

AGENDA
REGULAR MEETING DES MOINES CITY COUNCIL
September 11, 2003 - 7:30 p.m.

CALL TO ORDER - Mayor Steenrod

all present

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

*Marv Cott shall - Circular
Jack Kinsler - Rotary
Denny Burdham - connect behavior
Leanne Burroughs - all town*

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. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks # through # & electronic fund transfers in the total amount of \$

Payroll fund transfers in the total amount of \$

2. Motion is that the City Manager be authorized to sign the revised Interlocal Agreement with King County and the Cities of Normandy Park, SeaTac, and Burien for the Des Moines Memorial Drive Advisory Committee. The revised Interlocal Agreement shall be substantially in the form as submitted.

3. Motion is that the City Manager's authority to approve change orders on the construction contract for the Field House Site Improvement Project be increased from 10% to 30%.

4. Motion is to approve the minutes of August 14, 2003.

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

CONTINUED PUBLIC HEARING

Draft Ordinance No. 03-172 - Sanborn Street Vacation - 1st Reading

SUMMARY: The purpose of this item is to continue the public hearing opened at the August 14th Council meeting, to consider the vacation of portions of public right-of-way in the City; more specifically, that portion of South 208th Street between 11th Avenue South and 12th Avenue South, together with a portion of an abutting unopened alley.

passed to 2d reading

changes made

CONTINUED PUBLIC HEARING

Unclassified Use Permit & SEPA Appeal - Zenith Viewpointe, Alex White & Co., 23659 Marine View Drive South

SUMMARY: The purpose of this item is to continue the Public Hearing from September 4, 2003, to provide information related to an appeal of a SEPA decision and review of applications for an unclassified use permit and environmental sensitive area development exception. The Council will use this and other information to direct administration to prepare findings of fact and a draft resolution supporting Council action on the SEPA appeal and review of the underlying applications at a later date.

OLD BUSINESS

NEW BUSINESS

1. Recreation Specialist Position

SUMMARY: The Parks, Recreation and Sr. Services Department has seen rapid and steady growth in recreation programs over the past 3 years and with the recent opening of Steven J. Underwood Memorial Park there is a need for an additional full time staff position to continue the desired growth and increased program revenue of the Department and to be able to fully utilize the new park to maximum revenue potential. There will be no additional financial impact to the City. Program revenues and the elimination of 2 part time positions will fully cover the cost of this new position.

2. Draft Ordinance No. 03-075 Right-of-way & Use Permits - 1st Reading

SUMMARY: The draft ordinance was prepared in part at the direction of the Council late last fall and in part at the request of 3 members of the Council. The draft ordinance establishes policy, guidelines and approval procedures for City right-of-way and City park special use permits. Further direction is requested from Council to complete the draft ordinance prior to enactment.

NEXT MEETING DATE - Regular Meeting September 25, 2003

ADJOURNMENT

AGENDA ITEM

SUBJECT: Draft Ordinance No. 03-172

File SV 2003-001 – Street Vacation:
Portion of South 208th Street between 11th
Avenue South and 12th Avenue South,
together with a portion of an abutting
unopened alley

ATTACHMENTS:

1. Draft Ordinance No. 03-172
2. Vicinity Map
3. Street/Alley Vacation Check List
4. 12/3/02 letter from Highline Water
District
5. 3/3/03 letter from applicant
6. 6/17/03 letter from Qwest
7. 7/30/03 letter from Qwest

AGENDA OF: September 11, 2003

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: August 5, 2003

CLEARANCES:

[] Finance

[X] Public Works

[X] Legal

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this item is to hold a public hearing to consider the vacation of portions of public right-of-way in the City of Des Moines; more specifically, that portion of South 208th Street between 11th Avenue South and 12th Avenue South, together with a portion of an abutting unopened alley.

Recommended Motion:

First Motion: "I move to suspend Rule 26(b) in order to enact Draft Ordinance No.03-172 on first reading."

Second Motion: "I move to enact Draft Ordinance No. 03-172, vacating that portion of South 208th Street between 11th Avenue South and 12th Avenue South, together with a portion of an abutting unopened alley; while retaining the necessary utility easements."

Background:

The applicant for street vacation, Scot Sanborn, originally planned to file a lawsuit against the City to obtain vacation of an unopened right-of-way under the Laws of 1889. This particular public right-of-way was platted on January 17, 1890, as part of The Grove Addition; and is

currently unimproved for transportation use, but does contain utilities. As such, pursuant to the Laws of 1889-90, DMMC 12.12.020(3), and DMMC 12.12.050(2)(b), this right-of-way is classified as a Class "C" right-of-way which requires no compensation. Rather than engaging in costly, time-consuming litigation, Mr. Sanborn submitted a completed street vacation petition packet on June 3, 2003. Staff mailed and hand-delivered notices of this proposed street vacation to all utility purveyors and other city departments on June 5, 2003, requesting their comments and input on this issue. Utility purveyors and other city departments were given a deadline of July 11, 2003 to submit their responses. A thorough review of all responses received showed that utility easements needed to be retained for Highline Water District and Qwest.

Due to the steep terrain as the land falls off to the east from Des Moines Memorial Drive down to 12th Avenue South, it is not expected that this right-of-way will ever be used for City transportation purposes.

Highline Water District needs to encumber within a utility easement, the area of South 208th Street proposed to be vacated in order to maintain their three (3) existing water mains (10", 12", and 20"). Qwest also needs to encumber within a utility easement, the entire area proposed to be vacated in order to maintain their existing buried conduits and cable.

The area is also subject to mapped Sensitive Area for a stream and buffer. This area is subject to mutually-agreed recognition, which Mr. Sanborn's attorney provided in a letter dated March 3, 2003, that the City's sensitive areas map as referenced in DMMC 18.86.050 indicates the presence of an important stream on the property; that the City's code presently requires a 35-foot buffer on each side of an important stream; but that actual restrictions on the use of the property, if any, will be determined under the applicable ordinances at the time Mr. Sanborn actually applies to develop the property.

Discussion:

The Public Works Director is recommending the vacation of that portion of South 208th Street between 11th Avenue South and 12th Avenue South, together with a portion of an abutting unopened alley; while retaining the necessary utility easements.

Alternatives:

1. Council could choose not to vacate any portion of this public right-of-way.
2. Council could choose to reduce the limits of the proposed vacation area.

Financial Impact:

By vacating this portion of currently unopened for transportation purposes public right-of-way, the property could then be placed onto the tax rolls, thus allowing the City to collect property taxes and increase revenue.

Recommendation/Conclusion:

Staff recommends that City Council vacate the portion of South 208th Street, together with a portion of an abutting unopened alley, per the staff recommendations on Page 2 of the Street/Alley Vacation Check List (Attachment 3).

Concurrence:

Both Public Works and Legal concur that placing this currently unopened for transportation purposes public right-of-way onto the tax rolls is the prudent choice.

p:\users\linda\doc\Agenda\2002

DRAFT ORDINANCE NO. 03-172

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, vacating a portion of City right-of-way in an area generally described as a portion of public right-of-way known as So. 208th Street, between 11th Avenue So. and 12th Avenue South, together with an abutting unopened alley, in the City of Des Moines, subject to the applicant's compliance with requirements set forth herein.

WHEREAS, the City Council of the City of Des Moines adopted Resolution No. 957, declaring its intent to consider vacation of a public right-of-way which now constitutes a portion of public right-of-way known as So. 208th Street, between 11th Avenue So. and 12th Avenue South, together with an abutting unopened alley, in the City of Des Moines, and

WHEREAS, notice of the public hearing was given in accordance with law and the public hearing was held before the City Council of the City of Des Moines on August 14, 2003, and all persons wishing to be heard were heard, and

WHEREAS, based on the evidence presented, the City Council makes the following findings of fact:

(1) The public right-of-way which is the subject of this ordinance consists of a portion of public right-of-way known as So. 208th Street, between 11th Avenue So. and 12th Avenue South, together with an abutting unopened alley; and

(2) The public right-of-way which is the subject of this ordinance is unimproved for transportation purposes, has never been opened for transportation purposes, and appears to be subject to vacation by operation of law under the Laws of 1889-90; and

(3) The public right-of-way which is the subject of this ordinance is necessary for present and future use by public utilities, under appropriate easements; and

(4) The public right-of-way which is the subject of this ordinance is surplus to the present and future needs of the citizens of the City of Des Moines for transportation purposes,

and it is in the public interest to vacate this right-of-way;
now therefore,

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

Sec. 1. Findings adopted. The recital set forth above are adopted as the City Council's findings of fact.

Sec. 2. Right-of-way vacation. Subject to the requirements set forth in this ordinance, the public right-of-way described as follows:

A portion of public right-of-way known as So. 208th Street, between 11th Avenue So. and 12th Avenue South, together with an abutting unopened alley, in the City of Des Moines;

is vacated and the property within the right-of-way so vacated shall belong to the respective abutting property owners.

Sec. 3. Conditions of right-of-way vacation. The right-of-way subject to vacation under this ordinance shall be subject to the following conditions:

(1) The abutting property owners shall not be required to pay the City of Des Moines on compensation for vacation of this Class C right-of-way.

(2) The abutting property owners recognize that the City's sensitive areas map as referenced in DMMC 18.86.050 indicates the presence of an important stream on the property; that the City's code presently requires a 35-foot buffer on each side of an important stream; but that actual restrictions on the use of the property, if any, will be determined under the applicable ordinances at the time the abutting property owners actually apply to develop the property.

(3) The abutting property owners recognize that the City of Des Moines retains an easement or the right to exercise and grant easements in respect to the land vacated by this ordinance for the construction, repair, and maintenance of public utilities and services, and that the City of Des Moines will grant utility easements through the right-of-way subject to

Ordinance No. ____
Page 3 of ____

vacation under this ordinance as requested by Highline Water District and Qwest.

(4) Should the benefitted/abutting property owners fail to satisfy the conditions set forth in the previous subsections within 90 days of passage of this ordinance, then this ordinance shall be deemed void and of no legal effect and the underlying right-of-way vacation shall be deemed denied.

Sec. 4. Easement. Pursuant to RCW 35.79.030 the City of Des Moines shall retain an easement or the right to exercise and grant easements in respect to the land vacated by this ordinance for the construction, repair, and maintenance of public utilities and services.

Sec. 5. 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.

Sec. 6. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

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

M A Y O R

APPROVED AS TO FORM:

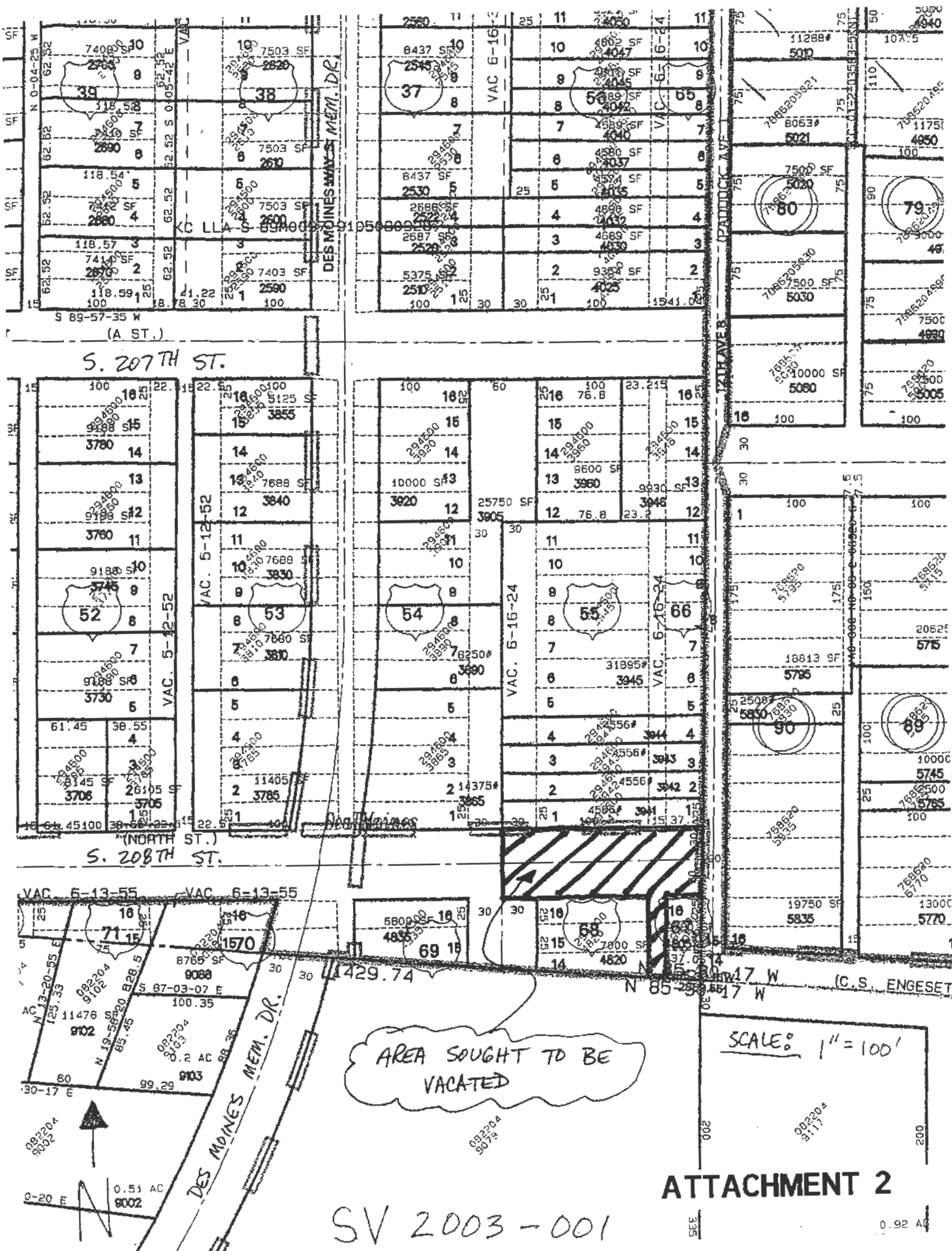
City Attorney

Ordinance No. _____
Page 4 of _____

ATTEST:

City Clerk
Published: _____

DRAFTORD/03-172



ATTACHMENT 2

SV 2003-001

0.92 AC

STREET/ALLEY VACATION CHECK LIST – SV2003-001 7/30/03

Name of Petitioner(s) Scot Sanborn

Right-of-way to be vacated: **Street** S. 208th St. (between 11th Avenue S. and 12th Avenue S.)

- | | | |
|----|--|--|
| 1. | Name of Plat and date of addition under which the right-of-way was dedicated: | The Grove Addition 01/17/1890 |
| 2. | What percent of the adjacent ownerships have petitioned in favor of the vacation? | 100%; 2 out of 2 |
| 3. | Was the street/alley in a plat filed before March 12, 1904, thus making it eligible for vacation by operation of law (Sect. 32, Ch. 19, Laws of 1889-90) if it was not opened before March 12, 1904? | Yes |
| 4. | Is the right-of-way currently used for public access by vehicular traffic? Or pedestrian traffic? | No - Unopened Right of Way |
| 5. | Is the right-of-way the only access to other parcel ownerships? | No |
| 6. | What impact will vacating the right-of-way have on the overall traffic circulation in the area? | None |
| 7. | Does the right-of-way provide access to any shorelines, streams or other recreational areas? | Yes – Northern Tributary to Des Moines Creek |
| 8. | Is the right-of-way proposed for vacation adjacent to another agency (city, county)? | Yes – City of SeaTac |
| 9. | Which utilities currently have facilities in the right-of-way? | Water District # 75 (Highline) and Phone (Qwest) |

10. Which utilities have requested retention of an easement?

UTILITY COMPANY

EASEMENT

Highline Water District – Entire ROW area of S. 208th St. to cover (3) Ex. water lines (10", 12" and 20").

Qwest – Entire ROW area of S. 208th St. to cover Ex. facilities.

11. Police Department Comments: No Concerns

12. Fire District Comments: No Concerns

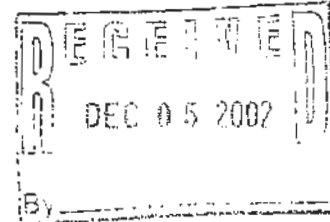
13. Staff Recommendations:

Vacate shown portion of S. 208th St. ROW between 11th Ave. S. and 12th Ave. S. together with a portion of an abutting unopened alley; and retain necessary utility easements.



Serving the Southwest Metropolitan Area since 1946

December 3, 2003



Mr. Scott J. Romano
Traffic Engineer Technician
City of Des Moines
21650 11th Ave. S.
Des Moines, WA 98198-6317

Re: Vacation of S. 208th Street

Dear Mr. Romano:

The District is writing in response to the City's request as to whether the District would like to retain an easement 30 feet north of S. 208th Street between 12th Ave. S. and Des Moines Memorial Way S. The District requests that it be granted an easement for this area (see attached map). This would allow the District to adequately operate and maintain several critical water mains in this area.

In addition, the District is requesting that our standard easement language be included. I have attached a copy of our standard easement language for your use.

If you have any questions or need additional information, please contact me at (206) 824-0375, ext. 102.

Very Truly Yours,

Thomas D. Keown, P.E.
Construction/Operations Manager

TDK:maf
Enclosure

Cc: Peggy S. Bosley, General Manager
Tim Heydon, City of Des Moines

ATTACHMENT 4

HIGHLINE WATER DISTRICT UTILITY EASEMENT

The Grantor, _____, does hereby grant to Highline Water District, King County, Washington, a municipal corporation, Grantee, its successors and assigns, an easement and right-of-way over, through, under, across, upon and in the following-described property & situated in the City of _____, King County, Washington, to-wit:

for the construction, operation, maintenance, repair and/or replacement of a water pipeline and appurtenances thereto, together with all rights of ingress and egress to and from said easement for all purposes necessary and related thereto;

Grantee and its agents, designees or assigns shall have the right, without prior institution of any suit or proceeding at law, and without prior notice to Grantor, at such time as Grantee deems necessary to enter upon said property, by foot or vehicle, for the installation, repair, reconstruction or maintenance of water facilities and appurtenances without incurring any legal obligation or liability therefore, provided that such shall be accomplished in a manner that existing private improvements shall not be disturbed or destroyed, or in the event that they are disturbed or destroyed they will be replaced or repaired, as nearly as is practicable, to as good a condition as they were immediately before the property was entered upon by the Grantee.

Grantor hereby agrees that no building, wall rockery, trees or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said easement area. No excavation shall be made within three feet of said water service facilities, and the surface level of the ground within the easement area shall be maintained at the elevation as currently existing. In the event that this provision is violated, the Grantee shall have the right to require removal of any such structure and same shall be accomplished within a reasonable period of time and at Grantor's expense. Failure of Grantee to so exercise its right to require removal shall not constitute waiver of this right.

Grantor additionally grants to the Grantee, its agents, designees or assigns the use of such additional area immediately adjacent to said easement area as shall be required for the construction, re-construction, maintenance and operation of said water service facilities. The use of such additional area shall be held to a reasonable minimum and be returned to its condition existing immediately before the property was entered upon by Grantee or its agents.

IN WITNESS WHEREOF, the Grantor(s) has (have) executed these presents this _____ day of _____, _____

Individual Acknowledgement

STATE OF WASHINGTON)
)SS
COUNTY OF KING)

On this ____ day of _____, _____, before me the undersigned, a Notary Public, personally appeared _____, to me known to be the individual or individuals described in and who executed the within and foregoing instrument, and acknowledged that it was signed as a free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Signature of Notary

Print or stamp name of Notary

Notary Public for the State of
residing at _____

My appointment expires: _____

Corporate Acknowledgement

STATE OF WASHINGTON)
)SS
COUNTY OF KING)

On this _____ day of _____, _____, before me the undersigned, a Notary Public, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Signature of Notary

Print or stamp name of Notary

Notary Public for the State of
residing at _____

My appointment expires: _____

LAW OFFICES OF
ERIC R. STAHLFELD
145 S.W. 155TH STREET, SUITE 101
SEATTLE, WASHINGTON 98166
(206) 248-8016

March 3, 2003

Linda Marousek, Esq.
City Attorney
City of Des Moines
21630 11th Avenue S, Suite C
Des Moines, WA 98198-6398

RECEIVED

MAR 04 2003

DES MOINES LEGAL DEPARTMENT
DES MOINES, WASHINGTON

Re: Scot Sanborn Street Vacation

Dear Ms. Marousek:

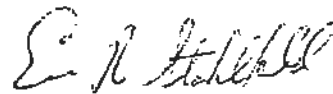
Mr. Sanborn is aware that the City represents that the City's sensitive areas map as referenced in DMMC 18.86.050 indicates the presence of an important stream on his property. Mr. Sanborn is also aware that the City's code presently requires a 35-foot buffer around important streams.

As we have discussed, Mr. Sanborn believes that restrictions on the use of his property, if any, should be determined at the time he actually applies to develop the property.

I understand that with the acknowledgments in this letter the City staff agree to support Mr. Sanborn when he files a request to vacate the street through the administrative review process.

If you have any questions, please feel free to call me at (206) 248-8016.

Very truly yours,



Eric R. Stahlfeld

cc: client

ATTACHMENT 5

June 17, 2003

TO: Scott J. Romano
Traffic Engineering Technician
City of Des Moines
21650 11th Ave S
Des Moines, WA 98198-6317

FROM: Garry Mohr
Qwest Engineering
23315 66th Ave S Rm. 115
Kent, WA 98032
PH. 253-372-5361
Fax: 253-372-5176

Scott,

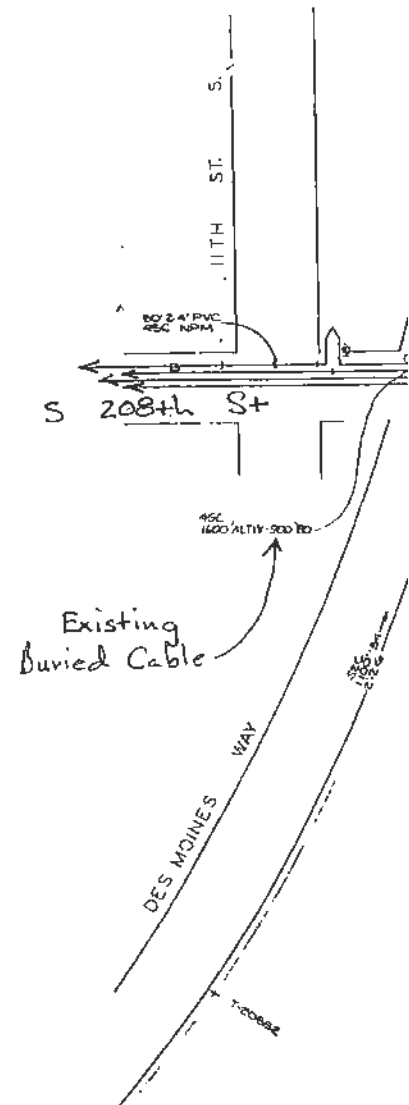
In response to your proposed street vacation on S 208th St, street petition (SV 2003-001). Qwest presently has 2 buried 4" conduits and a buried cable through the proposed street vacation (see attached prints). If the proposed street vacation were to take place, Qwest would require a easement thru it to cover the existing facilities and provision for reinforcement. Qwest would have to charge to move the facilities, if that were required.

If you have any questions, please feel free to call me.

Sincerely,

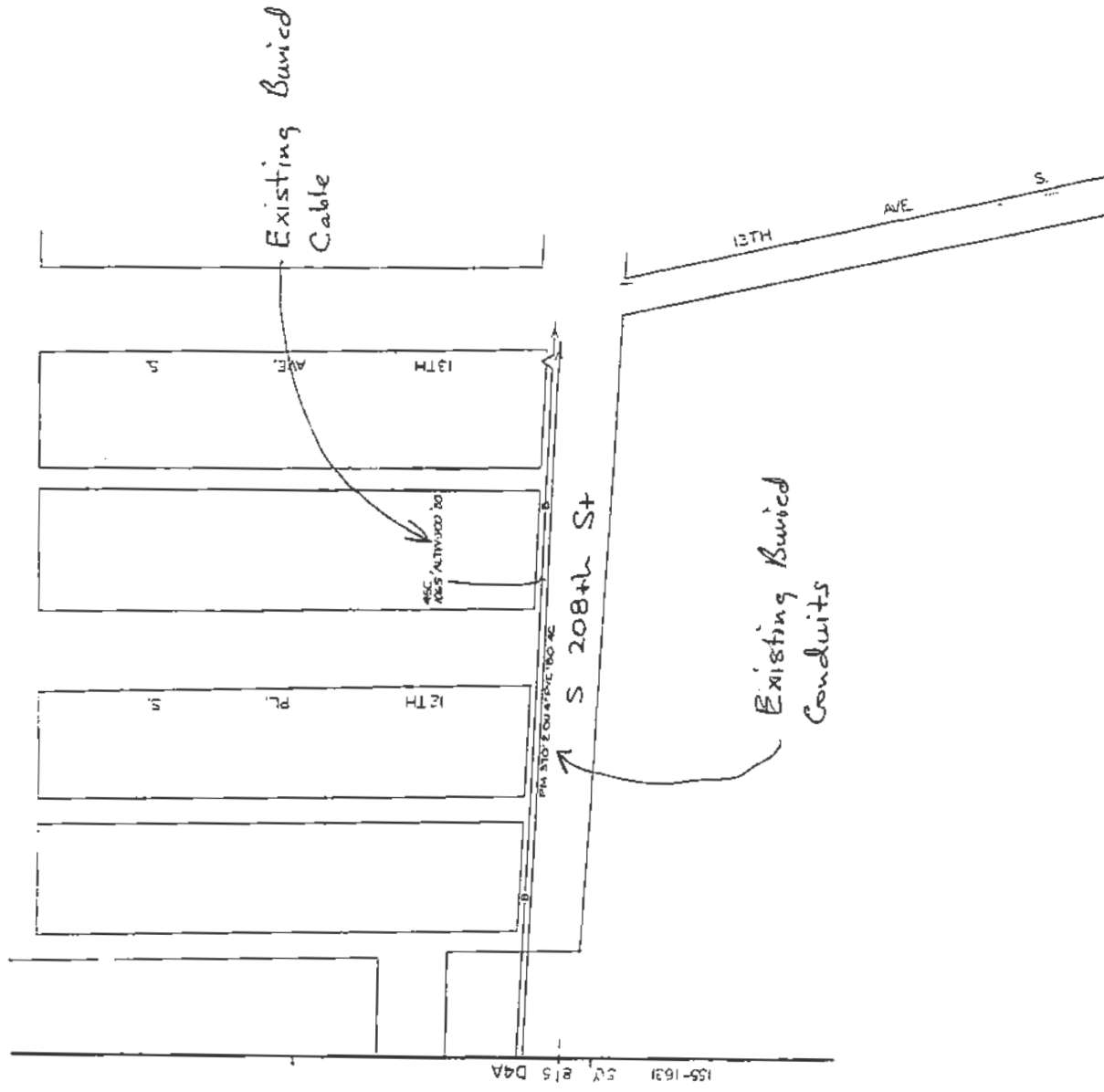


ATTACHMENT 6

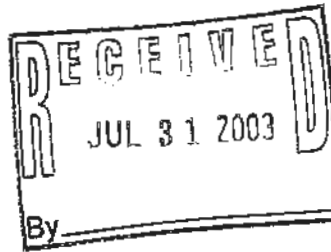


Note:

Facilities would
require physical
locates in the field
for accurate locates.



July 30, 2003



City of Des Moines
Department of Public Works
21650 11th Avenue South
Des Moines, WA 98198-6317
Attn: Scott Romano

Re: Qwest Easement associated with Vacation file #SV 2003-001

Dear Mr. Romano:

Attached you will find documents that make up the Qwest easement package. Because Qwest has facilities spread throughout the area petitioned for vacation, we will require an easement covering this entire area.

Please refer any questions to me on (206) 346-7458.

Sincerely,

A handwritten signature in cursive script that reads "Don L. Dauphiny".

Don L. Dauphiny
Right-of-Way Consultant for Qwest
Attachments

ATTACHMENT 7

RETURN TO: Qwest R.O.W.
1200 12th NW
Issaquah, WA 98027

RECORDING INFORMATION ABOVE

R/W # _____

EASEMENT

The undersigned Grantor(s) _____ for
and in consideration of _____ Dollars (\$) _____
and other good and valuable consideration, the receipt whereof is hereby acknowledged,
do hereby grant and convey unto Qwest Corporation, a Colorado Corporation, hereafter
referred to as "Grantee", whose address is 1801 California St., Suite 5100, Denver, CO
80202, its successors, assigns, lessees, licensees, and agents a perpetual easement to
construct, reconstruct, modify, change, add to, operate, maintain, and remove such
telecommunications facilities, electrical facilities and gas facilities, and appurtenances,
from time to time, as Grantee may require upon, over, under and across the following
described land situated in the County of _____, State
of _____, which the Grantor owns or in which the Grantor has
any interest, to wit:

LOT _____ BLK _____
SECTION _____ TOWNSHIP _____ RANGE _____
TAX PARCEL # _____

SEE EXHIBIT(S) A & B ATTACHED HERETO AND BY THIS REFERENCE
MADE A PART HEREOF.

Grantor further conveys to Grantee the following incidental rights:

(1) A temporary right-of-way to be used during all periods of construction,
reconstruction, reinforcement, repair and removal upon a strip of land _____ feet wide on
the _____ side of, and a strip of land _____ feet wide on the _____ side of said easement.

(2) The right of ingress and egress over and across the lands of Grantor to and
from the above-described property and the right to clear and keep cleared all trees and
other obstructions as may be necessary for the Grantee's use and enjoyment of the
easement area.

Grantee shall indemnify Grantor for all damages caused to Grantor as a result of
Grantee's negligent exercise of the rights and privileges herein granted. Grantee shall
have no responsibility for pre-existing environmental contamination or liabilities.

Grantor reserves the right to occupy, use and cultivate said easement for all purposes not
inconsistent with the rights herein granted.

Grantor covenants that he/she/they is/are the fee simple owner of said land or in which
the Grantor has any interest and will warrant and defend title to the land against all

RECORDING INFORMATION ABOVE

Any claim, controversy or dispute arising out of this Agreement shall be settled by arbitration in accordance with the applicable rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in the county where the property is located.

Dated this _____ day of _____, 20____.

Grantor

(Official name of company or Corporation)

Grantor

By _____
Its _____

Grantor

[SEAL]

Grantor

Attest _____
Secretary of Corporation

(Individual Acknowledgment)

(Corporate Acknowledgment)

STATE OF WASHINGTON }
 } ss
COUNTY OF _____ }

STATE OF WASHINGTON }
 } ss
COUNTY OF _____ }

The foregoing instrument was
acknowledged before me this _____ day
of _____, 20__, by

The foregoing instrument was
acknowledged before me this _____ day of
_____, 20__, by

[SEAL]

of _____,
a _____
Corporation, on behalf of the corporation.

[SEAL]

Notary Public

My commission expires:

Notary Public

My commission expires:

EXHIBIT "B"
DESCRIPTIVE DRAWING OF
QWEST EASEMENT

EXHIBIT "A"
LEGAL DESCRIPTION OF
QWEST EASEMENT

A G E N D A I T E M

SUBJECT: Des Moines Memorial Drive
Advisory Committee: Amendment
of Interlocal Agreement.

AGENDA OF: September 11, 2003

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 29, 2003

ATTACHMENTS:

1. Draft Interlocal Agreement.
2. Correspondence from DM Historical Society.
3. Meeting Minutes.

CLEARANCES:

[X] LEGAL

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL

Purpose and Recommendation:

The purpose of this agenda item is to update the interlocal agreement (ILA) relating to the Des Moines Memorial Drive Advisory Committee (DMMDAC). The primary purpose of the amendment is to include the Des Moines Historical Society as a voting member of the DMMDAC.

Administration recommends approval of the revised interlocal agreement. A motion consistent with the staff recommendation is provided below:

"I move the City Manager be authorized to sign the revised Interlocal Agreement with King County and the Cities of Normandy Park, SeaTac, and Burien for the Des Moines Memorial Drive Advisory Committee. The revised Interlocal Agreement shall be substantially in the form as provided."

Background:

In 2000, the Cities of Burien, Des Moines, Normandy Park, and SeaTac along with King County established an interlocal agreement to jointly study Des Moines Memorial Drive. The interlocal agreement created the Des Moines Memorial Drive Advisory Committee (DMMDAC) for the purpose of researching the history of the memorial corridor and the preparation of recommendations for future improvements. The DMMDAC consists of 16 voting members and six ex-officio members.

The Highline Historical Society is one of the voting members of the DMMDAC. The Des Moines Historical Society was inadvertently not included as a member of DMMDAC. The primary purpose of this update of the ILA is to include the Des Moines Historical Society as a voting member. The remaining edits are housekeeping in nature.

Discussion:

The DMMDAC meets monthly and is currently overseeing the creation of a Cultural Resources Plan for the roadway. Des Moines Memorial Drive has had a significant role throughout the evolution of the Highline area. In 1921, approximately 1,000 elm trees were planted along the street in honor of WWI veterans from Washington State. Now, many of the elm trees are diseased, severely pruned, or have been removed altogether. The DMMDAC is preparing recommendations for replacement trees, roadway cross-sections, memorials, and other features of the road.

The Des Moines Historical Society intends to appoint Mr. Bill Rudberg as that group's representative to DMMAC (see Attachment 2).

Alternatives:

1. Authorize the City Manager to sign the interlocal agreement as written.
2. Authorize the City Manager to sign the interlocal agreement as amended by the City Council
3. Do not authorize the City Manager to sign the interlocal agreement, and forego representation of the Des Moines Historical Society on the DMMDAC.

Financial Impact:

None. Members of the DMMDAC serve without compensation.

Recommendation/Conclusion:

Authorize the City Manager to sign the interlocal agreement as written.

Concurrence:

None.

Interlocal Agreement

Des Moines Memorial Drive

In accordance with the Interlocal Cooperation Act (RCW Chapter 39.34), the City of Burien, the City of Des Moines, the City of Normandy Park, the City of SeaTac and King County, (hereafter referred to as “Parties”), each of which is a Washington Municipal Corporation hereby enter into the Agreement set forth:

RECITALS

1. **Whereas, Des Moines Memorial Drive was established as a World War I war memorial in 1921 and runs through the cities of Burien, Des Moines and SeaTac, as well as King County; and**
2. **Whereas, Normandy Park, due to its proximity, has expressed a desire to join the other jurisdictions in cooperating on the restoration of the drive; and**
3. **Whereas, the Parties believe that Des Moines Memorial Drive is an important part of Washington State’s history; and**
4. **Whereas, each Party while fully responsible for planning, designing and maintaining the right-of-way and improvement along the drive in their respective jurisdictions, may benefit by cooperating in the design, maintenance, landscape and commemorative standards and cooperative grant applications; and**
5. **Whereas, the Parties believe that a cooperative effort is the most effective method of meeting the goals stated herein, and.**
6. **Whereas, on May 24, 2000, the Cities of Burien, Des Moines, Normandy Park, and SeaTac, and King County established an Interlocal Agreement to collaboratively preserve and promote the history of Des Moines Memorial Drive, and**
7. **Whereas, since the Interlocal Agreement was enacted on May 24, 2000, the Des Moines Memorial Drive Advisory Committee has recommended some amendments to the Interlocal Agreement, and**
8. **Whereas, based upon the recommendations of the Des Moines Memorial Drive Advisory Committee, the participating agencies have determined that these amendments are now necessary.**

AGREEMENTS

The Parties agree to:

- I. **Cooperate in developing street design, landscape and commemorative standards.**

2. Cooperate in grant applications for planning and improvements in the right-of-way and along Des Moines Memorial Drive.
3. Provide maintenance as needed in order to preserve the trees and landscaping elements in their respective jurisdictions along the drive.
4. Routinely coordinate with the Des Moines Memorial Drive Advisory Committee, established and designated to advocate for preservation of the drive as a World War I memorial. The membership and duties of the Des Moines Memorial Drive Advisory Committee, hereby created by this agreement, are described in Addendum A and are a part of this agreement.
5. Coordinate with utilities using the right-of-way along Des Moines Memorial Drive to assure preservation and replacement of trees due to impacts from construction and use of the right-of-way.
6. Substitute this Interlocal Agreement for the Agreement enacted on May 24, 2000.

ADMINISTRATION OF INTERLOCAL AGREEMENT

The Parties agree to establish an interagency administrative committee and appoint one staff representative to attend scheduled meetings on concerning Des Moines Memorial Drive. The interagency administrative committee will decide on a meeting schedule at their first meeting and may revise this schedule from time to time. An annual meeting is required to coordinate annual maintenance and necessary capital improvements to assure the Drive is maintained in appropriate condition. These staff representatives will serve as ex-officio members of Des Moines Memorial Drive Advisory Committee.

TERM

This agreement may be reviewed annually but shall remain in full force and effect from February 1, 2000 unless terminated or modified by separate agreement, so long as at least two parties continue to operate under this agreement. ~~Any Party may withdraw from this Agreement by delivering written notice to the other Parties.~~

INDEMNIFICATION

By executing this cooperative agreement on Des Moines Memorial Drive, each of the parties recognizes that all final decisions and responsibility for design standards, construction, regulation or maintenance of its portion of Des Moines Memorial Drive remains exclusively within its jurisdiction and authority. This agreement does not affect or change each parties' liability or responsibility for nor in any way releases the individual parties to this agreement from any responsibility which arises in whole or in part from the existence, validity, enforcement or effect of city ordinances, rules or regulations. Entering into this agreement ~~will~~ shall not be interpreted as relieving the individual parties, their officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or

arising out of any negligent act or omission of the individual Parties, their officers, agents, and employees. If any such cause, claim, suit, action, or administrative proceeding is commenced, the individual Parties shall defend the same at their sole expense and, if judgment is entered or damages are awarded against the Parties, the individual Parties shall satisfy the same, including all chargeable costs and attorneys' fees.

TERMINATION

Any Party may withdraw from this Agreement by delivering written notice to the other Parties. Any property or assets acquired by a party for purposes of this Agreement shall be the sole property of the acquiring party upon withdrawal of termination of this Agreement.

CITY OF BURIEN

APPROVED AS TO FORM this _____
day of _____, 2003.

DATED this _____ day of _____, 2003.

By _____
~~Michael Weight~~, *City Attorney*
Manager
City of Burien

By _____
~~_____~~ *Gary P. Long, City*

At the direction of the Burien City
Council by motion passed at an open
public meeting on
_____, 2003.

CITY OF DES MOINES

APPROVED AS TO FORM this _____
day of _____, 2003.

DATED this _____ day of _____, 2003.

By _____
Linda Marousek, City Attorney
City of Des Moines

By _____
Anthony Piasecki, City Manager
At the direction of the Des Moines City
Council by motion passed at an open
public meeting on
_____, 2003.

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CITY OF NORMANDY PARK

APPROVED AS TO FORM this _____
day of _____, 2003.

By _____
Wilton S. Viall, III, City Attorney
City of Normandy Park

DATED this _____ day of
_____, 2003.

By _____
Merlin MacReynold, City Manager
At the direction of the Normandy Park
City Council by motion passed at an open
public meeting on
_____, 2003.

CITY OF SEATAC

APPROVED AS TO FORM this _____
day of _____, 2003.

By _____
Robert L. McAdams, City Attorney
City of SeaTac

DATED this _____ day of
_____, 2003.

By _____
Bruce Rayburn, City Manager
At the direction of the SeaTac City
Council by motion passed at an open
public meeting on
_____, 2003.

KING COUNTY

DATED this _____ day of
_____, 2003.

By _____
Ron Sims, King County Executive
at the direction of the King County
Council by motion passed at an
open public meeting on
_____, 2003.

ADDENDUM A

Des Moines Memorial Drive Advisory Committee

PURPOSE and DUTIES

1. The Des Moines Memorial Drive Advisory Committee is formed as an advisory body to represent the concerned stakeholders' interests. It will provide oversight, advocacy and advice to the cities and King County on the development and implementation of a plan for the street design, trees, and other commemorative improvements and features along Des Moines Memorial Drive. The plan will be submitted to each agency for approval and formal adoption.
2. The Committee will act as coordination body with all members or interested veterans groups to assure a quality World War I memorial.
3. The Committee will develop and provide public information, producing educational and memorial events to commemorate the sacrifice of members of the American military for the cause of freedom.
4. If requested, the Committee may assist other organizations in finding locations for war memorials in the Highline area as necessary.
5. The Committee may seek public or private funds to finance commemorative improvements to the Drive. Funds received for this purpose will be held by one of the cities placed in a trust account designated the Operating Fund for Memorial Drive Commemorative Improvements to be managed by the City of SeaTac.

MEMBERSHIP

The Des Moines Memorial Drive Advisory Committee shall be comprised of the following voting and ex-officio members. Member jurisdictions include King County and the Cities of Burien, Des Moines, Normandy Park and SeaTac.

Voting Members

1. Members of Veterans Groups (5) with no more than two members from one group.
2. City designated appointed officials (4)
 - One (1) representative from each member City

MEMBERSHIP (cont.)

Voting Members - continued

3. County Council designated appointed official (1)
 - One (1) representative from the County designated by the Chair of the County Council
4. Other citizens leaders/activists (5)
 - One (1) citizen representative designated from each member City and unincorporated County. Citizen representatives shall be designated by the Councils of each member City and King County
5. ~~Trustee of the~~ Member of the Highline Historical Society (1)
 - One (1) representative designated by the Highline Historical Society
6. Member of the Des Moines Historical Society (1)
 - One (1) representative designated by the Des Moines Historical Society Board of Directors

Total Voting Membership is ~~16~~ 17.

Ex-officio Members

1. City appointed representative accountable for Operations and Maintenance activities (4)
 - One (1) representative from each member City appointed by City Manager.
2. County appointed representative accountable for Operations and Maintenance activities (1)
 - One (1) representative from the County appointed by the County Executive or his designee
3. ~~A-~~ Utility representatives (~~1~~ 2)
 - One (1) representative from Puget Sound Energy
 - One (1) representative from Seattle City Light

MEETINGS

The Des Moines Memorial Drive Advisory Committee will meet on a regular basis. At its first meeting, the committee will elect a Chair, Vice-Chair and Secretary and decide on a meeting schedule. This schedule may be revised from time to time. A quorum requires at least ~~eight~~ nine voting members to be present. All meetings will be announced and open to the public.

DES MOINES HISTORICAL SOCIETY
P. O. BOX 98055
DES MOINES WA 98198
206-825-5226

Date: April 23, 2003
To: Rose Clark and Corbitt Loch
From: Des Moines Historical Society
Subject: Des Moines Memorial Drive Committee membership

Dear Rose Clark and Corbitt Loch:

On April 23, 2003 the Des Moines Historical Society voted unanimously that Bill Rudberg be our representative to be nominated on the Des Moines Memorial Drive Committee.

Bill Rudberg, as you have witnessed with his volunteer work, would be a wonderful asset to your organization.

As an historical society, the Board of Directors are very interested that Bill Rudberg be considered for this appointment.

Thank you for considering him for this position.

Sincerely



Carol Davis, Secretary
Des Moines Historical Society
P. O. Box 98055
Des Moines WA 98198
<http://www.dmhs.org/>

EXCERPT

DES MOINES CITY COUNCIL MINUTES

March 23, 2000

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of March 9, 2000.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.080, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim check # 70888 through #71005 in the total amount of \$127,075.82

Payroll fund transfers in the total amount of \$273,241.40

- 
3. Motion is to approve the Interlocal Agreement for Des Moines Memorial Drive with King County and the cities of SeaTac, Burien, and Normandy Park for cooperating in the design, maintenance, landscape, and commemorative standards and cooperative grant applications found in Attachment 1, and further to authorize the City Manager to sign such documents substantially in the form as attached.
 4. Motion is to award the contract for professional engineering design services for the 2000 Arterial Maintenance Program to Harding Lawson Associates Infrastructure, Inc. in the amount of \$29,928.38, plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as submitted.
 5. Motion is to approve the amended Midway Sewer District Outfall easement and to authorize the City Manager to sign such easement substantially in the form as attached.
 6. Draft Resolution No. 00-021 [ASSIGNED RESOLUTION NO. 880] - Title: A Resolution of the City Council of the City of Des Moines, Washington, declaring that the "POW/MIA" flag shall be flown at City Hall on the business day before certain federal holidays.

MOTION is to approve Draft Resolution No. 00-021.

MOTION was made by Mayor Pro Tem Sheckler, seconded by Councilmember Kaplan to approve the Consent Calendar as read.

In regards to consent item 5, Councilmember Kaplan questioned whether the agreement includes any provisions allowing them to sub-lease that easement.

City Attorney McLean stated no, and that the Midway Sewer District has been informed numerous times by his office that they have no authority to use that easement for any purpose other than sewer facilities and necessary appurtenances to such facilities.

VOTE ON MOTION: Motion passed unanimously.

A G E N D A I T E M

SUBJECT: Field House Site:
Improvement Project: Contingency
Authorization

AGENDA OF: September 11, 2003

DEPT. OF ORIGIN: Administration

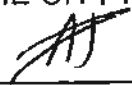
DATE SUBMITTED: September 5, 2003

ATTACHMENTS:

1. Project Budget Summary.
2. Change Orders 1-5.
3. CIP Excerpt.
4. Meeting Minutes.

CLEARANCES: 

[X] PARKS: _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

The purpose of this agenda item is to increase the contingency allowed for the site improvement project at the Field House.

"For the Field House Site Improvement Project, I move the City Manager's authority to approve change orders be increased from 10 to 30 percent of the construction contract."

Background:

On June 12, 2003, the City Council authorized the City Manager to sign a construction contract for the Field House site improvements with a maximum contingency of 10 percent. The contract was for \$68,544 (\$63,000 + sales tax) with a resulting maximum contingency of \$6,854.

The site improvement project is one of three construction projects at the Field House during 2003. The first project upgraded the electrical system for the building and replaced several interior doors. That project is now complete. The second project, which is the subject of this agenda item, provides a new drainage system and replaces sidewalks and steps around the outside of the building. These upgrades are needed because groundwater regularly floods the basement and because most of the old sidewalks preclude access by persons with disabilities. The third project involves chinking some of the building's log walls and exterior painting. No work has been done on the chinking/painting project.

The three Field House Projects, and the status of their funding, is summarized in Table 1 below. The information shows that the very low cost of the electrical and door project offsets the high cost of the drainage and sidewalk project. Even with the five change

orders, there should ample money available for the painting and chinking project.

Table 1 Summary of 2003 Field House Improvement Projects

Project	CIP Budget	Construction Contract Award	Total Expended or Encumbered To Date	Amount Remaining
Electrical & Doors	\$88,300	\$41,833.60	\$46,444.12	\$41,855.88
Drainage & sidewalks	\$49,678	\$68,544.00	¹ \$85,759.14	-\$36,081.14
Chinking & paint	\$22,112	-----	0	-----
Total	\$160,090		\$132,203.26	\$27,886.74

¹ Including change orders 1-5.

Discussion:

Unexpected conditions and deficiencies in the project plans have resulted in the need for five changes orders for the site improvement project. The change orders are summarized in Table 2 below.

While attempting to maximize effectiveness and efficiency, the Assistant City Manager authorized four of the change orders and in doing so inadvertently exceeded the Council's authorization regarding the expenditure of contingency funds. Whereas Council authorized \$6,854 in contingency, the four change orders approved by the Assistant City Manager total \$16,557.11. Administration apologizes for this oversight.

With the addition of the fifth change order, the total amount of the change orders is \$17,215.14. The five change orders equal 25 percent of the contract award. After the five change orders are subtracted from the available funds allocated to this project, \$27,886.74 remains for the chinking/painting project and any additional change orders that may arise.

Work on change order 1 has been completed. Change order 2 is being held until Council authorization is obtained. Work on change orders 3 and 4 is underway. Change order 5 has not been signed by the City, but is recommended by Administration.

No additional change orders are expected for the drainage and sidewalk project. However, as with any renovation project, unexpected conditions or problems can occur at any time. In order to avoid delays that may increase project costs, Administration suggests that the Council authorize the City Manager to approve change orders up to 30 percent of the contract award. This would authorize a total of \$20,563.20 in change orders.

Table No. 2 Drainage and Sidewalk Project: Summary of Change Orders

Change Order No.	Type	Cost	Purpose	Need
1	Drainage	\$5,658.73	Substitute curtain drain for foundation drain. Repair disturbed sanitary sewer and electrical lines. Divert storm sewer line around abandoned septic tank.	Building foundation not constructed as expected, basement apparently added sometime after building. Several obstacles were encountered during site excavation. All other project tasks follow installation of the deep drainage system. New design superior to bid design.
2	Drainage	\$2,553.97	Install 100 feet of channel drain to collect surface water.	Site experiences high levels of surface as well as ground water. Change Order 1 necessitated change in collection system for surface water. New design superior to bid design.
3	ADA access	\$2,117.69	Connect emergency exit stairs to new sidewalk by removing one step, repairing concrete wall, and installing two new steps.	Project plans did not provide a connection between emergency exit stairs on north side of building and new sidewalk. Existing concrete wall of stairwell severely cracked. Existing stair not compliant with uniform building code.
4	ADA access	\$6,226.72	Remove and replace north porch. Install ADA ramp to new sidewalk.	Project plans did not provide proper connection between north porch and new sidewalk. Existing north porch has settled and slopes steeply away from building. Improvements provide ADA access (and emergency exiting) from north side.
5	Drainage	\$658.03	Re-grade soils at west side of site..	Project plans did not provide for proper drainage of surface water at west side of new driveway. Cost effective to have contractor perform this work.
Total		\$17,215.14		

Alternatives:

1. Increase allowed contingency expenditures to 30 percent as proposed by staff. This would allow changes order 1-5 and up to \$3,348.06 in additional work if needed.
2. Increase allowed contingency expenditures to 25 percent, the amount needed to fund change orders 1 through 5 (\$17,215.14).

Financial Impact:

Even with the five change orders, the combined cost of the electrical and drainage projects are less than the amount allocated in the 2003-08 Capital Improvement Plan (CIP). Funds remain for the chinking/painting project as planned.

Recommendation/Conclusion:

Increase allowed contingency expenditures to 30 percent. This would allow changes orders 1-5 and up to \$3,348.06 in additional work if needed. The Field House is 64 years old and additional costs are not unusual when old structures are renovated.

Concurrence:

NA

Des Moines Field House Improvements Expenditures
#310.700.000.594.76.64.02

As of 09/04/03

MCI - \$44,505.00 in 2003
 CDBG \$115,585.00 In 2003

Project Total \$160,090.00

Cost Elements:	Contract Amt	Contract Changes	Amount	Misc.	Paid YTD	
Administration:				\$1,500.00		
Design:						
Grulich Architecture - (Facility)	\$5,120.00				\$1,583.75	
Construction:						
Facility Improvements (Interior)						
Mayer Construction	\$41,833.60	#1 - Interior Design Change	\$3,072.52			
Site Improvements (Exterior)						
R. L. Alia Company	\$68,544.00	#1 - Project Drainage Plan Changes - Unforeseen Conditions Below Ground	\$5,658.73			
		#2 - Channel Drain - Materials & Labor	\$2,553.97			
		#3 - North Steps To Basement - Design Improvements	\$2,117.69			
		#4 - North Porch Redesigned to Meet Modern Building Code	\$6,226.72			
Miscellaneous						
Advertising						
Permits						
-- Interior				\$1,227.60		
-- Exterior				\$857.34		
Total Expenditures	\$115,497.60		\$19,629.63	\$3,584.94	\$1,583.75	\$138,712.17
Balance				Balance		\$21,377.83



CHANGE ORDER: #1

PROJECT: Des Moines Fieldhouse Site Improvemen CHANGE ORDER DATE: 28-Aug-03

PROJECT NUMBER: 310.700.000.594.00.64.33

CONTRACTOR: R.L. Alia Company Contract Date: 07/28/2003
Phone: (206) 722-4900 Contract Start Date: 07/28/2003
Fax: Original Contract Substantial Completion Date
Amended Contract Substantial Completion Date

The contract is changed as follows:

Plus or (Minus)

Due to unforeseen conditions below ground, the project drainage plans were changed. A deep curtain was installed around the south and east side of the building in lieu of the foundation drains. Where a drainage line was interrupted by the abandoned septic tank, the line was re-routed. The new route was accomplished with two 90-degree angles instead of one 45-degree angle. See plans prepared by R.L. Alia Company.

Trenching	\$2,599.04 plus tax	SUBTOTAL	\$4,298.38
Conflict/sewer	\$2,152.69 plus tax	21% Mark Up \$	902.66
Conflict/power	\$449.31 plus tax	SUBTOTAL \$	5,201.04
		TAX \$	457.69
		TOTAL \$	5,658.73

Not valid until signed by the Contractor, Architect and Owner.

The original (Contract Sum) was including tax: \$63,000.00, tax \$5,544=\$68,544.00	\$68,544.00
Net change by previously authorized Change Orders	\$ -
The Contract Sum prior to this Change Order was	\$ 68,544.00
The Contract Sum will be increased or decreased in the amount of	\$5,658.73
The Contract Time will be increased or decreased by	
The date of Substantial Completion as of the date of this Change Order therefore is	
The NEW Contract Sum is:	\$ 74,202.73

ARCHITECT/ENGINEER

CONTRACTOR

CITY

BY: N/A CTL

BY: M. J. E. R.

BY: Corbitt Loch

DATE: 8-28-03

DATE: 8-28-03

Corbitt Loch, Project Manager

DATE: 8/28/03

Attach Work Change Directive and Change Order Request forms and shop drawings accordingly.



CHANGE ORDER: #2

PROJECT: Des Moines Fieldhouse Site Improvement CHANGE ORDER DATE: 28-Aug-03

PROJECT NUMBER: 310.700.000.594.00.64.33

CONTRACTOR:

R.L. Alia Company
Phone: (206) 722-4900
Fax:

Contract Date:
Contract Start Date: 07/28/2003
Original Contract Substantial Completion Date
Amended Contract Substantial Completion Date

The contract is changed as follows:

Plus or (Minus)

A channel drain is to be installed along the east side of the Field House. The channel drain may be connected to the 4 inch vertical pipe or discharged into the gravel filled trench.
100 linear ft x \$19.40 (includes labor and materials)

SUBTOTAL \$	1,940.00
21% Mark Up \$	407.40
SUBTOTAL \$	2,347.40
TAX \$	206.57
TOTAL \$	2,553.97

Not valid until signed by the Contractor, Architect and Owner.

The original (Contract Sum) was including tax: \$63,000.00, tax \$5,544=\$68,544.00	\$68,544.00
Net change by previously authorized Change Orders	\$ 5,658.73
The Contract Sum prior to this Change Order was	\$ 74,202.73
The Contract Sum will be increased or decreased in the amount of	\$ 2,553.97
The Contract Time will be increased or decreased by	
The date of Substantial Completion as of the date of this Change Order therefore is	
The NEW Contract Sum is:	\$ 76,756.70

ARCHITECT/ENGINEER

CONTRACTOR

CITY

BY: N/A CTL

BY:

DATE: 8-28-03

BY:

Corbitt Loch, Project Manager

DATE: 8/28/03

Work Change Directive and Change Order Request forms and shop drawings accordingly.



CHANGE ORDER: #3

PROJECT: Des Moines Fieldhouse Site Improvement CHANGE ORDER DATE: 28-Aug-03

PROJECT NUMBER: 310.700.000.594.00.64.33

CONTRACTOR:

R.L. Alia Company
Phone: (206) 722-4900
Fax:

Contract Date:
Contract Start Date: 07/28/2003
Original Contract Substantial Completion Date
Amended Contract Substantial Completion Date

The contract is changed as follows:

Plus or (Minus)

At the north steps to the basement, the plans do not provide details on how to connect existing stairs to new sidewalk.

Please provide pricing for the following work: Remove top step constructed of rock. Remove small portion of north wall at the large crack near the top of the top concrete step. Form and pour replacement wall. Leave hand rails as is. Form and pour two concrete steps, maintaining the rise and run dimensions of the existing concrete steps. Top of top new concrete step should meet top of new concrete sidewalk.

SUBTOTAL \$	1,608.60
21% Mark Up \$	337.81
SUBTOTAL \$	1,946.41
TAX \$	171.28
TOTAL \$	2,117.69

Not valid until signed by the Contractor, Architect and Owner.

The original (Contract Sum) was including tax: \$63,000.00, tax \$5,544=\$68,544.00	\$68,544.00
Net change by previously authorized Change Orders	\$8,212.70
The Contract Sum prior to this Change Order was	\$ 76,756.70
The Contract Sum will be increased or decreased in the amount of	\$ 2,117.69
The Contract Time will be increased or decreased by	
The date of Substantial Completion as of the date of this Change Order therefore is	
The NEW Contract Sum is:	\$ 78,874.39

ARCHITECT/ENGINEER

CONTRACTOR

CITY

BY: N/A CT

BY:

[Signature]

BY:

[Signature]

Corbitt Loch, Project Manager

DATE:

DATE: 8-28-03

DATE: 8/28/03

With Work Change Directive and Change Order Request forms and shop drawings accordingly.



CHANGE ORDER: #4

PROJECT: Des Moines Fieldhouse Site Improvement CHANGE ORDER DATE: 28-Aug-03

PROJECT NUMBER: 310.700.000.594.00.64.33

CONTRACTOR: R.L. Alia Company Contract Date: 07/28/2003
Phone: (206) 722-4900 Contract Start Date:
Fax: Original Contract Substantial Completion Date
Amended Contract Substantial Completion Date

The contract is changed as follows:

Plus or (Minus)

The existing concrete landing and stairs for the north porch will be demolished and reconstructed to meet modern building code requirements
The work will include a new concrete path to the sidewalk on the north side of the building.

SUBTOTAL \$	4,729.82
21% Mark Up \$	993.27
SUBTOTAL \$	5,723.09
TAX \$	503.63
TOTAL \$	6,226.72

Not valid until signed by the Contractor, Architect and Owner.

The original (Contract Sum) was including tax: \$63,000.00, tax \$5,544=\$68,544.00	\$68,544.00
Net change by previously authorized Change Orders	\$10,330.39
The Contract Sum prior to this Change Order was	\$ 78,874.39
The Contract Sum will be increased or decreased in the amount of	\$ 6,226.72
The Contract Time will be increased or decreased by	
The date of Substantial Completion as of the date of this Change Order therefore is	
The NEW Contract Sum is:	\$ 85,101.11

ARCHITECT/ENGINEER

CONTRACTOR

CITY

BY: N/A CTU

BY:

BY:

Corbitt Loch, Project Manager

DATE:

DATE: 8-28-03

DATE: 8/28/03

Sh Work Change Directive and Change Order Request forms and shop drawings accordingly.



CHANGE ORDER: #5

PROJECT: Des Moines Fieldhouse Site Improvement CHANGE ORDER DATE: 28-Aug-03

PROJECT NUMBER: 310.700.000.594.00.64.33

CONTRACTOR: R.L. Alia Company Contract Date: 7/28/2003
Phone: (206) 722-4900 Contract Start Date: 7/28/2003
Fax: Original Contract Substantial Completion Date
Amended Contract Substantial Completion Date

The contract is changed as follows: Plus or (Minus)

At west side of new concrete driveway, cut and fill to: 1) provide for proper drainage away from the driveway to the west; 2) provide smooth transition from driveway to turf. Project requires 4 hours of labor and equipment.
4 hours of labor = \$178.40. 4 hours of equipment = \$321.44

SUBTOTAL \$	499.84
21% Mark Up \$	104.97
SUBTOTAL \$	604.81
TAX \$	53.22
TOTAL \$	658.03

Not valid until signed by the Contractor, Architect and Owner.

The original (Contract Sum) was including tax: \$63,000.00, tax \$5,544=\$68,544.00	\$68,544.00
Net change by previously authorized Change Orders	\$16,557.11
The Contract Sum prior to this Change Order was	\$ 85,101.11
The Contract Sum will be increased or decreased in the amount of	\$ 658.03
The Contract Time will be increased or decreased by	
The date of Substantial Completion as of the date of this Change Order therefore is	
The NEW Contract Sum is:	\$ 85,759.14

ARCHITECT/ENGINEER	CONTRACTOR	CITY
BY: _____	BY: _____	Corbitt Loch, Project Manager
DATE: _____	DATE: _____	DATE: _____

Attach Work Change Directive and Change Order Request forms and shop drawings accordingly.

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	General Government	PROJECT NO.	
		PROJECT STATUS:	
		Preliminary Estimate	
PROJECT	Field House ADA Renovation	Plans in Preparation	<u> X </u>
		P.S.E. Complete	
LOCATION	1000 South 220th Street		

DESCRIPTION: The Des Moines Field House is the only city-owned indoor activity facility/gymnasium complete with multi-purpose fields, tennis courts, play equipment, and skateboard park. The 1939 WPA-built log field house has been designated a King County Historic Landmark.*

*This project is part of a multi-phased Field House renovation project using City, County, State, and Federal Funding sources.

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08
ADMINISTRATION	1,500	1,500					
DESIGN/ENG							
FIRE SUPPRESSION							
BUILDINGS	65,000	65,000					
ELECTRICAL/MECHANICAL	80,000	80,000					
INSPECTION							
CONTINGENCY	830	830					
SALES TAX	12,760	\$ 12,760					
OTHER							
TOTAL	160,090	160,090					

FUNDING SOURCE	TOTAL	FY 03	FY 04		FY 06	FY 07	FY 08
2000 CDBG	115,585	115,585					
MCI	44,505	44,505					
WSHG							
TOTAL	160,090	160,090					

OPERATING COSTS							
PERSONNEL							
SUPPLIES							
UTILITIES							
CAPITAL							
OTHER							
TOTAL							

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	General Government	PROJECT NO.	
PROJECT	Field House Renovation CDBG Funding Request	PROJECT STATUS:	
LOCATION	1000 South 220th Street	Preliminary Estimate	
		Plans in Preparation	<u> X </u>
		P.S.E. Complete	

JUSTIFICATION:

The Des Moines City Council is committed to the ongoing spot slum and blight rehabilitation needs of the facility. The facility was in poor condition at the time of transfer to the City, requiring that extensive rehabilitative measures be taken. The facility does not meet safety and accessibility standards, and had diminished in quality due to years of King County deferred maintenance. Through assistance by the Community Development Block Grant Program and Washington Heritage grant program indoor facility renovation has been initiated and will continue in phases until completed in 2004 or as funding is available.

SCOPE OF WORK

<u>Renovations (2003)</u>	
1% Administration	\$ 1,500
Electrical, Mechanical, Doors	\$ 80,000
Field House Basement Drainage/Walkways	\$ 45,000
Exterior Paint and Log Chinking	\$ 20,000
Contingency	\$ 830
Sales Tax @ 8.8%	\$ 12,760
Total	<u><u>\$ 160,090</u></u>

EXCERPT

DES MOINES CITY COUNCIL MINUTES

June 12, 2003

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the regular meeting minutes of May 8, 2003 and the special and regular meeting minutes of May 22, 2003.

2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #85442 through #85768 & electronic fund transfers in the total amount of \$1,088,742.77

Payroll fund transfers in the total amount of \$345,503.71

3. Motion is to approve the Contract for Des Moines Field House Site Improvements Project construction services with R. L. Alia Company in the amount of \$63,000.00 plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted, and to authorize the City Manager to approve change orders in amounts not to exceed 10% in total.

4. Motion is to approve the Interlocal Agreement with the City of Tukwila for video jail services and to authorize the City Manager to sign the agreement substantially in the form as submitted.

5. Motion is to approve the Addendum to the Interlocal Agreement for temporary custody of the inmates before transfer to Yakima County Jail and to authorize the City Manager to sign the agreement substantially in the form as submitted.

6. Motion is to approve the Contract for Public Defender Services and to authorize the City Manager to sign the contract substantially in the form as submitted.

7. Motion is to approve the expenditure of \$3,750 to be used as the City of Des Moines' match to the Economic Development Administration's Trade promotion grant and authorize the City Manager to transfer these funds to King County based on the approved scope of work from EDA and the King County's agreement to Attachment 1.

8. Motion is to approve the Consent Judgment & Decree of Appropriation in King County Superior Court Cause No. 02-2-19397-8 KNT and to authorize the City Attorney to approve said Judgment and Decree and present it to the court, for approval and entry substantially in the form as submitted.

9. Motion is to approve the Contract with Central Construction Fence and Deck for fencing in the amount of up to \$36,398.20 plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted.

Councilmember Petersen noted that he is recusing himself from participation on Consent Item #8.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sherman and passed unanimously, to approve the Consent Calendar as read.

**PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL**

MINUTES

August 14, 2003

The regular meeting of the Des Moines City Council was called to order at 7:41 p.m. by Mayor Steenrod in the City Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Dan Sherman, Scott Thomasson and Susan White (left at 10:03 p.m.). Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Assistant City Attorney Richard Brown, Public Works Director Tim Heydon, Assistant City Engineer Maiya Andrews, Park and Recreation Director Patrice Thorell, Finance Director Paula Henderson, Community Development Director Judith Kilgore, Development Services Manager Robert Ruth, and Deputy City Clerk Angela Chaufy.

COMMENTS FROM THE PUBLIC

City Attorney Marousek explained that any comments concerning any of the scheduled public hearings should be made during the hearing process rather than at this time.

Based upon this information, the following individuals elected to provide their comments to Council during the public hearings:

Corinna Ham	Jan Bergman
Denny Burnham	Danny Bergman
Jerry Bergman	Don Wasson

BOARD & COMMITTEE REPORTS

Public Safety and Transportation Committee

Mayor Pro Tem Benjamin informed Council that, due to savings realized from the asphalt chip sealing program, approximately \$18,000 was available to install lighting in the Pacific Ridge area.

Public Works Director Heydon distributed the committee's recommendation to install lighting in Pacific Ridge.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Thomasson to instruct the City Manager to allocate funds to install lighting in the Pacific Ridge area.

Public Works Director Heydon explained that the lights would be placed south of South 216th Street on 28th Avenue South, 29th Avenue South, and 30th Avenue South.

City Manager Piasecki noted that six lights would be installed immediately and two additional lights, if necessary, would be budgeted for next year.

Mayor Pro Tem Benjamin noted that the project could be approved administratively as it's cost was under \$20,000 but the PS&T Committee felt that it was an opportunity for Council to show their support for the community.

Councilmember Sherman said that he believed it was a good project but that he protested the procedure as the item had just been distributed to Council.

Councilmember Sheckler said he would support the motion but that he was also concerned with the process.

Councilmember Petersen voiced support for the motion. He felt Council should deal with the issue immediately as winter was coming. He hoped the lighting would alleviate crime in the area.

City Manager Piasecki confirmed that the motion was for Option B (Poles, luminaries and circuitry - \$15,520.67; Trenching - \$2,619.91; Monthly charge - \$46.90).

VOTE ON MOTION: Motion passed unanimously.

ADMINISTRATION REPORTS

10th Avenue Culvert Project

City Manager Piasecki informed Council that the 10th Avenue Culvert Project was ahead of schedule and should be completed in October.

Redondo Boat Ramp

City Manager Piasecki announced that the Redondo boat ramp and parking lot would close September 2, 2003 for construction.

Pacific Highway South Project

City Manager Piasecki noted that the Pacific Highway South project would begin August 18, 2003.

Neighborhood Business Meeting

City Manager Piasecki informed Council that a Neighborhood Business Meeting would be held August 26, 2003 at the South Marina Park.

Chief of Police Selection Process

City Manager Piasecki informed Council that 53 applications for the Chief of Police position had been received. He expected the position to be filled by the end of September or early October.

CONSENT CALENDAR was read by Deputy City Clerk Chaufly.

1. Motion is to approve the regular meeting minutes of June 26, July 7 and July 31, 2003.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #90274 through #90673 & electronic fund transfers in the total amount of \$1,472,243.27

Payroll fund transfers in the total amount of \$766,547.62

3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of August 15, 2003 through September 4, 2003:
 - a. All vouchers for payment of payroll checks, including Marina payroll, and
 - b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the September 11, 2003 Council Meeting.
4. Motion is to authorize an extension of two (2) years to the City's Photocopying Agreement with IKON Office Solutions in the amount of minimum monthly payments of \$1,764.00 and authorize the City Manager to sign the extension agreement substantially in the form as submitted.
5. Motion is to authorize the City Manager to sign the Interlocal Agreement with King County for commute trip reduction services through June 30, 2005.
- ~~6. Motion is to approve the Contract for the Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to \$17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted. And to authorize City Manager to approve change orders not to exceed 15% of the total contract amount.~~
7. Motion is to enter into agreements with Puget Sound Energy to cover the costs of the materials, installation, energy and maintenance of the street and sidewalk lighting associated with the Pacific Highway South Redevelopment Project and to authorize the City Manager to sign the agreements substantially in the form as submitted.
8. Motion is to enter into an agreement with Puget Sound Energy for the Construction work associated with undergrounding the power distribution system on Pacific Highway South and to authorize the City Manager to sign the agreement substantially in the form as submitted.
9. Motion is to confirm the Mayor's appointment of Diane Kennish as the City's Citizen Representative to the Des Moines Memorial Drive Advisory Committee.
10. Motion is approve an increase in the contract with SKM Construction Inc. in the amount of \$7,515, plus sales tax, for the installation of a bi-fold divider wall system for Des Moines Activity Center and authorize the City Manager to sign the contract, substantially in the form as submitted.

Mayor Pro Tem Benjamin removed Item No. 6.

In regard to Item Nos. 7 and 8, Assistant City Engineer Andrews explained that the cost of undergrounding utilities was governed by tariffs set by the Washington Utilities and Transportation Commission. The undergrounding of the utilities would cost the City just over \$500,000. The city's up-front cost for the lighting installations would be just under \$700,000 while the monthly utility bill was estimated to be \$2,620.

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

REMOVED CONSENT CALENDAR ITEM

Des Moines Activity Center Parking Lot Paving Project Contract

Mayor Pro Tem Benjamin expressed concern with the proposed 15% contingency for the project as a few weeks earlier it had been proposed at 10%. He stated that he feels that it is

unreasonable for every contract to contain a contingency, and that for this contract a 5% contingency would be more reasonable.

MOTION was made by Mayor Pro Tem Benjamin to approve the contract for the Des Moines Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to \$17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted and to authorize the City Manager to approve change orders not to exceed 5% of the total contract amount.

Park and Recreation Director Thorell explained that during the bid process, the seniors had requested that the number of proposed parking stalls be increased. Due to the low bid amount, the proposed contingency amount had been increased. She noted that \$45,000 had been allocated for the project and the engineer's estimate was \$35,000.

Mayor Pro Tem Benjamin's **motion died** for lack of a second.

MOTION was made by Mayor Steenrod and seconded by Councilmember Sheckler to approve the contract for the Des Moines Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to \$17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted and to authorize the City Manager to approve change orders not to exceed 10% of the total contract amount.

Upon questioning from Councilmember Thomasson, Park and Recreation Director Thorell confirmed that the City had obtained all the necessary project permits.

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

PUBLIC HEARING CONTINUED

Draft Ordinance No. 03-125 [Assigned Ord. No. 1328] Final Assessment Roll for LID No. 1-97-9 4th Place South Right-of-way - 1st Reading

City Manager Piasecki announced that the public hearing remained open.

Assistant City Attorney Brown reviewed the purpose of a Local Improvement District (LID) and the methods for forming one. He noted that nine of the twelve property owners had signed a petition requesting the formation of LID No. 1-97-9. The estimated cost for the project was \$22,538. Construction was completed in November 1998 at a final cost of \$21,693.30. Assistant City Attorney Brown displayed a picture of the neighborhood and its improvements. He noted that three protest letters to the final assessment had been received. In regard to the protests involving lack of notice, Assistant City Attorney Brown explained that there was no obligation on the part of the city to provide further notice to purchasers of affected properties. He said that the purchasers could seek remedy through the seller or their title company. In regard to the protest letter concerning lack of equal benefit, Assistant City Attorney Brown stated that the property in question had the same approximate length of frontage to the improvements. He explained the procedure for protesting equal benefit. Assistant City Attorney Brown noted that the City had received \$1,807.78 from a title company on behalf of one of the protestors. He explained that Council could close the public hearing, waive rule 26(b) and adopt the LID assessment roll ordinance on the first reading, close the public hearing and adopt the final

assessment roll ordinance at a subsequent second reading of the proposed ordinance, or direct staff to revise the assessment roll and set another public hearing date for the revised assessments.

Mayor Steenrod read the rules for conducting a public hearing. She said that the Appearance of Fairness Doctrine applied to the hearing and questioned whether any Councilmember was ineligible to participate.

None responded.

Mayor Steenrod called for speakers. She administered an oath to the speaker to provide truthful information to Council.

SPEAKER

Jack Brenner, 20209 4th Place South

Mr. Brenner questioned whether there was a statute of limitations concerning when the LID proceedings could take place.

City Attorney Marousek explained that as long as the LID was not finalized, there was no time limit attached.

Mayor Steenrod called for additional speakers three times.

None responded.

Mayor Steenrod closed the public hearing.

MOTION was made by Councilmember Thomasson and seconded by Councilmember White to suspend Council Rule 26(b) to consider Draft Ordinance No. 03-125 on the first reading.

City Attorney Marousek distributed a revised draft of the proposed ordinance.

Finance Director Henderson informed Council that the City had initially considered rolling the LID costs into the bond issue with the Marina. Later, they decided to self-finance the project.

Councilmember Sherman confirmed that no interest had been charged for the previous four years. He asked staff to check whether the protester of lack of equal benefit had testified at the July 10, 1997 public hearing regarding the preliminary assessment.

At 8:42 p.m., Mayor Steenrod declared a fifteen-minute break.

City Manager Piasecki informed Council that there had been no speakers at the July 10, 1997 public hearing establishing the preliminary assessment. He reiterated Finance Director Henderson's explanation regarding the delay in setting the final assessment roll. He recommended that Council adopt the proposed ordinance on the first reading.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to adopt Draft Ordinance 03-125.

City Manager Piasecki clarified that the revised version of the ordinance had been adopted.

PUBLIC HEARING

Unclassified Use Permit - Zenith Viewpointe, Alex White & Co., 23659 Marine View Drive South

Mayor Steenrod opened the public hearing and read the rules for conducting a public hearing.

City Attorney Marousek stated that the hearing was a quasi-judicial matter and inquired whether any Councilmember should be disqualified from participation.

Councilmember Thomasson stated that he had read an e-mail from the City Attorney directing Council to not read another e-mail. He said that he had followed the City Attorney's direction.

Mayor Pro Tem Benjamin said that he had attended a meeting with area neighbors and the developer. He also stated that he had read the letter from Peter and Helaine Skelly but had had no ex parte contact with them. Mayor Pro Tem Benjamin said that he did not believe that he had pre-judged or developed a bias in the matter.

Councilmember Sheckler said that he had not read the correspondence from the Skelly's.

Councilmember Petersen said that he had attended a meeting in late 2002 regarding the issue. He believed that he had not been influenced by the meeting.

Councilmember White said that she had not read the previously mentioned e-mail.

Councilmember Sherman said that he had only read the information contained in the packet materials.

Mayor Steenrod said that she had not read the previously mentioned e-mail.

City Attorney Marousek stated that she found no violation of the Appearance of Fairness Doctrine.

Audience participant Corrairie Harns questioned whether the inquiry included information about Planning Agency proceedings.

Councilmember Thomasson said that the minutes of the Planning Agency meeting had been provided in the packet materials.

City Attorney Marousek asked if there were any challenges to any Councilmember's participation in the hearing.

Jerry Bergman, 620 South 239th

Mr. Bergman challenged Councilmember Thomasson's participation in the matter due to a pre-judgement on the issue. He said that Councilmember Thomasson had attended a gathering in a neighbor's home and had made statements supporting development.

City Attorney Marousek reread the Appearance of Fairness criteria and questioned Councilmember Thomasson.

Councilmember Thomasson said that he had attended a party for his church's youth director but that he did not speak of the issue. Councilmember Thomasson said that he was very knowledgeable of the Appearance of Fairness Doctrine. He questioned who had made the allegations.

City Attorney Marousek read Council Rule 15.2 and 15.3. She asked the Mayor for a brief recess in order to allow her an opportunity to interview Mr. Bergman.

At 9:24 p.m., Mayor Steenrod declared a five minute break.

City Attorney Marousek announced that she had spoken to the person identified by Mr. Bergman as the source of the information. The source could not remember any such comments. Therefore, Councilmember Thomasson was not disqualified from the proceedings.

Mayor Steenrod called for any further challenges.

Don Wasson, 22047 Cliff Avenue South

Mr. Wasson read a statement (Exhibit 1) asking for the disqualification of Councilmember White from the proceedings on the basis of a violation of the Appearance of Fairness Doctrine demonstrated by her prejudgment of the issue prior to hearing the facts on the record and ex parte contact with her husband. He alleged that her husband, a member of the Planning Agency, had instructed her how to vote on the matter.

City Attorney Marousek asked Councilmember White if she had consulted Mr. White regarding the Planning Agency's recommendation or his feelings on the issue.

Councilmember White said that she had not consulted Mr. White but had read the Planning Agency's minutes contained in the packet. She said that she was aware the Planning Agency had concurred on their decision as she had asked him.

At 9:40 p.m., Mayor Steenrod declared a five minute break.

City Attorney Marousek informed Council that during the previous year she had researched whether Councilmember White was eligible to participate in an appeal of a Planning Agency decision to Council. At that time, due to the role of the Planning Agency, it was her opinion that Councilmember White should recuse herself from the appeal. Now, the Planning Agency provided only an advisory opinion to Council. She then researched the provisions of RCW 42.36.070 and found no reason for Councilmember White to be disqualified from the hearing.

Councilmember White said, however, that for appearance reasons only, she would recuse herself from the proceedings.

At 10:03 p.m., Councilmember White left the meeting.

Mayor Steenrod called for any additional challenges.

No one responded.

City Attorney Marousek explained that the hearing would address two issues, the SEPA Appeal and the Unclassified Use Permit (UUP). Council must resolve the SEPA matter prior to addressing the UUP issue.

Development Services Manager Ruth entered staff's written report into the record (Exhibit 2) and displayed an excerpt of DMMC 18.32 explaining the purpose of the UUP process and Council's criteria for making a determination. He noted that the City's code allowed mixed use in the Neighborhood-Commercial (N-C) zone but required a UUP. Development Services Manager Ruth noted that the UUP process gave much discretion to Council. He explained that the concept plan contained in the packet was not binding and should only be viewed as a potential development. The applicants would provide additional information regarding the project later in the hearing. Development Services Manager Ruth displayed an aerial view of the site and described the surrounding properties. He said that the plan included the following elements:

- Demolition of the grocery store located on the property,
- Construction of eight dwellings and 1,800 square feet of office space,
- Development of open space,
- Complete construction of South 239th Street, and
- Reconstruction of the stairs with a tie in to the vista viewpoint.

Development Services Manager Ruth reviewed the permitted uses for N-C zones as identified in DMMC 18.20.020. In staff's opinion, the developer's plan was the best option for the property as it had a residential component and had less traffic and activity associated with it. Mr. Ruth explained the steep slope development process as identified in DMMC 18.86.092. He said that most of the natural vegetation on the property had been removed.

At 10:27 p.m., **MOTION** was made by Councilmember Sherman and seconded by Councilmember Sheckler to extend the meeting to 11:00 p.m.

In response to Mayor Steenrod's questioning, City Manager Piasecki suggested that the hearing be continued to September 4, 2003 or September 11, 2003.

VOTE ON MOTION: Motion passed, 5 – 1, with Mayor Pro Tem Benjamin opposed.

MOTION was made by Councilmember Sheckler and seconded by Councilmember Sherman to continue the hearing to August 28, 2003.

Mayor Steenrod and Mayor Pro Tem Benjamin said that they would not be available for a meeting on that date.

Councilmember Petersen said that he would miss the September 4, 2003 and September 11, 2003 meetings.

Councilmember Sherman **withdrew his second of the motion. Motion failed for lack of a second.**

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to continue the hearing to September 4, 2003. **VOTE ON MOTION:** Motion passed, 4 – 2, with Mayor Pro Tem Benjamin and Councilmember Petersen opposed.

Development Services Manager Ruth stated staff's opinion that the applicant had mitigated the impacts of the proposal. He voiced the following recommendation of staff:

- Limit the number of buildings to six,
- Increase the setbacks by ten feet for the first and second levels and by 13 feet on the third level,
- Limit the square footage of the residential units to 1,600 – 2,000 square feet, and
- Impose all items of the mitigation agreement.

Development Services Manager Ruth informed Council that the Planning Agency had deliberated on the matter for two meetings. They concurred with staff's recommendation except they recommended limiting the number of buildings to two in order to increase open space. Staff, however, believed that limiting the number of buildings to two would impact the character of the development as a whole.

Mayor Steenrod called for appellants. Each speaker was put under oath.

Debbie Workman, 23903 7th Avenue South

Ms. Workman said that she strongly protested the proposed development. She was primarily concerned with traffic, parking, and surface water runoff impacts and aesthetics. Ms. Workman stated that residents would access the development off 7th Avenue South causing traffic to drive through the neighborhood. She said that there were many elderly and family pedestrians in the neighborhood. In regard to the parking issue, Ms. Workman said that she understood each unit would be given a one-car garage. She believed that each condo owner would have more than one vehicle causing the overflow cars to be parked on the narrow street or private property. Ms. Workman also voiced concern that the project did not have adequate green space. She said that the project's buildings and pavement would create a considerable amount of surface water runoff.

Keith Workman, 23903 7th Avenue South

Mr. Workman said that he did not feel it was necessary for Alex White to construct such a large building on the property. He voiced support for Ms. Workman's surface water runoff concerns.

Corinna Harn, 23910 7th Avenue South

Ms. Harn said that the proceedings were violating her due process rights as she believed a Hearing Examiner rather than Council should hear the issue. She felt that that the increased number of vehicles and people in the area would compound existing parking difficulties. Referring to a map of the area, Ms. Harn said that any legal access to the development would need to go through South 236th Street as 7th Avenue South did not extend to the property. She also said that the property did not have any frontage on 7th Avenue South due to the placement of a pumping station utility on the street. Ms. Harn said that the property was totally undisturbed and natural. She encouraged Council to study Mr. Skully's letter analyzing the legal issues.

Mayor Steenrod asked the City Attorney to address Ms. Harn's allegation regarding a violation of due process rights.

City Attorney Marousek stated that the Washington Administrative Code and SEPA procedures clearly indicated that this was the correct forum for the action. She confirmed that the e-mail from Peter and Helaine Skelly was now a part of the record.

Mary Beth Benson, 702 South 236th

Ms. Benson said that she had installed a french drain on the west side of her property when she built her house. She voiced concern with the traffic on the quiet, windy road. Ms. Benson felt that the proposed development infringed upon her rights. She stated her opposition to the project.

At 10:59 p.m., **MOTION** was made by Councilmember Sherman, seconded by Mayor Pro Tem Benjamin and passed unanimously to extend the meeting by an additional ten minutes.

Shirley Robinson, 23660 7th Avenue South

Ms. Robinson stated that water currently runs down her driveway. She expressed concern with traffic generated by the project and felt the development was not reasonably compatible with the neighborhood.

City Attorney Marousek informed Council that, upon further discussion with the project's developer and architect, she determined that they have standing and should be given an opportunity to address Council. They would be allotted time at the continued hearing.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Councilmember Sherman, and passed unanimously to continue the hearing to September 4, 2003.

PUBLIC HEARING

Draft Ordinance No. 03-172 Sanborn Street Vacation - 1st Reading

Mayor Steenrod opened the public hearing.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, and passed unanimously to continue the hearing to the September 11, 2003 meeting.

NEXT MEETING DATE – Regular Meeting, September 4, 2003

ADJOURNMENT

At 11:04 p.m., **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufy
Deputy City Clerk

Action Items from 8/14/03 Council Meeting - None

A G E N D A I T E M

SUBJECT:

Request to create a new Recreation Specialist position within Recreation Programs Division of Parks, Recreation and Senior Services Department

AGENDA OF: September 11, 2003

DEPT. OF ORIGIN: Parks, Recreation, & Senior Services

DATE SUBMITTED: September 4, 2003

CLEARANCES:

☒ Park & Recreation Director 

☒ Finance Director 

☐ Personnel

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

The purpose of this agenda item is to request City Council approval to create a new Recreation Specialist Position within the Recreation Programs Division of the Parks, Recreation and Senior Services Department effective immediately. The Recreation Specialist is an entry-level recreation position that would assist higher-level positions such as Recreation Coordinator and Recreation Manager with revenue generating program details that are equal to the position's level of responsibility.

Recommended Motion:

"I move to approve the creation of a new Recreation Specialist position within the Recreation Programs Division of Parks, Recreation and Senior Services Department."

Background:

The Parks, Recreation, and Senior Services Department has seen rapid and steady growth in recreation programs over the past three years and with the recent opening of Steven J. Underwood Memorial Park there is a need for an additional full time staff position to continue the desired growth and increased program revenue of the Department and to be able to fully utilize the new park to maximum revenue potential. Total Recreation Programs Revenue in 2000 was \$375,637.27 and we are projecting a total of \$474,100.00 for 2003.

The Recreation Programs Division is currently staffed by a Recreation Manager, (2) Recreation Coordinators and (1.5) Customer Service Representative positions along with 17,546 part time staff hours and various contracted program instructors. These positions served 9,722 unduplicated recreation and special event participants in 2002. In 2003 the Youth Basketball

Program grew by from 400 to 607 participants, a 4th Before and After School program site at North Hill Elementary School was added by public demand, Camp KHAOS and K2 averaged 86 participants per week this summer, staff began programming the sports fields at Steven J. Underwood Memorial Park and a variety of new programs and events were created, especially youth programs.

The Recreation Programs Division has seen substantial program participant and revenue growth and has worked hard to keep up with the larger participant base with the same full-time staffing level over the past many years. However, the recent program boom is exceeding staffing capacity and additional staff is needed to provide adequate services and recreation program support. These recreation programs create program revenue and are the type of activities that bring tourists to town which translates into economic development for our city.

Funds for this new position would partially come from the elimination of two part time positions (Camp KHAOS/K2 Director and Youth/Teen Basketball League Director). These duties would be absorbed as an essential part of the new Recreation Specialist position. Additional funds to pay for the position would come from increased program revenue in areas such as Adult and Youth Softball, Youth Basketball Tournaments, new Special Events, increased Pre-School and Teen Programming. The Recreation Specialist position would assist Recreation Manager and Coordinator level positions with the assigned tasks needed to achieve the above revenues.

Discussion:

The citizens of the Des Moines community have shown their interest in and demand for revenue producing recreation programs through steadily increasing participation resulting in revenue growth. The creation of the new Recreation Specialist position along with existing staff would accommodate more program opportunities to meet the growing demand for life enriching recreational services and improve the quality of service for our citizens.

Staff is proposing that the Recreation Specialist position be a grade level 12 (\$2,663.00/mo.). This entry-level position would report directly to a Recreation Coordinator or Recreation Manager (higher level positions) and would assist them with assigned work within the Recreation Program Division. Creation of this position would allow expanded growth in areas such as: adult and youth softball and youth basketball tournaments; teen programming including dances, trips and programs; creation of new community special events such as Tour Des Moines bicycle road rally, enhanced summer concerts and family events; additional Pre-School programming and other program, special event and sponsorship and volunteer opportunities.

Time is of the essence because sports tournament planning (as well as all program planning) begins in the fall for programs taking place the following spring and summer and later in the year. Softball scheduling and affiliation guides come out in early January with all tournament listings for the upcoming year. City Youth Basketball Leagues and programs begin in October and continue through winter.

Alternatives:

1. Do not authorize the position and direct staff to provide programming at the current level with the existing resources provided.

Not authorizing this position would halt the continued growth of city programs and events and make it difficult for existing staff to provide for the increasing programming needs of our citizens. Future revenue generating recreational opportunities at Steven J. Underwood Memorial Park could be hampered.

2. Authorize a third Recreation Coordinator (at a higher pay rate than the proposed Recreation Specialist position), and/or hire additional part-time staff (at varying salaries and benefit levels).

Hiring a third Recreation Coordinator (higher level of experience than Recreation Specialist) would be very helpful, however the job duties required by the Division at this time can be achieved more cost effectively with the creation of the new Recreation Specialist position at a lower salary based on the degree of responsibility. Additional part time staff would also be helpful support but would not provide the same consistency and experience gained by the full-time the Recreation Specialist position.

3. Contract recreational professional services as possible to individuals or other organizations.

The Recreation Division currently contracts professional services with many contractors on an as-needed basis interchangeably or in lieu of part-time staff. As a business, professional services contractors must carry their own liability insurance and have the required skills and training specific to recreation programming. It may be difficult to find a Recreation Coordinator or Specialist or other service organization to provide the needed recreation program support on a contract basis. Directing staff to contract out services could impact the amount of revenue that could be generated as well as give staff less control of program quality and facility accessibility.

Financial Impact:

There would be no additional financial impact to the City of Des Moines General Fund. Based on numbers provided by the Finance Department, the Recreation Specialist Position would cost \$3,895 (including benefits) per month for the conclusion of 2003 and would cost \$51,520 for the year of 2004. If the position began on October 1, 2003 the cost for the remainder of the year would be \$11,685. Approximately half (\$6475) of the \$11,685 position cost would come from the re-allocation of a budgeted Youth/Teen Basketball League Director Position (500 hours@ Pay Level 4). The additional \$5,210 required for the position would come from increased program revenue generated by this position and from a surplus of recreation program revenues (\$15,972.30) collected as of July 2003.

With the inclusion of this new position in 2004, recreation staff has provided very conservative increased recreation program revenue projections totaling \$37,582. Added with \$13,938 from the re-use of funds allocated for two part time positions which would be eliminated (Camp KHAOS Director and Youth/Teen Basketball League Director), the cost of this new position would be paid for without the use of additional general fund dollars as stated in table below:

Position Cost Based on 2004 Projections:

Salary	\$32,755
Benefits	<u>\$18,765</u>
Total	\$51,520

Position Savings:

Camp KHAOS Director/ Youth/Teen B-ball Director	<u>\$13,938.00</u>
Total Savings	\$13,938.00

Increased Revenue Projections:

Adult Softball Leagues (\$445/team x20 teams total)	\$8,900.00*
Adult Softball Tournaments (\$1200/weekend x 6 weekends)	\$7,200.00*
Youth Basketball Tournaments (\$2000 per trny x 4 trny)	\$8,000.00

Teen Dances (1 per month - \$500 per dance x 8 dances)	\$4,000.00
Teen trips, programs	\$2,582.00
Winter Road Race	\$3,000.00
Expanded Pre-School Programs	\$2,000.00
Family Bicycling Special Event	<u>\$1,900.00</u>
Total Increased Revenue	\$37,582.00

Total Positions Savings	\$13,938.00
Total Increased Revenue	<u>\$37,582.00</u>
Total Recreation Specialist	\$51,520.00

* Des Moines' sports field users are currently paying the market rate as compared to other regional cities and King County. We will continue to monitor field use fees and will make needed adjustments. The above revenue projections for field use are low due to initial start up of facilities. Additional Revenues generated from Steven J. Underwood Memorial Park in areas such as additional field rentals for practices, games and tournaments in both baseball/softball and soccer along with sponsorship opportunities at the park will generate approximately \$10,000 in the 2004 calendar year. At full build out (3 playable lighted fields with restroom facilities) staff expects that sports field user fees and sponsorships will increase over time to cover up to 50% of sports field overhead.

Recommendation/Conclusion:

It is recommended that the City Council approve the creation of a Recreation Specialist position within the Recreation Programs Division of the Parks, Recreation and Senior Services Department.

Concurrence:

Administration, Finance and Parks, Recreation and Senior Services staff are in concurrence with the above recommendation.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Right of Way and Park Use Permit Ordinance

ATTACHMENTS:

Draft Ordinance No. 03-075

FOR AGENDA OF: September 11, 2003

DEPT. OF ORIGIN: Public Works/Parks

DATE SUBMITTED: March 24, 2003

CLEARANCES:

☒ Legal

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

PURPOSE AND RECOMMENDATION

This report is to present, for council consideration, draft ordinance No. 03-075, which has been prepared in part at the direction of the city council late last fall and in part at the recent request of 3 members of the council. Draft ordinance No. 03-075 establishes policy, guidelines and approval procedures for city right-of-way and city park special use permits and amends DMMC chapters 12.04 and 19.08.

Without further direction from the council this draft ordinance is not ready for enactment because it is incomplete as follows:

- The proposed new section for DMMC 12.04 (**Sec. 1 of the draft ordinance**) requires definitions for those right of way permits that will need council approval;
- The proposed new section for DMMC 12.04 (**Sec. 2 of the draft ordinance**) requires a final decision and description of city costs to be reimbursed and whether the council may waive reimbursement.
- The proposed new section for DMMC 12.04 (**Sec. 3 of the draft ordinance**) requires a final decision for required time limitations for obtaining city approval for events. This

DISCUSSION

The central issues are:

- How involved should the council be in the policy making, management and permit approval process of city right of way and park property?;
- What is the most efficient legislative and/or policy making process for the council to establish policy and direct or supervise the right of way and park permit process?; and
- What specific events and/or uses of city right of way and/or park property should require involvement/approval of the council?

ALTERNATIVES

ACTION ALTERNATIVES:

The council has the following action alternatives:

1. **Take no action.** This would leave DMMC sections 12.04 and 19.08 unchanged and would leave authority with the director of public works, under the direction of the city manager, to prepare and adopt all procedures needed to implement and carry out the city right of way code and would leave authority with the city manager to promulgate the rules for the city parks and park facilities, all without necessary approval of the city council. This would not preclude the director of public works or the city manager from requesting the involvement or approval by the council if they chose to do so.
2. **Establish policy by resolution.** This would require only minor amendments to existing DMMC sections 12.04 and 19.08 by authorizing the council to specify those events and/or uses that would require council approval and would allow for council approval on the consent calendar or by simple motion.
3. **Amend DMMC sections 12.04 and 19.08** to establish and codify those specific events and/or uses that would require council approval and **require a council resolution** establishing the terms and conditions of each permit approval. This is essentially the form of Draft Ordinance No. 03-075 – with the blanks to be filled in at council direction.

EVENTS/USES/PURPOSES ALTERNATIVES:

The following are some of the events, uses and purposes that could require council approval for a city right of way or special park use permit:

1. Events that involve use of City property for more than a specified number of days;
2. Events where people are charged an admission fee;

CITY ATTORNEY'S FIRST DRAFT 3/24/03

DRAFT ORDINANCE NO. 03-075

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to permits; establishing policy, guidelines, and approval procedures for right-of-way and special use permits; identifying conditions that require approval of the City Council rather than administrative action; adding new sections to chapter 12.04 DMMC; and amending DMMC 19.08.020.

WHEREAS, DMMC 12.04.060 provides that the director of the department of public works, under the supervision of the city manager, shall have the power to prepare and adopt procedures as needed to implement and carry out the responsibilities of the city right-of-way code (DMMC 12.04) without approval of the City Council; and

WHEREAS, DMMC 19.08.020 provides that the City Manager shall have the authority to promulgate rules setting forth the times and conditions upon which City parks and park facilities will be open, closed or used by the public, and

WHEREAS, there have been past instances when the City Manager has sought guidance from the City Council regarding policy and approval of right-of-way use permits for use of City rights-of-way and special use permits for use of City-owned parks and park property, and

WHEREAS, there have been past instances when the City Council has deemed it appropriate to provide policy and guidelines for approval of right-of-way use and special event permits for use of City-owned rights-of-way, parks, and park property, and

WHEREAS, it is likely that there will be future instances where it will be appropriate for the City Council to provide policy, guidelines, and approval of right-of-way use permits and special event permits; now therefore,

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

NEW SECTION. Sec. 1. A new section is added to chapter 12.04 DMMC to read as follows:

(3) Advise the City Council, City Manager, and other City departments on matters relating to use of the right-of-way;

(4) Carry out such other responsibilities as required by this chapter or other codes, ordinances, resolutions, or procedures of the City;

(5) Request the assistance of other City departments to administer and enforce this chapter;

(6) Assign the responsibility for interpretation and application of specified procedures to the traffic engineer.

NEW SECTION. **Sec. 4.** A new section is added to chapter 12.04 to read as follows:

Request for approval--Time for submission. Persons or organizations wishing to hold events that are subject to this chapter shall submit a request for each approval at least **90 (?) days** prior to the event.

Sec. 5. DMMC 19.08.020 and section 2 of Ordinance No. 758 are amended to read as follows:

19.08.020 Administration.

(1) The City Manager shall have the authority to promulgate rules setting forth the times and conditions upon which City parks and park facilities will be open, closed, or used by the public. With the exception of the conditions set forth in section 2 below, such rules and conditions do not require approval of the City Council.

(2) City Council approval by resolution is required for the following events and/or uses of City parks and park facilities:

of any action, including but limited to personal injuries, death, or damage to property arising out of the use of premises, or in any way arising out of the acts or omissions of the person, group, and/or its agents, employees or representatives.

~~((+6+))~~ (7) During all periods of use, persons using facilities by permit shall obtain and maintain public liability insurance in such form and amounts as determined by the division.

~~((+7+))~~ (8) The use of park facilities for financial gain shall be allowed only through concession contracts with the City or by written permit from the City Manager or his designee.

(9) Reimbursement of City costs. Persons or organizations wishing to hold events that are subject to DMMC 19.08.020(2) shall reimburse the City its costs of supporting the event, including, but not limited to, police, security, parks, marina, and public works costs. [The City Council may, in its sole discretion, waive reimbursement if it finds that there is or has been a public benefit for the event?]

NEW SECTION. Sec. 6. Codification. Sections 1, 2, and 4 of this ordinance shall be codified as new sections in chapter 12.04 DMMC.

NEW SECTION. Sec. 7. 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.

