This action would comply with the requirements of Council Rule 9.

Councilmember Steenrod expressed her desire for Council to review and revise the Council Rules of Procedures to improve efficiency.

City Manager Piasecki noted that a Draft Ordinance was scheduled for Council's review at the next meeting which would allow Council, by majority vote or two-thirds vote, to waive any of its rules.

In response to Councilmember Steenrod's questioning, Councilmember Thomasson clarified that if there had been a motion to continue the items to a later meeting rather than the Mayor removing them from the agenda, Council would have had an opportunity to discuss them now. He explained that the intent of Rule 9 was to prevent a Mayor from removing an item from the agenda and burying it.

Councilmember Steenrod said that she would like to insure Councilmember comments, as well as citizen comments, were allowed during the meetings.

Airport Defense Fund

Councilmember Steenrod introduced the subject. She said that she was not in favor of the Third Runway nor was she in favor of continuing to tax people. Councilmember Steenrod suggested that a process for citizens to donate private contributions to specific causes be developed. She said that she had given the City Manager a check for \$500 for the legal fees of the Airport Defense Fund last week. Councilmember Steenrod stated her belief that it was not the time to discontinue funding legal fees for the Third Runway fight. She said that a donation process

would allow people who wished to fund the fight an opportunity to do so. Councilmember Steenrod felt it was important to thank and acknowledge the individuals who donated to specific City causes. She suggested that their names be listed in the monthly report or posted on the City website. Councilmember Steenrod said that citizen donations were one way to fund the Third Runway fight while the City was experiencing a budget crisis.

Mayor Pro Tem Benjamin said that some donors to the Mount Rainier Pool Fund had expressed a desire to remain anonymous. Those that have not expressed this wish would be recognized on a plaque at Mount Rainier Pool. He recommended that more fundraising efforts be conducted. He suggested that Channel 21, Des Moines News, and the City Currents be utilized to publicize needs. Mayor Pro Tem Benjamin said that 66% of the people do not support continued spending for the Third Runway fight. He said that if the other 33% of the citizens each paid \$15 per person, the Airport Defense Fund would be funded at the \$150,000 level. Mayor Pro Tem Benjamin said that Council needed to represent all people and that those who think the fight is worth funding can do so through donations..

City Manager Piasecki informed Council that all donors to the Mount Rainier Pool Fund have received letters of appreciation. The names of those donors wishing to be acknowledged on the plaque had been given to Julie Mitchell. City Manager Piasecki noted that a process for citizens to donate money or land for any activity of the City already exists. Citizens were already able to make donations to the Airport Defense Fund. Property donations required Council's acceptance while monetary gifts were receipted into the appropriate fund.

Councilmember Steenrod said that she had concerns about the accountability of the Airport Communities Coalition but that she did not have a problem with funding the legal defense costs.

City Manager Piasecki said that all donors should specify their wishes upon presenting the donation to the City.

MOTION was made by Councilmember Benjamin and seconded by Councilmember Steenrod to direct administration to arrange a procedure to allow citizens of Des Moines and surrounding cities to voluntarily contribute funds to the Airport Defense Fund. Only those funds contributed by citizens may be paid to the lawyers to help defray the costs of fighting the Third Runway. There will be no funds from any mandatory tax, fee or license paid or transferred to this fund or to the ACC. Further, a report of the amount contributed during periods between Council meetings as well as the total to date shall be reported or become a part of the Administration Report at each City Council meeting. The reporting requirements shall apply to any fund that is in existence or may be set up in the future for any other purpose.

Councilmember Sheckler questioned the need for the motion as a donation process was already in place. He felt that Council should not restrict the use of the funds to legal fees as people should have the right to put their money where they desired.

City Manager Piasecki said that Administration could accept the reporting requirements as direction from Council.

In regard to reporting, Councilmember Steenrod said that she was more concerned that people are recognized for their contributions. She said that from time to time, Council should receive a report on the amount contributed. This could encourage others to contribute.

City Manager Piasecki said that the list could be printed in the City Currents.

In regard to the last clause of the motion (reporting requirements shall apply to any fund), City Attorney Marousek said that she would like an opportunity to research whether the language might be in violation of the single subject rule.

Councilmember Sheckler suggested that Council just direct staff to report on donations.

Councilmember Thomasson questioned at what point should the City stop doing general government actions and leave everything up to voluntary contributions. He asked what the role of government was in deciding which programs or projects should or should not move forward. Councilmember Thomasson cited the funding of baseball fields by people who do not like baseball and the funding of federally mandated programs as examples. He questioned whether the City should stop doing something just because some people did not like it.

City Manager Piasecki confirmed that contributions to the City were tax deductible.

Councilmember Steenrod stated her belief that government should interfere as little as possible in citizens' daily lives. She said that government should provide a framework but not provide everything.

City Manager Piasecki reiterated that the donation mechanism already exists for all cities. He said that the donation process could be better publicized. Specific reporting requirements could be directed by motion. City Manager Piasecki said that if donations of significant size were received, Council might need to amend the budget.

In response to Councilmember Steenrod's questioning, City Manager Piasecki said that he did not believe that the donation process was listed in the Des Moines Municipal Code (DMMC).

In regard to the motion, Councilmember Thomasson said the following:

Clause 1: The process already exists.

Clause 2: Council should not restrict the contribution but allow whoever makes the donation to state their own restrictions. He suggested that a donation form be developed which asked the donor to specify the allocation of the contribution and to indicate whether the donor wished to remain anonymous.

Clause 3: He felt that requiring a report during every Administration Report seemed too demanding on staff.

Councilmember Thomasson questioned whether the motion was necessary.

Mayor Wasson asked the maker and seconder of the motion to consider directing Administration to prepare a resolution based upon Council's discussion and direction for Council's review.

Councilmember Thomasson suggested that a section dealing with donations be included in the DMMC.

Based upon Council's discussion, City Manager Piasecki said that the code could include the following:

- Citizens, companies, etc. could donate money, property, goods, or services to the City;
- The Finance Department has a donation procedure in place to receive such contributions;
- A quarterly or monthly reporting mechanism would be established so that Council was made aware of donations received.
- Donations could be made specific to one purpose or general in nature.
- Donors would indicate which fund or case they are donating to.

Councilmember Thomasson suggested that a clause stating that the City could refuse a donation also be included.

A **substitute motion** was made by Councilmember Thomasson and seconded by Councilmember Sheckler to direct Administration to prepare an Ordinance section dealing with the acceptance of donations and contributions.

Councilmember Steenrod asked that the ordinance be presented to Council by March 1, 2003.

Councilmember Thomasson and Councilmember Sheckler **accepted** the March 1, 2003 deadline **as part of the substitute motion**.

Mayor Pro Tem Benjamin said he would support the substitute motion. In regard to voluntary payments versus taxes, he said that people could voluntarily choose to support something while taxes affected those who could least afford to pay them. He felt that to not differentiate was a severe injustice to those in greatest need. Mayor Pro Tem Benjamin said that the State and Federal government have mandated taxes and unmandated taxes. He felt that Council needed to be conscientious of those hit hardest by the economic times.

VOTE ON SUBSTITUTE MOTION: Motion passed unanimously.

Councilmember Sheckler stated that the Airport Defense Fund began as a mandate by the citizens ten years ago and was funded by a utility tax. He said that an unscientific survey performed by a citizen indicated that 66% of the people no longer support the fight against the Third Runway or wished to fund it. Councilmember Sheckler asked that Council direct Administration to conduct a scientific poll to determine whether the citizens wished to continue the fight. He felt it was wrong and unfair to the citizens and Council to make decisions based upon an unscientific study.

MOTION was made by Councilmember Sheckler and seconded by Councilmember Thomasson to direct staff to take a scientific survey of the citizens and voters of Des Moines to determine the true answer to this question.

Councilmember Steenrod said that she did not trust surveys. She said her decisions were based upon citizens' comments and e-mails. Councilmember Steenrod said that she had previously asked that the issue be put to a vote but had been told it was too expensive. She said she was representing those citizens who said that they did not want the Third Runway but could no longer afford to pay their taxes opposing it. Councilmember Steenrod said that she did not feel Council

needed to put the question to a vote but that it was Council's job to make the decision and do what they believed to be best.

Councilmember Sheckler agreed but felt that the issue had gotten out of hand. He said that if Council was going to make decisions based upon what they perceived the citizens to be telling them, then they should be sure they understand exactly what the citizens are saying.

Councilmember Steenrod suggested that the issue be put on a ballot.

Councilmember Sheckler said that he was comfortable with a ballot process.

Mayor Wasson said that when the utility tax to pay for the fight against the Third Runway was first proposed, the citizens had started an initiative to overturn the tax. Council then rescinded the existing dedicated utility taxes and instituted a joint 5% utility tax to fund Parks and Police services and Airport Defense. He felt it was an underhanded action by Council to defeat the initiative process.

MOTION was made by Mayor Wasson and seconded by Mayor Pro Tem Benjamin to **amend the motion** by placing the issue on a ballot for the people to vote.

Mayor Wasson clarified that the intention of the **amending motion** was to place the issue on the April Special Election.

Councilmember Sheckler said that he would **withdraw his original motion** as long as he had an understanding that Council would not take any further action until the results of the Special Election were known. He felt it was important to not cut funding until the results were known.

Mayor Wasson agreed.

Mayor Pro Tem Benjamin, the **seconder of the amending motion agreed** with the placement of the issue on the April Special Election.

Mayor Wasson confirmed he would not take any further action regarding the issue until the results of the Special Election were known.

Councilmember Thomasson **withdrew his second to the original motion.**

As the amending motion now had no basis, no motions were before Council.

MOTION was made by Councilmember Thomasson and seconded by Mayor Wasson that Council proceed with a special election to ask the public for a advisory vote on whether to continue to fund airport defense.

Councilmember Thomasson said that the intent of the motion was to direct staff to bring back an ordinance to accomplish that purpose.

Councilmember Sheckler asked for an understanding that no action would be taken on the utility tax item until results were known.

Councilmember Thomasson said that he did not include that as part of the motion as he did not think Council could make a motion that would restrict them from taking another action. As long as there was an understanding regarding the issue, he felt Council could move forward.

Mayor Wasson agreed to Councilmember Sheckler's request.

Councilmember Steenrod confirmed that Councilmember Sheckler wished to postpone discussion concerning the reduction of the utility tax rate from 6% to 4% until results were known.

Councilmember Thomasson said that until Council knew whether they wanted to fund airport defense, they should not cut its funding mechanism for it.

Councilmember Steenrod confirmed that the motion would not prevent citizens from donating to the Airport Defense Fund.

Mayor Pro Tem Benjamin said that he was in favor of placing the issue on the ballot but that he was not comfortable with the restriction of action. He confirmed that the restriction of action was not part of the motion.

VOTE ON MOTION: Motion passed unanimously.

Reduction of Utility Tax Rate from 6% to 4%

MOTION was made by Councilmember Thomasson, seconded by Mayor Wasson, and passed unanimously to table the issue.

Payment of Legal Fees

MOTION was made by Councilmember Petersen to authorize and direct the City Manager to promptly issue a check in full payment of the legal fees incurred by the attorneys for Councilmembers Wasson, Steenrod and Benjamin in successfully defending the case of *Citizens for Des Moines, Inc. and Allan Furney v. Donald Wasson, Margaret Steenrod, Richard Benjamin and Gary Petersen*.

Councilmember Petersen read the following statement:

The amount of those fees and the basis for payment are set out in letters from Scott Missall to Tony Piasecki dated November 12th and November 25th.

The City Attorney has already advised the Council that it is appropriate for the City to pay the attorneys for the three Councilmembers under the Des Moines City Code. Thus, the only real issue is whether the City should pay all of the requested fees or only a portion of them. I think the City should pay them in full for several reasons.

First, the judge ruled that the Plaintiffs were wrong to name individual Councilmembers as defendants. The judge clearly said that the actions taken could only be taken by the City Council, and that therefore the suit should have been brought against the City in the first instance.

Second, that lawsuit was obviously motivated by pure politics. The Plaintiffs comprise one, or at most, just a few individuals who think they know better than the rest of the citizens of this town. The only reason they filed the lawsuit was to try and overturn the clearly expressed will of the voters who elected three new members to the City Council.

Third, the legal defense by Wasson, Steenrod and Benjamin was therefore made not only on behalf of the City but on behalf of the entire City Council and all the voters in the City that elected and still support this Council.

Fourth, if the City does not pay all of the legal bills incurred by these three Councilmembers, the City will be avoiding a debt that lawfully belongs on its shoulders. These Councilmembers were sued in their official capacity as Councilmembers. But for the fact that they were City Councilmembers, they would not have had this expense at all. They should not be left holding the bag for a public expense, nor for something where they did nothing wrong, and which was tossed out of court by the judge.

Fifth, if the old City Attorney and City Manager had not refused to defend this case, the Councilmembers would not have incurred these legal costs at all. It is unfair to them for the City to deny them coverage, and then turn around later and say they did too much in winning the case. The City is just trying to avoid paying the whole legal bill when the City should have been responsible for this case to begin with.

Councilmember Thomasson questioned how many Councilmembers needed to vote in order to approve payment of fees. He suggested that it might be better to have the motion brought before Council when Councilmember White was present also as it might fail for lack of a quorum.

City Attorney Marousek informed Council that Council Rule 23 and RCW 35A.13 required the affirmative vote of four councilmembers to expend funds. She also noted that a quorum must exist for Council to take any action. City Attorney Marousek read RCW 42.23.030 that states that the interests of a municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract. In order to determine whether Council had a quorum, City Attorney Marousek conducted the following poll of Council to determine who would recuse themselves or participate:

Mayor Wasson – Chose to suspend his response until the vote was called. He said that, notwithstanding the City Attorney's advice, he would **second the motion** for discussion purposes.

Mayor Pro Tem Benjamin – The conflict of interest provision did not apply as he would make no financial gain by voting on the issue. Mayor Pro Tem Benjamin recused himself however due to the Appearance of Fairness provision.

Councilmember Petersen – Eligible to participate. Councilmember Petersen noted that he was not represented by the law firm of Short Cressman and Burgess and the attorney Scott Missall in the lawsuit created by the *Citizens of Des Moines and Allen Furney* regarding an illegal meeting. Councilmember Petersen said that his attorney, Art

Langley, had passed away so he had represented himself at both hearings. Councilmember Petersen said that he never entered into an attorney-client relationship with Scott Missall during that time period. Further, Councilmember Petersen said that he did not have any financial interest in the motion.

Councilmember Thomasson – Eligible to participate.

Councilmember Steenrod - The conflict of interest provision did not apply as she would make no financial gain by voting on the issue. Councilmember Steenrod recused herself however due to the Appearance of Fairness provision.

Councilmember Sheckler – Eligible to participate.

As the memorandum issued by the City Attorney to Council under the attorney-client privilege had been disclosed, Councilmember Thomasson said that the City Attorney had written a legal opinion stating which portion of the fees she believed were eligible for payment by the City, approximately \$28,000. The remainder of the invoicing had come after the court had ruled that the lawsuit should be recaptioned naming the City as the defendant. Based upon the advice of the City Attorney, he would vote against the motion.

In response to Councilmember Sheckler's questioning regarding what would happen if Council did not have a quorum, City Attorney Marousek explained that RCW 35A.13.035 states that in the event of an excused absence or disability of a Councilmember, the remaining members, by majority vote, may appoint a Councilmember Pro Tempore to serve during the absence or disability. Municipal Research Service was of the opinion that "disability" would include legal disability.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to table the issue until Councilmembers Petersen, Sheckler, Thomasson, and White were all in attendance and it would be certain that there was a quorum to act on the motion.

VOTE ON MOTION: Councilmembers Petersen, Sheckler, and Thomasson voted "Yes" while Mayor Wasson was opposed.

Upon questioning from Mayor Wasson, Councilmember Steenrod said that she had previously recused herself.

Mayor Wasson said that the motion to table had nothing to do with the merits of the motion so all could participate. He said that he had no confidence in the City Attorney and that he did not need to consult with her regarding the issue.

Upon questioning from Councilmember Steenrod, City Attorney Marousek said that recused Councilmembers could participate in discussion and vote on a procedural issue as long as it was clear that procedural steps were not being used to address the merits of the case. If the record looked like procedural issues were being used to address or to avoid addressing the issue to help yourself, you should not vote.

Councilmember Thomasson clarified that the intent of his motion was to insure that at least four members who appeared not to have a conflict of interest were able to participate.

Mayor Wasson said that the motion to table was a procedural motion and any Councilmember could vote on it. Mayor Wasson **called for another vote on the motion.**

VOTE ON MOTION: Motion failed, 2 –3, with Mayor Wasson, Mayor Pro Tem Benjamin, and Councilmember Petersen opposed. Councilmember Steenrod refrained from voting.

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to amend the payment amount to reflect the dollar figure included in the City Attorney's memorandum of December 16, 2002.

City Attorney Marousek clarified that the amount recommended was \$28,805.35.

VOTE ON AMENDMENT: YES – Councilmembers Sheckler and Thomasson. NO – Councilmember Petersen. Motion failed for lack of a quorum.

VOTE ON MAIN MOTION: Yes – Councilmember Petersen. NO – Councilmembers Sheckler and Thomasson. Motion failed for lack of a quorum.

City Attorney Marousek announced that no action was taken by the Council regarding this issue due to a lack of a quorum.

NEXT MEETING DATE – Regular Meeting, January 16, 2003

ADJOURNMENT

At 8:58 p.m., **motion** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Petersen and passed unanimously to adjourn.

Respectfully submitted,

Angela M. Chafty
Deputy City Clerk

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

January 16, 2003

The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Wasson in the City Council Chambers, 21630 11th Avenue South

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

ROLL CALL – Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Maggie Steenrod and Scott Thomasson. Absent: Councilmember Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, Assistant City Attorney Richard Brown, Community Development Director Judith Kilgore, Land Use Planner II Celeste Carlson and City Clerk Denis Staab.

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

Mayor's Statement

Mayor Wasson read the following statement into the record:

“The Public Disclosure Commission issued a Notice of Administrative Charges to me earlier this week (on January 14). The Notice identifies four possible violations of campaign laws relating to my participation in the 2001 Des Moines City Council election.

The charges are completely unfounded and many of the alleged facts are false.

I will vigorously defend this case and expect that the PDC will dismiss these charges after a full hearing is held.

The details of these charges are public record. You can be sure that they will soon be discussed in the local press. When you read those accounts, remember that they will not include the whole story and may even be taken out of context. Remember, too, that the mere repetition of something that is false does not make it true.

I ask you to bear that in mind over the next few weeks and keep an open mind about the truth of this situation.

In the meantime, I want to assure you that I will continue to do my best job as your Mayor.

None of my fellow Councilmembers did anything wrong and should not be implicated in this event.”

COMMENTS FROM THE PUBLIC

Al Furney, 24718 Marine View Drive South

Mr. Furney read the definition of the word "bribery" from Blacks Law Dictionary. Mr. Furney presented the City Clerk with a photocopy of a check made out to Don Wasson from Environmental Materials Transport, LLC and signed by Henry Hopkins and asked that copies of the check be made available to Councilmembers.

Ed Pina, 24217 7th Avenue South

Mr. Pina reported that he is befuddled by four of the Councilmembers taking actions that are counter to what they said during campaigning. He advised that he read the Public Disclosure Commission's reports. He felt that on at least two recorded occasions Mayor Wasson lied under oath. The report stated that the new Councilmembers were supported by Wasson donations over almost \$50,000 in different kinds of campaign support. He accused the four Councilmembers of trying to maintain the airport so that Wescot can come in and build. He stated that he is disgusted and if he were one of those Councilmembers, he would resign.

Dan Sherman, 22530 8th Avenue South

Mr. Sherman noted that he was last in the Chambers as a Councilmember in November 2001. He stated that he reported at that time what he believed to be campaign fraud and told the public they had a right to know who paid for a candidate before they voted. He noted that the Public Disclosure Commission has just completed a report documenting secret payments of \$50,000 to Councilmembers Benjamin, Petersen and Steenrod, with Don Wasson as the leader. He felt these payments were secret because if the public knew that the person trying to build a conveyor belt for the construction of the third runway was the person who made these payments, they would never get elected. He further noted that the "paid for Councilmembers" have supported the construction of the 3rd runway so that Mr. Hopkins can make his money back with his conveyor belt, whether he builds it here in Des Moines or somewhere else. Mr. Sherman encouraged citizens to get involved with a group called "Citizens for Des Moines" or the "Des Moines, Yes, Recall Effort" to restore ethical and honest government to Des Moines.

Brett Fish, 801 SW 168th

Mr. Fish advised that he is here regarding the item on tonight's agenda concerning amending Council Rule 36, videotaping of Council meetings. He informed Council that the best place to video tape is in the front corner of the room where he has always filmed. He reported that filming from the back of the room provides terrible audio and requested that before any such rule change be made, that the proper equipment be provided to allow both the video and audio recordings be of quality.

Don Riecks, 21221 5th Avenue South

Mr. Riecks noted that he is tired of citizens from outside the City, telling Council how to run Des Moines. He noted that he is concerned about his taxes. He stated that he is in favor of citizens putting their private funds into any organization of their choosing, but feels that fighting the 3rd runway is a waste of the \$5 million dollars spent so far. He spoke against placing a issue on the ballot questioning whether or not to fund the fight against the 3rd runway because of the high cost, around \$44,000 for a special election. He encouraged Council to stop wasting his taxes and ignore people telling them how to spend the City's funds.

BOARD & COMMITTEE REPORTS

Public Disclosure Commission (PDC) Report

Councilmember Sheckler reported that he spent a good part of the day reading portions of the 250-300 page report put out by the PDC today. He stated that he is appalled and proceeded to read an excerpt of the findings of the report into the record. (ED NOTE: At Councilmember Sheckler's request the excerpt read is attached to these minutes as part of the record.)

Councilmember Sheckler voiced the opinion that he felt something was wrong with the amount of funds being spent during the campaign. He expressed disappointment with the Mayor for going to the Port and trying to get a dialogue going. He stated that it appears to him, that in exchange for Mr. Hopkins support, Mr. Wasson would do anything to become Mayor. He advised that there will be a hearing before the PDC on January 28th and he will reserve final comments until then. He also noted that he is not sure that Councilmembers Petersen, Benjamin or Steenrod knew where the campaign funds were coming from, in particular Ms. Steenrod.

Tax Dollars

Councilmember Thomasson spoke about the accusation of wasting tax dollars on fighting the 3rd runway, stating that had the City not spent the money fighting the Port, the Port would not have started mitigating the problems from the 2nd runway such as sound insulation of homes and finally settling with noise impacted schools. He felt this proves that the tax payers did receive benefits and encouraged everyone to do the research and question whether the Port would have instituted these programs without the pressure from fighting the 3rd runway.

PDC Report

In regards to the excerpt of the PDS report, Mayor Pro Tem Benjamin stated that he does not believe the report indicates that Councilmembers knew anything and this should not lead to false assumptions. He noted that PDC will hear the case and make a ruling. He felt that Councilmember Sheckler's accusations are irresponsible and that he is falsely accusing someone who is innocent until proven guilty. He felt that there probably is another side to this case as there always is. He advised that until a final report is made by PDC, he will not make any more comments.

PDC Report

Councilmember Petersen stated that while he was unaware of this report, he knew that PDC was looking into things. He noted that he did receive a few telephone calls regarding his PDC report. He stated that the report he filed is honest and above board, that he supported his own campaign, and the record stands for itself. He advised that he has a hard time believing what Councilmember Sheckler read. He concluded that he feels very comfortable and that he did nothing wrong.

Councilmember Sheckler stated once again, that the report does not state that Councilmembers Petersen, Benjamin or Steenrod did anything wrong.

PDC Report

Councilmember Steenrod advised that this is the first she has learned about the PDC report. She noted that she is upset over Councilmember Sheckler reading into the record a preliminary report, as it is like being tried without having a chance to respond. She stated it will be very difficult to do any Council business this evening and would like to put aside items until next

week. She concluded by stating that she ran for Council because watching meetings as a citizen she was not satisfied with how City business was being done. She requested that everyone keep an open mind and let the PDC hearings proceed before making any final judgment. She requested that those business items that need to be moved to next week be taken care of and the meeting be adjourned.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Thomasson, to move New Business Items 1, 2, 3, 5 and 6 to a future agenda and to place New Business Items 4, 7, 8 and 9 on the January 30th Agenda, and to adjourn the meeting. Motion failed 3 to 3 with Councilmembers Petersen and Sheckler and Mayor Pro Tem Benjamin voting NO.

RECONSIDERATION OF VOTE: Councilmember Sheckler stated that he wished to change his vote.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to place New Business Items 4, 7, 8 and 9 on the January 30th Agenda. Motion passed 5 to 1 with Mayor Pro Tem Benjamin voting NO. [ED NOTE: New Business Items 1, 2, 3, 5 & 6 are moved to the next regular meeting of January 23, 2003, per Council Rule 20(3)(p).]

MOTION was made at 8:25 p.m. by Councilmember Thomasson, seconded by Councilmember Steenrod, to adjourn. Motion passed 5 to 1 with Mayor Pro Tem Benjamin voting NO.

Respectfully submitted,

Denis Staab
City Clerk

ATTACHMENT TO CITY COUNCIL MINUTES

January 16, 2003

IV. FACTS

1. By way of background, for many years, officials at the Port of Seattle have proposed constructing a third runway at Seattle-Tacoma International Airport. Port officials determined that prior to constructing a third runway, more than 17 million cubic yards of fill must be brought to the site. Since 1993, the City of Des Moines has opposed further expansion of the airport. In 1997, the WESCOT Company (owned by Mr. Hopkins) first proposed building a conveyor system that would be used to move the necessary fill to build the runway. WESCOT Company officials suggested that the conveyor system be used instead of trucks to transport the fill required for the proposed new runway. Prior to the 2001 elections, the Council opposed the WESCOT Company's plan.

2. During his interview, Mr. Wasson stated that, for the years he served on the Council, he found himself at odds with the majority of the Council. A political consultant, Tom Hujar, stated during his interview that Mr. Wasson told him he was tired of always being on the losing end of 6 to 1 Council votes and that during the 2001 election he wanted to work for candidates who would support him in trying to change the policies of the City of Des Moines. According to Mr. Hujar, Mr. Wasson recruited some Council candidates and wanted those candidates to win in the hopes of becoming Mayor of Des Moines.

3. Mr. Wasson admitted that he encouraged and urged Petersen and Steenrod to run for the Council in 2001. He stated that he did not know Benjamin prior to the campaign, but decided to support him in the election. The candidates Mr. Wasson encouraged to run for the Council were business people in the Des Moines area.

4. In mid-September 2001, Mr. Wasson met with Mr. Hopkins to discuss who was running for the Council. Mr. Wasson advised Mr. Hopkins that there were new candidates running for the Council. Mr. Hopkins admitted that for many years he had been trying to get his company's third runway project acknowledged and approved by the Council. Based on his failures so far, he was interested in seeing new Council members elected. Mr. Hopkins said he understood Mr. Wasson to be suggesting that the new candidates might have a new philosophy from previous Councils, and that if the candidates had some help, perhaps that group might have a chance to be elected. Mr. Hopkins stated that he did not agree to support specific candidates, but did respond to what he considered to be Mr. Wasson's request or suggestion that Mr. Hopkins support Mr. Wasson and his efforts to get new people elected to the Council.

5. On September 17, 2001, Mr. Hopkins gave Mr. Wasson a \$1,000 check from Environmental Materials Transport, LLC to assist Mr. Wasson's efforts to help the new group of Council candidates get elected. Mr. Wasson deposited the check into his personal bank account. During the investigation, Mr. Wasson initially denied accepting any money from Mr. Hopkins. However, when shown a copy of the \$1,000 check from Mr. Hopkins endorsed by Mr. Wasson, Mr. Wasson acknowledged that he did, in fact, receive the check. Mr. Wasson acknowledged that the \$1,000 may have been used to pay for political consulting services.

6. Also in September 2001, Mr. Wasson met with Tom Hujar, a political consultant recommended to him by Mr. Hopkins. They discussed how Mr. Hujar could provide campaign assistance for Peterson, Benjamin, Steenrod and Foote. Mr. Wasson told Mr. Hujar that he had very limited money to put into the races, about \$2,000. Mr. Hujar told Mr. Wasson that he could

provide only limited verbal advice and strategy for \$2,000. Mr. Hujar agreed to assess the candidates and advise Mr. Wasson on where any campaign money should be spent.

7. In late September 2001, Mr. Hujar met with Mr. Hopkins and Mr. Wasson to discuss the Council elections. Prior to committing any more money to the elections, Mr. Hopkins requested that Mr. Hujar conduct a survey to determine the prevailing attitude of local citizens on the third runway concept and to determine whether to support Mr. Wasson's efforts. Mr. Hujar agreed to conduct the survey, and at Mr. Hopkins' request, included questions about the candidates running for the Council. The survey showed that 60 percent of the voters were undecided as to the candidates. Based on the survey results and Mr. Hujar's feeling that the races were winnable, Mr. Hopkins contributed \$20,000 to "Mr. Wasson's efforts," which he paid directly to Mr. Hujar. Mr. Hopkins, Mr. Hujar and Mr. Wasson all understood that Mr. Wasson would be directing how the money would be spent during the campaign.

8. Mr. Hujar stated that Mr. Wasson initially paid him \$2,000 to provide limited verbal advice and campaign strategy. Mr. Hujar claims he received \$1,000 in late September as a partial payment for his consulting services, and an additional \$1,000 in late October. No evidence has been discovered to date to show that Mr. Hujar received \$1,000 in late September. However, records show that Mr. Wasson paid Mr. Hujar \$1,000 on October 25, 2001 for consulting services benefiting candidates Petersen and Benjamin. At Mr. Wasson's direction, candidates Petersen and Benjamin reported their share of this \$1,000 as an in kind contribution from Mr. Wasson. In addition, candidates Petersen and Benjamin each reported receiving \$250 in paper as an in-kind contribution from Mr. Wasson. Mr. Wasson admitted to receiving \$500 in paper from Jerry Guite and giving the paper to benefit the campaigns of Petersen and Benjamin.

9. In October 2001, Mr. Hujar met with candidates Foote, Benjamin and Steenrod to discuss potential assistance for their campaigns. Ms. Steenrod declined any campaign assistance from Mr. Hujar.

10. Also, in October 2001, Mr. Hujar hired Mike Snyder to provide assistance to the candidates. Mr. Snyder met with Benjamin and Foote to discuss possible campaign assistance. Mr. Wasson decided that no assistance would be given to Foote. Mr. Hujar provided consulting services that benefited Petersen and Benjamin.

11. In October 2001, Mr. Wasson directed advocacy calls be made from the Hopkins contribution for candidates Petersen and Benjamin. Following statements made in the newsletter of the Regional Commission on Airport Affairs (RCAA), Mr. Wasson also ordered advocacy calls be made on behalf of Steenrod. None of the candidates affected approved the calls and were not even aware that the calls were being made on their behalf.

12. The general election was held on November 6, 2001. Candidates Petersen, Benjamin and Steenrod were all elected to the Council.

13. In total, Mr. Hopkins made seven separate payments to Mr. Hujar totaling \$49,000 for campaign related work, i.e, \$29,000 was for the survey and \$20,000 was for actual campaign work. None of the survey cost or other campaign work was reported by any candidate as a contribution.

14. Payments to Mr. Hujar totaling \$40,800 were made with cashier's checks, and one Hopkins corporate check was issued for \$8,200. The cashier's checks were purchased by Mr. Hopkins with funds of Environmental Materials Transport, LLC. The cashier's checks did not show the name of the purchaser. Gregory H. Hollon, an attorney responding to the complaint on behalf of Mr. Hopkins, stated that Environmental Materials Transport, LLC (EMT) was not listed on the cashier's checks as the purchaser because EMT was trying to keep a "low profile." Following is a listing of the payments made by Mr. Hopkins.

Date	Amount	Type	<u>Purchaser Notation on Check</u>
10/4/01	\$10,000	Cashier's Check	
10/12/01	\$ 9,500	Cashier's Check	Annon
10/12/01	\$ 9,500	Cashier's Check	Annon
10/25/01	\$ 6,000	Cashier's Check	NA
10/25/01	\$ 4,000	Cashier's Check	NA
11/29/01	\$ 1,800	Cashier's Check	Annon
12/10/01	\$ 8,200	EMT Check	EMT
Total	\$49,000		

15. Mr. Hujar stated that of the \$20,000 from Mr. Hopkins that he spent on the candidates, \$14,800 benefited Benjamin, \$3,500 benefited Peterson, and \$1,000 benefited Steenrod. The campaign services benefiting Benjamin, Petersen, and Steenrod, resulting from the \$20,000 paid by Mr. Hopkins, were provided within 21 days of the general election.

16. Mr. Hujar admits that he was familiar with PDC reporting requirements. He advised both Mr. Wasson and Mr. Hopkins that they had to make a decision about how to report the money being spent to support candidates. Mr. Wasson has been a candidate on several occasions and was also familiar with reporting requirements. Mr. Hujar said he told Mr. Hopkins and Mr. Wasson that they needed to either set up a political committee and file reports or they needed to have the benefiting candidates report the receipt of in-kind contributions.

17. Mr. Hujar stated that after explaining the reporting options, Mr. Hopkins said he did not want to set up an independent campaign committee because of the publicity it would give to

the WESCOT Company. Mr. Hujar said Mr. Hopkins wanted nothing to do with registering and reporting as a political committee. Mr. Hujar said Mr. Wasson and Mr. Hopkins decided that the funds would be reported by the candidates as contributions from WESCOT Company. That did not happen because neither Mr. Wasson nor Mr. Hopkins notified the candidates of the need to report.

18. Mr. Wasson said Mr. Hopkins had lobbied the Council for several years about his conveyor project. Mr. Wasson said that reporting contributions as coming from Mr. Hopkins or his companies (WESCOT or Environmental Materials Transport, LLC) could have had an adverse impact on the election.