

R-E-V-I-S-E-D

AGENDA

**REGULAR MEETING
DES MOINES CITY COUNCIL**

January 6, 2010 - 7:30 p.m.

CALL TO ORDER - Mayor Sheckler

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC:

At this time the audience is invited to comment on any topic to bring it to Council's attention. Please sign in prior to the meeting and limit comments to three minutes or less.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve minutes from the regular meetings of December 2, 9, and 16, 2010, and the Special Meeting to hold an Executive Session of December 2.

Item 2: LOCAL GOVERNMENT INVESTMENT POOL

Motion is to adopt Draft Resolution No. 10-213, authorizing deposit or withdrawal of funds in the Local Government Investment Pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated in the Washington Administrative Code, describing the names and titles of the officials authorized to order deposit or withdrawal of funds, and superseding Resolution No. 775.

Item 3: DES MOINES POLICE MANAGEMENT ASSOCIATION COLLECTIVE
BARGAINING AGREEMENT (CBA)

Motion is to adopt draft Resolution 11-001, approving the collective bargaining agreement between the Des Moines Police Management Association and the City of Des Moines and authorizing the City Manager to sign it substantially in the form as submitted.

OLD BUSINESS

1. Council Rules

Staff Presentation: City Manager Tony Piasecki

NEW BUSINESS

1. Intergovernmental Policies and Positions
Staff Presentation: City Manager Tony Piasecki
2. City of Des Moines Police Guild Letter to Mayor Sheckler dated December 27, 2010

NEXT MEETING DATE – January 13, 2011

ADJOURNMENT

AGENDA
REGULAR MEETING
DES MOINES CITY COUNCIL

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OLD BUSINESS

1. Council Rules

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NEW BUSINESS

1. Intergovernmental Policies and Positions
Staff Presentation: City Manager Tony Piasecki

NEXT MEETING DATE – January 13, 2011

ADJOURNMENT

MINUTES
SPECIAL MEETING TO HOLD EXECUTIVE SESSION
December 2, 2010

CALL MEETING TO ORDER – The Special Meeting was called to order at 6:08 p.m. by Mayor Pro-Tem Kaplan in City Council Chambers. The City Council recessed to the City Hall Conference Room.

ROLL CALL – Present were Mayor Pro-Tem Dave Kaplan; Councilmembers Matt Pina, Scott Thomasson, and Carmen Scott.

Staff present were City Manager Tony Piasecki and Assistant City Manager Lorri Ericson.

At 6:25 p.m. Councilmember Dan Sherman joined the meeting.

PURPOSE

The purpose of the Special Meeting to hold and Executive Session was to discussing strategies or positions as part of an ongoing collective bargaining process as provided in RCW 42.30.140(4)(b), and to consider the acquisition of real estate per RCW 42.30.110 (b).

ADJOURNMENT

The Special Meeting to hold an Executive Session was adjourned at 7:25 p.m.

Respectfully submitted,

Lorri Ericson
Assistant City Manager

MINUTES

REGULAR MEETING DES MOINES CITY COUNCIL

December 2, 2010 - 7:30 p.m.

CALL TO ORDER - Mayor Sheckler called the meeting to order at 7:30.

PLEDGE OF ALLEGIANCE - The flag salute was led by Councilmember Musser.

ROLL CALL

Present were Mayor Sheckler; Mayor Pro-Tem Kaplan; Councilmembers Scott Thomasson, Dan Sherman, Matt Pina, Melissa Musser and Carmen Scott.

Staff present were City Manager Tony Piasecki; Assistant City Manager Lorri Ericson; Acting Assistant City Attorney Tim George; Planning Building and Public Works Director Grant Fredricks; Interim Police Chief John O'Leary; Finance Director Paula Henderson; Finance Operations Manager Cecilia Pollock; Harbormaster Joe Dusenbury; Parks Recreation and Senior Services Director Patrice Thorell; Commander Kevin Howard, City Clerk Sandy Paul

CORRESPONDENCE

There was no correspondence.

COMMENTS FROM THE PUBLIC:

Cathy Narverod, 10634 SE 290th Street; Carol Morrow, 2415 South 219th Street; Shelley Scarlett, 3011 South 224th Street; and BJ Bjorneby, 517 South 212th commented on the towing contract award. Shelley Scarlett read a letter from Maggie Steenrod about the towing contract.

Cynthia Ruud, 25814 17th Avenue South, spoke about the death of Rosie, the Newfoundland dog.

Amber Scott, 22807 17th Avenue South, spoke about the Farmer's Market. She invited Council and audience to the Farmer's Market Appreciation at the Activities Center on December 10.

Tom Schacht, 26411 7th Avenue South, spoke about the PIYA Award.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Scott spoke reported that the Finance and Economic Development Committee had met and reviewed citizen feedback about the Marina (Downtown) District.

Mayor Pro-Tem Kaplan had no report.

Councilmember Musser announced the Christmas Tree Lighting would take place at Big Catch Plaza on Friday, December 3, at 6:00 p.m.

Councilmember Pina had no report.

Councilmember Sherman had no report.

Councilmember Thomasson had no report.

PRESIDING OFFICER'S REPORT

Tom Schott presented the Commodores Trophy to the City of Des Moines and the Des Moines and Three Tree Point Yacht Clubs. A \$500 grant accompanies the 'sexton' trophy.

David Garmin, Commodore of Three Tree Point Yacht Club talked about the Youth Sailing Club at Three Tree Point.

Shelley Conti, Chair of the Youth Sailing Project, gave a pictorial report of the Youth Sailing program.

ADMINISTRATION REPORTS

Ken Kase, Midway Sewer District, spoke about rehabilitation of sewer pipes in Des Moines.

City Manager Tony Piasecki

- Reported that Consent Item #3 had been revised slightly with a modified motion for clarity
- Regarding Consent Item #4, granting the Sewer District easement to City property, the District provides easement to the City for the Des Moines Creek Trail as it traverses through the treatment plant. All available information was forwarded to the Council on the Sewer District's concessions to the City.
- Commended City crews during the recent snowfall for their hard work clearing streets to keep them safe for the community

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve the September 30, October 7, and November 4 meeting minutes and the minutes of the Special Meeting to hold an Executive Session November 4, 2010.

Item 2: APPROVAL OF FINDINGS:

Vouchers will be reported at the December 9, 2010 meeting

Item 3. Staff Request to Redirect Contingency Funds for the North Marina Combined Project

Motion is to authorize staff to use \$35,000 in North Marina Combined Projects contingency funds originally set aside by the City Council at the May 27, 2010 meeting, for pile driving and ground anchors to augment the \$40,000 in contingency funding for additional asphalt paving

Item 4: Request for an easement by the Midway Sewer District that would enable the District to site an emergency back-up generator on the Marina floor

Motion is to approve an easement to Midway Sewer District for the installation, operation, and maintenance of an emergency back-up generator on the Marina floor and to authorize the City Manager to sign the easement substantially in the form as attached.

Item 5. Settlement with Geico Insurance for Damage to City Property

Motion is to accept the settlement offer from Geico in the amount of \$8,662.69 to reimburse the Street Fund for property damage and repair to a signal utility box incurred from a traffic accident on October 4, 2009, and to authorize the City Manager to sign the 'Release of Settlement Claim' with Geico substantially in the form as attached

ACTION/DIRECTION

Motion to adopt the Consent Agenda was made by Councilmember Sherman; second by Councilmember Thomasson. The vote was unanimous to approve the Consent Agenda.

OLD BUSINESS #1

2nd Reading Draft 2011 Budget Ordinance

City Manager Piasecki offered opening remarks. Finance Director Paula Henderson said property taxes were shifted to the Levy Lift Fund in the amount of \$61,000.

ACTION/DIRECTION

Mayor Sheckler moved to add \$15,000 to the budget for Destination Des Moines; Councilmember Pina, second.

Councilmember Sherman moved to amend the main motion by reducing the amount for Destination Des Moines to \$7,500; Councilmember Musser, second. The motion was approved, 5-2. Mayor Sheckler and Councilmember Pina voted *no*.

The main motion, as amended, was to award \$7,500 to Destination Des Moines. The motion was approved, 6-1. Councilmember Thomasson voted *no*.

RECESS - Mayor Sheckler recessed the meeting for a 10-minute break at 8:45 p.m. The meeting reconvened at 8:55 p.m.

NEW BUSINESS #1.

Towing RFP Contract Award

Commander Kevin Howard provided a historical presentation of past and current towing contracts and services. Selection of one company would not exclude other bidders from towing vehicles in Des Moines.

ACTION/DIRECTION

Following discussion, Mayor Pro-Tem Kaplan moved to approve the Towing and Impound Services Agreement between the City of Des Moines and Dick's Towing and Road Services, and to authorize the City Manager to sign the Agreement substantially in the form as submitted; Councilmember Thomasson, second. The motion was approved unanimously.

NEW BUSINESS #2

Police Needs Assessment RFP

Assistant City Manager Lorri Ericson explained the process of the Request for Proposals (RFP) for police service needs to date.

ACTION/DIRECTION

Councilmember Musser moved to direct staff to begin negotiating a contract with Matrix consulting Group to perform an organizational review and workload and performance audit for the City of Des Moines Police Department; Councilmember Scott, second. The motion passed with on a 6-0 vote.

NEW BUSINESS #3

Beach Park Projects Councilmanic Bonds

Parks Recreation Senior Services Director Patrice Thorell compared needed projects with current available funding and what some funding options might include. Councilmanic bonds could be approved by the City Council without a vote of the people.

ACTION/DIRECTION

Following discussion, Councilmember Sherman moved to remand the topic of Councilmanic bonds back to the Municipal Facilities Committee 1) for a business plan and 2) for a debt service plan; Mayor Pro-Tem Kaplan, second. The motion passed 6-0.

NEW BUSINESS #4

Adoption of CIP Resolution

ACTION/DIRECTION

Due to the lateness of the hour, Mayor Pro-Tem Kaplan moved to place *Adoption of the CIP Resolution* on the City Council agenda for December 9, 2010; Councilmember Thomasson, second. The motion was approved unanimously.

NEXT MEETING DATE – December 9, 2010.

ADJOURNMENT – Mayor Pro-Tem Kaplan adjourned the meeting at 10:30 p.m.

**MINUTES
REGULAR MEETING
DES MOINES CITY COUNCIL
December 9, 2010 - 7:30 p.m.**

CALL TO ORDER - Mayor Pro-Tem Kaplan

PLEDGE OF ALLEGIANCE - The flag salute was led by Councilmember Pina.

ROLL CALL

Present were Mayor Pro-Tem Kaplan; Councilmembers Scott Thomasson, Dan Sherman, Matt Pina, Melissa Musser and Carmen Scott.

Mayor Sheckler was absent. Councilmember Pina moved to excuse Mayor Sheckler; Councilmember Musser, second; all the votes were ayes.

Staff present were City Manager Tony Piasecki, City Attorney Pat Bosmans; Planning Building and Public Works Director Grant Fredricks; Harbormaster Joe Dusenbury; Assistant Director of Transportation and Planning Manager Denise Lathrop; Acting City Clerk Autumn Lingle.

No Correspondence

COMMENTS FROM THE PUBLIC:

Vernena Staab, 21628 28th Ave S, Des Moines.

Ms. Staab commented on water problems, abandoned shopping carts and street sweeping.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Scott had no report.

Mayor Pro-Tem Kaplan had no report.

Councilmember Musser had no report.

Councilmember Pina commented on the Tree Lighting, stating it was a wonderful community event and he encouraged others to attend in the future. He noted that on December 7, 2010, Healthy Highline Communities Coalition Meeting met in Burien. The committee is in the process of defining work that qualifies for the grant funding. Policy discussion is in progress.

Councilmember Sherman had no report.

Councilmember Thomasson stated the Environment Committee met earlier in the evening and discussed correspondence from the City of Normandy Park regarding drainage issues on 1st Avenue South and Marine View Drive South. The suggestion was made that the City of Des Moines and Normandy Park officials meet to consider a course of action.

PRESIDING OFFICER'S REPORT

Mayor Pro-Tem Kaplan presented the Sprit of Des Moines Award to Jeanne Moeller. Mayor Sheckler, unable to attend the meeting in person, phoned into the meeting to congratulate and thank her personally for her dedication. She accepted the award and thanked all the people that assisted her throughout the years.

ADMINISTRATION REPORTS

City Manager Piasecki noted that no minutes will be approved tonight. He alerted Council that the first phase of the Rosie the Dog Incident has been reviewed and sent to the King County Prosecuting Attorneys office. He stated the City is hoping for a quick resolution.

CONSENT CALENDAR

Item 1: No Minutes to approve.

Item 2: APPROVAL OF 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 is to approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks \$ 922,729.75

Payroll fund transfers in the total amount of \$ 434,795.67

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are \$ 1,357,355.42

Item 3: Consultant Contract to hire a Special Transportation Project Manager

Motion is to authorize the City Manager to sign the contract amendment, substantially in the form submitted, with Leonard D. Madsen to continue professional special project management services for the Transportation Gateway Project through December 31, 2011 at a value not to exceed \$66,000.

ACTION/DIRECTION

Motion was made by Councilmember Sherman, seconded by Councilmember Pina, to approve the Consent Calendar. Passed unanimously.

At 7:49 p.m. Mayor Pro-Tem Kaplan announced a 10-minute Executive Session regarding potential litigation. At 8:00 p.m. he extended the Executive Session for five more minutes. The regular meeting reconvened at 8:08 p.m.

OLD BUSINESS

1. Marina District Planning Update

Planning Manager Lathrop gave a PowerPoint update to Council.

ACTION/DIRECTION

None taken.

Mayor Pro-Tem Kaplan made a change to the agenda and moved New Business #2, Classic Yachts, as the next item to be discussed.

NEW BUSINESS

2. Classic Yachts Lease

ACTION/DIRECTION

MAIN MOTION AS AMENDED was made by Councilmember Sherman, seconded by Councilmember Pina, that the City Council approve the lease agreement with Classic Yachts, Inc., with Section 4 amended to read, "during the first 5 years of this lease as long as the tenants sales office is on L Dock the City will provide reasonable access as tenant currently enjoys to the tenants sales office in the event of present or future renovations projects" and authorize the City Manager to sign the lease agreement, substantially in the form as attached. Acceptable to the maker and seconder

Councilmember Pina called the question.

Motion passed unanimously.

At 9:27 p.m. Mayor Pro-Tem Kaplan announced a 12 minute break. Meeting reconvened at 9:39 p.m.

Mayor Pro-Tem Kaplan announced a change in the agenda, moving New Business #1, Draft Ordinance Budget Amendments, as the next order of business.

NEW BUSINESS

1. Draft Ordinance Budget Amendments

ACTION/DIRECTION

MOTION was made by Councilmember Sherman, seconded by Councilmember Musser, to suspend Rule 26(b) in order to enact Draft Ordinance No. 10-210 on first reading. Passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember Musser, to enact Draft Ordinance No. 10-210 relating to municipal finance, amending the 2010 budget adopted in Ordinance No. 1472, and as amended in Ordinance No. 1491. Passed 5 to 1, with Councilmember Thomasson opposed *not* because of the content of this amendment but because he voted against the previous amendments to the budget and this ordinance reconfirms those amendments

NEW BUSINESS

3. Adoption of CIP Resolution

PBPW Fredricks briefed the Council on CIP progress.

ACTION/DIRECTION

No action taken. Council direction was that a refinement of further discussion of a potential bonding program go to the municipal facilities committee for further discussion to be brought back to the Council in the first few months of next year.

OLD BUSINESS

2. 2011 Budget Ordinance

ACTION/DIRECTION

MOTION was made by Councilmember Pina, seconded by Councilmember Musser, when the final budget numbers are provided to Council that those numbers include a 2 percent increase to the City Manager. Passed 4 to 2, with Councilmember Sherman opposed because of what is occurring at other cities and at the Federal level he does not believe anyone should be getting a COLA. Councilmember Thomasson opposed because the City Managers compensation is negotiated by contract

MOTION was made by Mayor Pro-Tem Kaplan, seconded by Councilmember Pina, to pass Draft Ordinance No. 10-198 to a second reading for enactment at the December 16, 2010 City Council meeting. Passed 5 to 1, with Councilmember Sherman opposed.

NEXT MEETING DATE – December 16, 2010.

ADJOURNMENT

The meeting was adjourned at 10:11 p.m.

Respectfully submitted,

Autumn Lingle
Clerk

**MINUTES
REGULAR MEETING
DES MOINES CITY COUNCIL
December 16, 2010 - 7:30 p.m.**

CALL TO ORDER – Mayor Sheckler called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE – The flag salute was led by Councilmember Thomasson.

ROLL CALL

Present were Mayor Sheckler; Mayor Pro-Tem Kaplan; Councilmembers Scott Thomasson, Matt Pina, Melissa Musser and Carmen Scott.

Councilmember Dan Sherman was absent. Councilmember Musser moved to excuse Councilmember Sherman; Mayor Pro-Tem Kaplan, second; all the votes were ayes.

Staff present were City Manager Tony Priasecki; City Attorney Pat Bosmans; Assistant City Manager Lorri Ericson; Planning Building and Public Works Director Grant Fredricks; Interim Police Chief John O'Leary; Finance Director Paula Henderson; Finance Operations Manager Cecilia Pollock; Parks Recreation and Senior Services Director Patrice Thorell; Assistant Director of Transportation and Engineering Dan Brewer; CIP Project Manager Scott Romano; City Clerk Sandy Paul

CORRESPONDENCE

There were three letters to report:

- The CDBG grant for improved lighting at the Activities Center was awarded to the City of Des Moines
- A letter from David Gehrke supported placing a mural on one side of the Key Bank building
- The Department of Ecology (DOE) sent a letter notifying the City that all requirements had been met and the Stormwater grant was approved.

COMMENTS FROM THE PUBLIC:

Dennis Steussy, 1912 South 25th Place, Des Moines, discussed the Arts Commission Budget

Dee Dee Law, 19909 Marine View Drive in Normandy Park, commented on the death of Rosie the dog and read from comments from others who could not attend the meeting.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Scott reported that on Tuesday, December 14, the Finance and Economic Committee had met and discussed the Economic Development Strategy Overview, Transfer of Development Rights (TDR) Program, and new provisions of the Sign Code.

Mayor Pro-Tem Kaplan reported that on Friday, December 10, he had attended two separate volunteer recognition events, one for seniors and one for the Farmer's Market. Approximately 100 people attended each event.

Councilmember Musser had no report.

Councilmember Pina had no report.

Councilmember Sherman was absent.

Councilmember Thomasson had no report.

PRESIDING OFFICER'S REPORT

Mayor Sheckler reported that he had received several emails about the Rosie incident. Investigations were completed internally and by the King County prosecutor. Findings from the Prosecuting Attorney concluded that police officers involved in shooting Rosie did not commit a felony or break any laws. Their report would be posted on the City's website December 17. The City will now proceed to see if policy was followed. Mayor Sheckler wished to emphasize that the loss of Rosie is in no way minimized by these findings.

ADMINISTRATION REPORTS

There were no Administrative reports.

CONSENT CALENDAR

Item 1. Approval of Minutes

Motion is to approve the November 18, 2010, meeting minutes and the minutes of the Special Meeting to hold an Executive Session on November 18, 2010

Item 2. Surplus Vehicles

Motion is to surplus the following six Police Crown Victoria vehicles, all of which have over 100,000 miles and further to authorize the City Manager to dispose of said equipment to FIC, Inc. for trade of services for setting up four new Police vehicles, or to dispose of by auction to the highest bidder:

<u>Vehicle No.</u>	<u>Year</u>	<u>License</u>	<u>VIN #</u>
518	2005	40520D	2FAHP71W75X147795
519	2004	37672D	2FAHP71W34X147016
524	2004	37669D	2FAHP71W14X147015
528	2005	40519D	2FAHP71W55X147794
530	2004	37612D	2FAHP71W77X148142
538	2005	40518D	2FAHP71W23X147793

ACTION/DIRECTION

Mayor Pro-Tem Kaplan moved to approve the Consent Agenda; Councilmember Thomasson, second. The motion passed unanimously.

EXECUTIVE SESSION

The City Council recessed at 7:55 p.m. to hold an executive session. The purpose of the Executive Session was to discuss strategies or positions as part of an ongoing collective bargaining process as provided in RCW 42.30.140(4)(b), and to discuss potential litigation per RCW 42.30.110 (B).

Present for discussion on potential litigation were Mayor Sheckler; Mayor Pro-Tem Kaplan; Councilmembers Scott Thomasson, Matt Pina, Melissa Musser and Carmen Scott; Staff present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Lorri Ericson; and Interim Police Chief John O'Leary. That portion of the session began at 7:55 p.m. and concluded at 8:10 p.m.

At 8:10 p.m. ongoing collective bargaining was discussed and City Attorney Pat Bosmans and Interim Police Chief John O'Leary were excused.

At 8:20 p.m., Mayor Sheckler announced to the audience waiting in Council Chambers that another 5 minutes would be needed.

The Executive Session adjourned at 8:25 p.m.

OLD BUSINESS #1

Adoption of CIP Resolution

Mayor Pro-Tem Kaplan moved to adopt draft Resolution No. 10-200 (Resolution No. 1138) approving the City of Des Moines 2011 – 2016 Capital Improvement Plan. The motion passed 5-1. Councilmember Thomasson voted *no*.

OLD BUSINESS #2

2011 Budget Ordinance

Councilmember Scott moved to amend the budget as presented to add \$7000 from the fund balance to the Arts Commission in order to support Parks staff who lend assistance to many of the Commission's activities; Mayor Sheckler, second. The favorable vote was 6-0.

Councilmember Scott moved to adopt Draft Ordinance No. 10-198 (Ordinance No. 1500) adopting the final budget for the City of Des Moines, Washington, for the fiscal year ending December 31, 2011. Councilmember Musser, second. The approving vote was 5-1. Councilmember Thomasson voted *no*.

NEXT MEETING DATE – The December 23, 2010, meeting is cancelled. The December 30 meeting is a fifth Thursday. The next meeting of the Des Moines City Council will be January 6, 2011.

ADJOURNMENT

Councilmember Musser moved adjournment; Councilmember Pina, second. The vote to adjourn was unanimously in favor. The meeting adjourned at 8:55 p.m.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Superseding Resolution No. 775
Authorizing Deposit and Withdrawal of Funds in
the Local Government Investment Pool (LGIP)

ATTACHMENTS:
Draft Resolution 10-213
Resolution No. 775
Attachment 1: Local Government Investment Pool
Transaction Authorization Form
Attachment 2: LGIP Memorandum

FOR AGENDA OF: January 6, 2011

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: December 14, 2010

CLEARANCES:

☒ Finance

☐ Legal

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this report is to request Council's adoption of Draft Resolution No. 10-213 that will supersede Resolution No. 775 updating City officials authorized to make deposit and withdrawal of funds in the Local Government Investment Pool.

Suggested Motions:

"I move to adopt Draft Resolution No. 10-213, authorizing deposit or withdrawal of funds in the Local Government Investment Pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated in the Washington Administrative Code, describing the names and titles of the officials authorized to order deposit or withdrawal of funds, and superseding Resolution No. 775.

Background

Resolution No. 775 was adopted by the City Council on August 25, 1994. City officials authorized to invest in the Local Government Investment Pool are no longer employed. The State Treasurer's office has requested all local governments to update their the required LGIP forms designating City officials authorized to invest in the Local Government Investment Pool.

Recommendation

Staff recommends that the City Council adopt Draft Resolution 10-213.

DRAFT RESOLUTION NO. 10-213

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, authorizing deposit or withdrawal of funds in the Local Government Investment Pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated in the Washington Administrative Code, describing the names and titles of the officials authorized to order deposit or withdrawal of funds, and superseding Resolution No. 775.

WHEREAS, pursuant to chapter 294, Laws of 1986, the Legislature created a trust fund to be known as the public funds investment account (commonly referred to as the Local Government Investment Pool (LGIP) for the deposit of money by an authorized governmental entity for purposes of investment by the state treasurer, and

WHEREAS, from time to time it may be advantageous to the City of Des Moines to deposit funds available for investment in the LGIP, and

WHEREAS, any deposits made on behalf of the City of Des Moines shall be first duly authorized by the City Council, the "governing body" of the City of Des Moines, in this resolution or a subsequent resolution, and a certified copy of said resolution shall be filed with the State Treasurer's Office, and

WHEREAS, the City Council of the City of Des Moines attests by the signature of its members that it is duly authorized and empowered to enter into this agreement, to direct the deposit of City of Des Moines monies, and to delegate certain authority to make adjustments to the incorporated transactional forms, to the individual designated herein; now therefore,

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

Sec. 1. The City of Des Moines does hereby authorize the deposit and withdrawal of the City's monies in the LGIP in the manner prescribed by law, rule, and applicable policies and procedures for the LGIP.

Sec. 2. The City of Des Moines has approved the Local Government Investment Pool Transaction Form (Form) as completed by the Finance Director and incorporates said form into this resolution by reference and does hereby attest to its accuracy.

Sec. 3. The City of Des Moines designates the Finance Director, Paula A. Henderson, the "authorized individual" to authorize all amendments, changes, or alterations to the Form or any other documentation including designating other individuals to make deposits and withdrawals on behalf of the City of Des Moines.

Sec. 4. This delegation ends upon termination of the authorized individual's relationship with the City of Des Moines or further action by the City of Des Moines terminating the delegation. The City of Des Moines is responsible for notifying the State Treasurer's Office immediately when any action has been taken to end this delegation.

Sec. 5. The Form as incorporated into this resolution or hereafter amended by delegated authority or any other documentation signed or otherwise approved by the authorized individual shall remain in effect should the authorized individual's delegated authority be terminated or otherwise end. No amendments, changes, or alterations shall be made to the Form or any other documentation until the City of Des Moines passes a new resolution naming a new authorized individual.

Sec. 6. The City of Des Moines acknowledges that neither the State of Washington nor the state treasurer guarantees any investment made by the City of Des Moines in the LGIP and it is possible to lose money by investing in the LGIP. Therefore, the City of Des Moines agrees to hold the State of Washington, the state treasurer, and the LGIP harmless from any investment losses incurred as a result of investment with the LGIP.

Sec. 7. This Resolution supersedes Resolution No. 775.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2010 and signed in authentication thereof this ____ day of _____, 2010.

M A Y O R

APPROVED AS TO FORM:

City Attorney

RESOLUTION NO. 775

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, authorizing deposit or withdrawal of funds in the Local Government Investment Pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated in the Washington Administrative Code, describing the names and titles of the officials authorized to order deposit or withdrawal of funds, and repealing Resolution No. 706.

WHEREAS, pursuant to chapter 294, Laws of 1986, a Local Government Investment Pool in the state treasury was created for the deposit of money of a political subdivision for purposes of investment by the state treasurer, and

WHEREAS, the city of Des Moines does find that the deposit and withdrawal of money in the Local Government Investment Pool in accordance with the provisions of this chapter for the purpose of investment as stated therein are in the best interests of the city of Des Moines, and

WHEREAS, the Washington Administrative Code adopted pursuant to chapter 294, Laws of 1986 requires that the names and titles of the officials authorized to order the deposit or withdrawal of funds in the Local Government Investment Pool be contained in the enabling resolution; now therefore,

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

Sec. 1. The city of Des Moines authorizes the deposit and withdrawal of city of Des Moines monies in the Local Government Investment Pool in the state treasury in accordance with chapter 294, Laws of 1986 and Washington Administrative Code sections 210-01-010 through 210-01-130 for the purpose of investment stated therein.

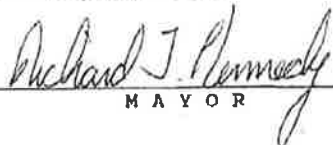
Sec. 2. The following officers or officials of the city of Des Moines shall be authorized to order the deposit or withdrawal of monies in the Local Government Investment Pool:

The finance director of the city of Des Moines,
James B. Hathaway.

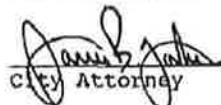
The assistant city treasurer of the city of
Des Moines, Gloria Murdock.

Sec. 3. Resolution No. 706 is repealed.

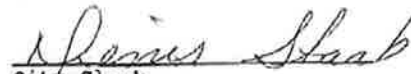
ADOPTED BY the city council of the city of Des Moines, Washington this 25th day of August, 1994 and signed in authentication thereof this 25th day of August, 1994.


MAYOR

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

LOCAL GOVERNMENT INVESTMENT POOL
TRANSACTION AUTHORIZATION FORM

Please fill out this form completely, including any existing information, as this form will replace the previous form.

Name of Entity: City of Des Moines	Mailing Address:
Fax Number: 206-870-6540	City of Des Moines
E-mail Contact: phenderson@desmoineswa.gov	21630 11 th Ave. S.
	Des Moines, WA 98198-6398

Do you wish to have your monthly LGIP statements faxed to the number listed above?

Please note – if you choose to receive statements via fax, you will not receive another copy via U.S. mail.

☒ **YES**, please fax statements ☐ **No**, please send statements via U.S. mail

Bank account where funds will be wired when a withdrawal is requested.

(Note: Funds **will not** be transferred to any account other than that listed).

Bank Name: Key Bank of Washington
Branch Location: Des Moines, WA
Bank Routing Number: 125000574
Account Number: 10730031
Account Name: City of Des Moines

Persons authorized to make deposits and withdrawals for the entity listed above.

Name	Title	Signature	Telephone Number
Paula A. Henderson	Finance Director	<i>Paula A. Henderson</i>	206-870-6512
Cecilia Pollock	Finance Operations Manager	<i>Cecilia Pollock</i>	206-870-6510
Janet Beeck	General Ledger Accountant	<i>Janet Beeck</i>	206-870-6514

By signature below, I certify I am authorized to represent the institution/agency for the purpose of this transaction.

<i>Paula A. Henderson</i>	Finance Director	11/30/10
(Authorized Signature)	(Title)	(Date)
Paula A. Henderson	phenderson@desmoineswa.gov	206-870-6512
(Print Authorized Signature)	(E-mail Address)	(Telephone number)

Any changes to these instructions must be submitted in writing to the Office of the State Treasurer. Please mail this form to the address listed below:

OFFICE OF THE STATE TREASURER
LOCAL GOVERNMENT INVESTMENT POOL
PO Box 40200
OLYMPIA, WA 98504-0200
FAX: (360) 902-9044

Date Received: ____/____/____
Fund Number: ____
(for LGIP use only)

State of Washington)
County of _____) ss

Signed or attested before me by _____
Dated this ____ day of _____, 20__

Signature of Notary

SEAL OR STAMP

ATTACHMENT 1

Typed or printed name of Notary
Notary Public in and for the State of Wash.
My appointment expires: _____



JAMES L. McINTIRE
State Treasurer

State of Washington
Office of the Treasurer

TO: LGIP Participants
FROM: Robbi Stedman, LGIP Administrator *RS*
RE: LGIP Extended Asset Option Update

I hope everybody is doing well and you have survived the summer that never found its way to Western Washington. I am writing to discuss two topics: the first is to invite interested participants to an October 26, 2010 meeting in Olympia regarding a potential LGIP Extended Asset Pool that we are considering offering, and second, to notify you of updated LGIP forms that all participants will be required to fill out by December 31, 2010.

All interested LGIP participants are invited to a meeting in Olympia on Tuesday, October 26 at 1:00 pm. The meeting will be held in the Columbia Room in the Legislative building, which is the main "Capitol" building. Please contact us for directions. The purpose of the meeting is to bring you up to date regarding our plans for a longer-term LGIP option and assess the level of interest in such an option. Please RSVP by October 22nd if you plan to attend the meeting. You can email me at Robbi.Stedman@tre.wa.gov or reach me by phone at 360-902-9013.

OST conducted a survey last fall in an attempt to assess the potential interest in a longer-term option for the LGIP in conjunction with the current short-term option. We did this in response to inquiries about the possibility of OST providing this type of pool. A fact sheet regarding the rationale for a longer-term option can be accessed on the OST web site through the following link:

www.tre.wa.gov/lgip/index.shtml

While less than 30 percent of the LGIP participants responded to the survey, those that did respond indicated enough interest to warrant further exploration. Furthermore, 2ESB 6221, which was passed during the 2010 Legislative session, updates and expands the universe of potential LGIP participants, including state operating funds. The state can now provide a significant and stable core balance for the extended option, which would be critical during the initial phases of operation.

Two factors that caused OST to indicate that we would not be offering an extended option until interest rates had risen to a higher level were:

- Interest rates were at historically low levels, and
- Participants would be taking the interest rate risk in the extended asset option.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Resolution adopting a Collective Bargaining Agreement regarding wages, hours and working conditions with Des Moines Police Management Association

ATTACHMENTS:

Draft Resolution No. 11-001

FOR AGENDA OF: January 6, 2011

DEPT. OF ORIGIN: City Manager's Office

DATE SUBMITTED: January 3, 2011

CLEARANCES:

[] _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: _____

Purpose and Recommendation

The purpose of this report is to recommend that the City Council adopt Draft Resolution No. 11-001 approving a collective bargaining agreement regarding wages, hours and working conditions with Des Moines Police Management Association.

Suggested Motions:

"I move to adopt Draft Resolution No. 11-001, approving the collective bargaining agreement between the Des Moines Police Management Association and the City of Des Moines and authorizing the City Manager to sign it substantially in the form as submitted"

Background and Discussion

The commanders in the Des Moines Police Department organized into a collective bargaining unit in the first half of 2009 to bargain with the City over wages, hours, and working conditions. City administration and representatives of the bargaining unit met numerous times to negotiate, culminating in the agreement attached to Draft Resolution No. 11-001.

Alternatives

The City Council could decide not to approve the agreement as submitted. Staff would then return to the bargaining table to see if an alternate agreement could be negotiated.

Financial Impact

The additional compensation called for in the agreement can be funded from the Police Department budget.

Recommendation

Staff recommends that the City Council adopt Draft Resolution No. 11-001 and authorize the City Manager to sign the agreement with the Des Moines Police Management Association.

CITY MANAGER'S FIRST DRAFT 1/03/11

DRAFT RESOLUTION NO. 11-001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, adopting a collective bargaining agreement between the Des Moines Police Management Association and the City of Des Moines regarding wages, hours and working conditions for the period June 1, 2009 to December 31, 2011.

WHEREAS, certain the Commanders of the Des Moines Police Department have organized into a bargaining unit know as the Des Moines Police Management Association to bargain with the City over matters related to wages, hours and working conditions, and

WHEREAS, the City Manager has negotiated an agreement with the Association regarding wages, hours and working conditions for the period June 1, 2009 to December 31, 2011, and

WHEREAS, the City Council has review the agreement and determined that it is in the best interests of the citizens of Des Moines for the City to enter into said agreement with the Association; now therefore,

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

The City Manager is authorized to sign the agreement with the Des Moines Police Management Association substantially in the form as attached and by this reference incorporated in this resolution.

ADOPTED BY the City Council of the City of Des Moines this ____ day of _____, 2011 and signed in authentication thereof this ____ day of _____, 2011.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

DES MOINES POLICE MANAGEMENT ASSOCIATION

And

CITY OF DES MOINES

LABOR AGREEMENT

JUNE 1, 2009 THROUGH DECEMBER 31, 2011

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PREAMBLE

This agreement herein contains the entire agreement between the Des Moines Police Management Association (hereinafter known as the "Association") and the City of Des Moines, Washington (hereinafter known as the "City"). The purpose of the City and Association in entering into this agreement is to set forth their complete agreement with regard to wages, hours and working conditions for the employees in the bargaining unit so as to promote the efficiency of law enforcement; public safety; the morale and security of employees covered by this agreement; and harmonious relations in which the City's Values are encouraged and practiced, giving recognition to the rights and responsibilities of the City, the Association and the employees.

The members of this Association are and have been designated exempt employees by the City of Des Moines. The Commanders currently, are the only exempt, fully Commissioned Police Officers in the Des Moines Police Department other than the Chief of Police. The members of this Association are part of and under the color of authority of the Des Moines Civil Service Commission.

The members of this association by job description are currently seconds in command for the police department and oversee the daily and special operations of the department and associated employees. Association members are required to be available by phone 24 hours a day and 7 days a week. Members are frequently required to correspond and respond at all hours of the day and night to critical incidents and inquiries. Members of the Association are expected if not required to make decisions that directly affect the lives, liberties and safety of the department's employees and the customers we serve. These final decisions and directions are commonly made in the field and are required to be done in a very timely manner. Members of the Association are also responsible to attend and present at community events and special functions. Members also are responsible to ensure operations plans are developed, staffed and implemented with the care of the community and employees at the highest level. Association members enforce policy, procedure, lawful orders, ordinances, laws and State and Federal Constitutions. They oversee, conduct and review hiring processes and internal investigations and employee reviews. Association Members develop, implement and constantly monitor department budgets and closely monitor and implement the department Strategic Plan. Association members supervise more employees than any other department within the city.

The above description is not all inclusive and is not meant to be. The description is there to show the careers of the Association Members are quite different than those of a standard City of Des Moines exempt employee.

ARTICLE 1 -RECOGNITION AND BARGAINING UNIT

Section 1.1. Definitions:

Terms used in this agreement are defined as follows:

- A. "Employer" or "City" means the City of Des Moines, Washington.
- B. "Association" means the Des Moines Police Management Association.
- C. "Employee" means regular full time commissioned Commander(s) (in the Bargaining Unit as defined in subparagraph D). New positions shall be subject to negotiation for inclusion or exclusion in the bargaining unit.
- D. "Bargaining Unit" shall include all full time commissioned Commanders
- E. "Department" means the Des Moines Police Department.

Section 1.2. Recognition of the Association:

The City recognizes the Association as the exclusive bargaining representative for all Commanders in the Des Moines Police Department.

Section 1.3 Association Activities:

- A. Association members shall be granted use of City meeting space and reasonable release time from duty for Association meetings. However, the Chief of Police may require an appropriate number of Commanders remain on duty during the meeting at his discretion. On duty members must remain in ready status and respond to any calls for service. Time granted for such meetings shall not be cumulative.
- B. Not more than two (2) members of the Association's negotiating team shall be permitted to attend negotiation meetings with City representatives without loss of pay, to the extent such meetings are scheduled during the working hours of the members attending and the meetings do not affect the Department's ability to manage the Department. The City may utilize no more than two (2) representatives during negotiation meetings. The Association and the City may have one (1) non-city employee representative attend and take part in negotiation meetings, but neither party may have more than two (2) representatives present during negotiation meetings. Changes of representatives by either party during negotiations shall be made through written notice at the earliest opportunity.
- C. Designated members of the Association shall be granted release time (subject to subsection B above) for all mutually agreed meetings between the City and the Association, when such meetings take place at a time during which such members are scheduled to be on duty. Meetings scheduled with City representatives during off duty hours are not considered compensated time.
- D. The City shall allow Association representatives a reasonable amount of time while on duty to process grievances. The immediate supervisor of the Association representative must authorize the activity. The City will allow Association material to be distributed to members by use of City employee mailboxes.

- E. The City shall provide space on existing bulletin board(s) in a mutually agreed upon location for the Association to post notices of meetings, elections and other items of interest to Association members. These materials may not be inflammatory or personal in nature or be derogatory about the City.
- F. The Association may utilize City copy machines, faxes, telephones and other equipment provided reimbursement is made to the City in accord with Department of Finance guidelines.
- G. Association employee representatives shall be allowed a reasonable amount of on-duty time to administer the terms of this agreement.
- H. Time off required by Association members to prepare for or attend compulsory arbitration meetings or hearings during the employee's normally scheduled work day(s), the time will be granted by the City
- I. Association officials will be allowed time off (Association Officials own leave banks) to attend training related to the administration of this Agreement.

Section 1.4. Probationers:

- A. The parties recognize the purpose of a probationary promotion period of employment is to provide a trial period of employment during which the City can observe the performance of the probationer before confirming the rights of permanent status.
- B. During the actual or extended promotional probationary period, the probationer shall be entitled to the protection of the grievance procedure as outlined in Article 15 -GRIEVANCE PROCEDURES; however, the determination of the employee's success or failure of probation may not be challenged under the grievance procedure. If the employee is unsuccessful in their promotional probationary period, the employee has the right to revert back to their immediately prior permanently held Civil Service rank per Civil Service rules.

Section 1.5 Memorandum of Agreements:

All agreements reached not otherwise included in this Collective Bargaining Agreement shall be reduced to writing in a separate Memorandum of Agreement which shall be signed by the City Manager and the Management Association representative

Section 1.6 Dissemination of Settled Agreement:

Upon the settlement of the Collective Bargaining Agreement, the City will make a copy of the agreement for each member affected by the agreement and forward the copies to the Management Association for disbursement to the members.

ARTICLE 2-ASSOCIATION MEMBERSHIP AND DUES DEDUCTION

Section 2.1. Eligibility:

The City recognizes that it shall be a condition of employment that all full time employees of the Bargaining Unit covered by this agreement shall, within 30 days of their hire date or the effective date of this agreement, whichever is later, become members in good standing of the Association and pay the dues and costs of Association membership.

Section 2.2. Association Membership:

The Association accepts its responsibility to fairly represent all employees in the bargaining unit regardless of membership status. Neither party shall discriminate against any employee because of membership or non-membership in the Association. However, this clause shall not restrict the Association from providing internal, Association sponsored benefits to Association members only.

Section 2.3. Dues Deduction:

The following procedure shall be followed in the deduction of dues for members of the Association:

- A. The City agrees to the deduction of Association dues uniformly levied by the Association for those employees who elect to become members of the Association and who request in writing to have their regular semi-monthly Association dues deduction.
- B. Each pay period, the City shall remit to the Association all dues deducted together with a list of employees and the amount deducted from each employee. The City agrees to notify the Association of new employees within thirty (30) days of the date of hire or promotion.
- C. All employees who elect not to become members of the Association shall, in lieu of Association membership, pay to the Association a regular monthly service fee equal to the Association dues schedule in effect for that employee as a semi-monthly contribution towards the administration of this agreement. Such fees shall not exceed the maximum agency fee allowed by law. Employees failing to honor their Association security obligations shall be discharged, after thirty (30) days' written notice, at the request of the Association.
- D. The Association agrees to indemnify and hold the City harmless against any and all claims, suits, orders and other judgments brought or issued against the City by third parties as a result of any action taken by the City under the provisions of this Section, unless caused by the negligence of the City.
- E. The Association and City agree that the City will not make any other deductions on behalf of the Association, except those described above.
- F. In accordance with state law, employees covered by this Agreement who are forbidden from joining a labor organization based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay an amount of money, equivalent to regular Association dues and initiation fee, to a non-religious charity or to another charitable organization mutually agreed upon by the employee and the Association. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the Public Employment Relations Commission shall designate the charitable organization.

ARTICLE 3-EMPLOYMENT PRACTICES

Section 3.1. Seniority Definition:

- A. Seniority, for the purpose of vacation bids, layoffs and reductions in rank resulting from personnel reductions, shall be defined as the employee's length of permanent service within their current rank or classification, less any adjustments due to layoff, approved leaves of absence without pay (unless otherwise agreed to by the City), periods of 24 months or less between resignation and reinstatement according to Civil Service procedures, or other breaks in service. In the case of an employee who has been reduced in rank or classification, their seniority shall include time spent in the higher rank(s) or classification(s).
- B. Seniority (unless otherwise defined elsewhere within this agreement), for all other purposes, shall be defined as the employee's length of permanent service with the City of Des Moines, less any adjustments due to layoff, approved leaves of absence without pay (unless otherwise agreed to by the City), periods of 24 months or less between resignation and reinstatement according to Civil Service procedures, or other breaks in service.

Section 3.2. Personnel Reduction:

- A. Should it become necessary due to budgetary conditions, lack of work, or any other reasonable cause, to reduce the number of employees in this unit, the following basic provisions will apply: authority shall determine by classification in which layoff and/or reductions in rank are to occur. Such factors as nature of function performed, risk to overall public safety, impact on the Police Department operations, shall be weighed to determine areas where reductions can be made. Layoffs or reductions in rank of employees shall be accomplished in accordance with seniority as defined in Section 3.1.A with the least senior employees being first reduced or laid off.
- B. Layoffs, (Provided an agreement exists between the Association and the Des Moines Police Guild,) Department Re-organization or Non Disciplinary Demotion/Reduction of Rank and Bumping Rights: Personnel who are reduced in rank for non-disciplinary cause or laid off work shall have bumping rights to the next lower job classification provided: they have more total seniority with the department than the employee being bumped and have previously held permanent status in that classification. The employee will be paid at the highest rate of compensation for the class they are reduced into. For example, a Commander reduced in grade for a non-disciplinary reason to a Sergeant shall be paid at the top step Master Sergeant rate of pay. The employee will be considered vested in the reduced position and will not be subject to a probationary period.
- C. No employee is obligated to accept a reduction in rank or class and may accept the in-voluntary lay off termination without respect to a bumping privilege.
- D. Like work Prohibition: An employee who is reduced in rank because of lay off or restructure will not be asked or expected to routinely perform like work or work customarily performed by members of the classification from which they were reduced in rank from. Performance of such duties will be considered working out of classification and will be subject to higher compensation for working out of classification at a rate at least equal to the rate they were reduced from.

Section 3.3. Establishment of Reinstatement Registers:

- A. The names of employees who have been laid off or reduced in rank shall be placed upon a reinstatement register for the same classification from which lay off or reduced in rank. This reinstatement register shall be in effect for two years from the date of layoff or reduction, and shall take priority over other hiring or promotional lists.
- B. Refusal to accept regular full-time work with the Des Moines Police Department from a reinstatement register shall terminate all rights granted under this rule provided the work is in the same classification from which the employee was laid off.
- C. Order of Reinstatement -If a vacancy is to be filled from the reinstatement register, recall shall be made on the basis of length of service within the classification. The regular employee on such register who has the most service credit shall be first reinstated except in the cases of reduction in rank where reinstatement shall be made by time of service in that rank.

Section 3.4. Employee Status When Reinstated:

In the event a non-probationary employee leaves the service of the City due to reduction in force and within the next two years the City rehires said former employee in the same classification to which assigned at the date of reduction, such employee shall be placed at the step in the relative salary range which he/she occupied at the time of the original reduction.

Section 3.5. EEO/Nondiscrimination:

It is agreed that the City and Association are mutually obligated to provide equal employment opportunity, consideration and treatment to all employees of the Des Moines Police Department. Where the masculine or feminine gender is used in this Agreement it is used solely for the purpose of illustration and shall not be construed to indicate the gender of any employee or job applicant.

Section 3.6. Personnel Files:

- A. The personnel files are the property of the City and shall be kept under the direct control of the Police Chief's Office and the Human Resources Department. The City agrees that the contents of the personnel files, including the personnel photographs, shall be confidential and shall restrict the use of information in the files to internal use by the Police Department and/or Employee Services Department.
- B. All Police personnel files must be kept maintained and secured in the confines of the Police Chief's Office and the Human Resources Department. The Police Chief and the Human Resources Director, or their designee(s), shall be responsible for the privacy of such files. It is understood that staff of each office will have access and may need to review or update personnel files while conducting City business.
- C. The City shall not allow anyone other than those employees responsible for Police Department operations and/or City administration to read, view or have a copy in whole or in part of any employee's personnel file. This provision shall not restrict such information from becoming subject to due process by any court or administrative personnel tribunal or subject to disclosure as required by state or federal law. Any time an employee's file is subject to release in whole or in part to an outside party the employee will be notified three (3) City work days prior to such

release. The notice of release shall contain the following information: to whom the record was released and under what authority (i.e. search warrant court order subpoenas etc.).

- D. Employees have the right to review their own entire personnel file. Employees shall not remove any material from their files but may upon their request have a copy of any material in their files without charge.
- E. The Association's attorney of record shall be given access to employees' personnel files. Employees can also give permission for third parties to view their file. The employee shall make a formal written request naming the person authorized to view their record (i.e. a DMPMA Executive Board member, family member or their designee(s), responsible for monitoring the process. The City shall accommodate such request at a time convenient for both parties.
- F. Employees may request removal of documents and table of content pages with reference to the specific disciplinary action(s) pertaining to suspensions of less than forty (40) hours, written reprimands, and memos of concern, provided the disciplinary action occurred at least five (5) years previous to the request and same or similar incidents have not occurred for at least five (5) years from the request. If the request meets the above criteria, the Chief of Police shall have the documents removed from the requesting employee's official City personnel file

ARTICLE 4 -HOURS OF WORK

Section 4.1. Work Day and Work Week:

Recognizing that flexibility is required in the scheduling of assignments for command personnel, the normal work week shall be the equivalent of forty (40) hours per week on an annualized basis. The normal work schedule shall be four ten-hour days, Monday through Friday, with 3 consecutive days off. The Employer reserves the right to schedule individual hours of work, shift assignments, and to schedule days off. The Employer will make a reasonable effort to notify Employees of such changes thirty (30) days in advance of the change, provided the Employer has advance knowledge of the need for a change in schedule. The Employer may change regular long term schedules and work weeks, provided employees are notified three months in advance of the schedule change. The Employer agrees to meet and discuss such changes with the Association, and the three month notification requirement may be waived by mutual agreement.

Section 4.2. Executive Leave:

It is recognized that employees will be required to spend additional time over and above their regular work week engaged in activities for the City. Since the employees are exempt from FLSA overtime, the parties agree that each member of the bargaining unit shall receive additional vacation time as do all other exempt City employees in the amount of **32** hours per year, accrued at a rate of 8 hours per quarter. When an employee puts in substantial additional hours, the parties shall continue the current practice concerning flex-time off.

ARTICLE 5-DEPARTMENTAL WORK RULES AND WORK SCHEDULES

Section 5.1. Notification of Work Rule Changes:

The City agrees to notify the Association in advance of changes in departmental or City of Des Moines operating procedures or working conditions which would affect employees in the bargaining unit. Conferences to discuss such changes may be arranged prior to the time such changes would become effective. However, nothing in this section shall be construed to limit the City from exercising its management responsibilities, provided, however, that when changes in procedure or department operations would cause a reduction in force or layoff of any employee, such proposed change, including the effective date shall be provided in writing to the Association in advance of making the proposed change.

ARTICLE 6 -SICK LEAVE

Section 6.1. Sick Leave Benefits:

All full time employees shall accrue sick leave benefits at the rate of eight (8) hours for each calendar month of continuous employment. Regular part time employees shall accrue sick leave on a pro rata basis according to hours worked. Accrued sick leave hours shall be carried over from year to year. Employees shall not earn sick leave benefits during a suspension without pay or a leave without pay. Employees will continue to earn sick leave while on paid sick leave, vacation leave, holiday leave and/or Kelly time leave.

Section 6.2. Sick Leave Accrual:

- A. LEOFF II employees shall have no maximum accrual of sick leave hours.
- B. Sick leave may be utilized according to the rules contained in the City of Des Moines Personnel Manual.
- C. Other Leaves. Medical, maternity, paternity, Family Medical Leave, military reserve training, and other leaves shall be as specified in the City of Des Moines Personnel Manual.

Section 6.3. Sick Leave Buy Back:

Effective the first of the month after ratification of this Agreement, upon the separation from service of an employee in good standing with at least ten (10) years of service or upon the death of an employee regardless of years of service with the City of Des Moines, the City will cash out two-hundred (200) hours or 25% of the employee's sick leave balance, whichever is less. For employees with at least twenty (20) years of service, the City will cash-out four-hundred (400) hours or 50% of the employee's sick leave balance, whichever is less.

Section 6.4. Light Duty:

In the event an employee becomes sick or disabled the employer may allow the employee to return to work in a light duty status. A light duty status job may be assigned so as to permit the employee to continue working within the Department in a duty capacity that the employee is physically capable of performing in accordance with the conditions set forth by the employee's physician while continuing to be paid at the employee's normal rate of salary. Such assignment is contingent upon the medical prognosis of full physical recovery from the employee's disability within a reasonable period of time. The amount of time that will be allowed for assignment to light-duty status is up to one hundred eighty (180) days; provided that the one hundred eighty (180) days period may be extended in additional 180 days increments, based upon medical prognosis for recovery. Consideration of the extension shall be based upon the medical prognosis of the employee being able to return to full employment in a reasonable period of time thereafter in accordance with the advice of a physician retained by the employer. A request for light duty status will be submitted in writing by the employee to the employer or from the employer to the employee. The City reserves the right to have a City appointed physician determine the extent of an employee's disability, ability to perform light duty and/or ability to return to full duty. The City also reserves the right to impose additional restrictions on the employee's light duty assignments based on the employee's physical ability during the injury recovery period.

ARTICLE 7-HOLIDAYS

Section 7.1 Holidays Allowed:

The following holidays will be recognized and observed as paid holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the Friday following Thanksgiving, Christmas Day, and two floating holidays.

Section 7.2 Holiday Bank:

Members of the Management Association shall receive a bank of ninety-six (96) hours of leave time on January 1 of each year in compensation for the twelve (12) holidays. The use of holiday time will be governed by the same criteria as vacation time. Employees may cash in forty (40) hours of holiday pay at the end of November to be paid on the first payday in December. Employees may cash in forty (40) hours of holiday pay at the end of October to be paid on the first payday in November. Employees must use the additional sixteen (16) hours by the end of the calendar year in which the holidays are credited. In the event an employee uses all the holiday time and employment is terminated with the City prior to the end of the year, the remaining holiday pay will be paid back to the City out of the employee's final pay check.

ARTICLE 8 -EDUCATION ALLOWANCE

Section 8.1. Training and Education Reimbursement Policy:

The City recognizes the need to encourage and promote education opportunities for employees, subject to budgetary limitations.

- A. Training. The City will pay for or reimburse personnel for costs incurred in receiving required and/or approved job related training upon satisfactory completion of such training. Such training must be pre-approved by the Chief, or designee. Costs eligible for City payment or reimbursement include registration, books, and fees associated with such training. Employees must submit for pre-approval. The City may pay for job related training that is not required for the employee to maintain required certifications or commissions.
- B. Education. Subject to available budgeted funds, employees who wish to attend classes offered by schools, colleges, or universities may receive reimbursements upon successful completion ("C" grade or better) of such if the classes are pre-approved in accordance with the following: The employee must have successfully passed their initial probationary period of employment; The employee must not have received any discipline greater than a written reprimand within the last twelve (12) months; The class(es) must relate to the employee's current position or a promotional position within the employee's career path; Costs eligible for reimbursement include tuition, fees associated with such class(es), and fifty percent (50%) of books; If a commissioned officer is attending an accredited State institution, the officer shall be reimbursed based upon that institution's tuition schedule. If an officer is attending a non-State supported institution, the officer shall be reimbursed on the basis of the equivalent state institution or the University of Washington tuition schedule, whichever has the lower cost;
- C. Education reimbursements for BA degree programs must be approved by the Police Chief, the City Manager and the Human Resources Director, or their designees;
- D. Employees must submit for approval in accordance with City Policy.

Section 8.2. Class Attendance:

Employees who wish to attend classes offered by schools, colleges, universities, or other training organizations must do so during their off-hours. In special cases, subject to departmental approval, an irregular work schedule may be arranged in order for an employee to attend courses that are not offered during off-hours. Hours spent by an employee while attending class or studying for such class during off-hours, will not be considered compensable hours.

Section 8.3. Training Allowance:

The City will provide up to \$2,500 per year, subject to budget limitations, per bargaining unit member towards career relevant training. Members understand that should they be scheduled for training such as the FBI academy, Northwestern, or Southern Police Institute that these funds would be expected to be applied towards that training.

ARTICLE 9 -ANNUAL LEAVE

Section 9.1. Annual Leave:

Annual paid vacation shall be granted to all full time employees and part time employees on a pro rata basis. Paid vacation will be granted according to the following schedule:

<u>Years of Service</u>	<u>Monthly Accrual</u>	<u>Annual Carryover</u>
0 - 3 years	8 hours per month	255 hours
4 - 6 years	10 hours per month	270 hours
7-10 years	12 hours per month	285 hours
11-15 years	14 hours per month	300 hours
16+ years	16 hours per month	315 hours

Annual vacations are subject to the rules contained in the City of Des Moines Personnel Manual. Vacation leave hours used are to be considered hours worked for calculation of overtime.

ARTICLE 10 -PENSIONS

Pensions for employees and contributions to pension funds will be governed by applicable Washington State Statute.

ARTICLE 11 –BEREAVEMENT

Employees shall be entitled to use bereavement leave in accordance with City Policy.

ARTICLE 12 -MANAGEMENT RIGHTS

Section 12.1. General Management Rights:

The Association recognizes that areas of responsibilities must be reserved to management if it is to function effectively. In recognition of this principle, it is agreed that the following responsibilities are not subject to collective bargaining and are management responsibilities of the City. Unless specifically modified by sections in this Agreement, management retains the exclusive right to:

- A. To direct and supervise all operations, functions and policies of the department and to modify such operations, functions and policies as they may affect employees in the Bargaining Unit.
- B. To organize and reorganize the structure, work or reporting relationships within the department.
- C. To determine the need for a reduction or an increase in the work force whether or not a vacancy exists for purposes of this agreement.
- D. To contract or sub-contract for any work, goods or services; provided that any contract or sub-contract resulting in the loss of bargaining unit positions will be discussed with the Association at least 45 days in advance.
- E. To discipline or discharge for just cause.
- F. To determine the promotional opportunities and need for and qualifications of employees, transfers and promotions in a manner consistent with State law, Civil Service rules, or other specific provisions of this Agreement.
- G. To determine job descriptions and job content.
- H. To implement new, and to revise or discard old methods, procedures, materials, equipment, facilities and standards.
- I. To assign work and equipment, schedule employees, and establish and change work schedules.
- J. To determine the City budget and financial policies.
- K. To establish and administer a personnel system which provides for all types of personnel transactions, including determining the procedures and standards for hiring, promotion, transfer, assignment, layoff, discipline, retention, and classification of positions in a manner consistent with State law, Civil Service rules, or other specific provisions of this Agreement.
- L. To establish reasonable work and productivity standards and from time to time to change those standards.
- M. Select and determine the number of employees, including the number assigned any particular work; and increase or decrease that number.
- N. Determine the necessity for, and schedule when overtime shall be worked.

- O. To make, establish, and enforce safety rules, operational policies and procedures, and rules of conduct for the department.
- P. To inspect locker or other spaces assigned to Employees provided notice is granted to the Employee.

ARTICLE 13 -PERFORMANCE OF DUTY

Section 13.1. Non-Strike Provisions:

Nothing in this agreement shall be construed to give an employee the right to strike and no employee shall strike or refuse to perform his assigned duties to the best of his ability. The Association agrees that it will not condone or cause any strike, slowdown, mass sick call, or any other form of work stoppage or interference to the normal operation of the Des Moines Police Department.

Section 13.2. Performance of Duty:

It is agreed that all members of the bargaining unit shall perform all functions and duties required by laws of the State of Washington, ordinances of the City of Des Moines, and Civil Service rules and regulations and operating policies of the department.

ARTICLE 14 -GRIEVANCE PROCEDURE

Section 14.1. Grievance Definition:

Any dispute between the Employer and the Association or between the Employer and any employee covered by this Agreement concerning the application, claim of breach or violation of the express terms of this Agreement shall be deemed a grievance.

Section 14.2. Representation During Grievances:

Grievances processed through Step 3 under Section 14.5 below of the grievance procedure shall be heard during normal City working hours unless stipulated otherwise by the parties. Employee representatives involved in such grievance meetings during their normal City working hours shall be allowed to do so without suffering a loss in pay.

Section 14.3. Exceptions to Time Limits:

Any time limits stipulated in the grievance procedure may be extended by mutual agreement in writing. Failure by the Association and/or employee to comply with any time limitation in this Article shall constitute withdrawal of the grievance. Failure by the Employer to comply with any time limitation in this Article shall allow the Association and/or the employee to proceed to the next step without waiting for the Employer to reply at the previous step.

Section 14.4. Class Action:

A grievance in the interest of a majority of the employees in a bargaining unit shall be reduced to writing by the Association (containing all information referenced in Step 1 below) and may be introduced at Step 2 of the grievance procedure and be processed within the time limits set forth herein.

Section 14.5. Steps and Time Limits:

A grievance shall be processed in accordance with the following procedure:

Step 1. A grievance shall be reduced to writing and presented by the aggrieved employee and/or the Association representative within twenty-one (21) calendar days of when the employee knew of the alleged contract violation to the employee's immediate supervisor. The written grievance shall contain the section(s) of the Agreement allegedly violated, the nature of the alleged violation and the remedy sought. The parties agree to make every effort to promptly settle the grievance at this stage. The immediate supervisor shall answer the grievance within seven (7) calendar days after being notified of the grievance.

Step 2. If the grievance is not resolved as provided in Step 1, or if the grievance is initially submitted at Step 2 pursuant to Section 14.4 Class Action, the grievance shall be forwarded within fourteen (14) calendar days after receipt of the Step 1 answer. Said grievance shall be submitted by the Association to the City Manager with a copy to the Police Chief. The City Manager or a designee shall investigate the grievance and, if deemed appropriate, shall convene a meeting between the appropriate parties within fourteen (14) calendar days of the receipt of the grievance. The City Manager shall thereafter forward a written reply within fourteen (14) calendar days after receipt of the grievance or the meeting between the parties, whichever occurs later.

Step 3. If the grievance is not resolved by the City Manager, the grievance may, within fifteen (15)

calendar days, be referred to a mediator. The Association or the City Manager shall forward a request to the executive director of the Public Employment Relations Commission (PERC) to assign a mediator from his or her staff. Upon designation of the mediator, the parties will make every attempt to schedule a date for mediation within fifteen (15) days.

- a. Proceedings before the mediator shall be confidential and informal in nature. No transcript or other official record of the mediation conference shall be made.
- b. The mediator shall attempt to ensure that all necessary facts and considerations are revealed. The mediator shall have the authority to meet jointly and/or separately with the parties and gather such evidence as deemed necessary.
- c. The mediator shall not have the authority to compel resolution of the grievance. If the mediator is successful in obtaining agreement between the parties, he/she shall reduce the grievance settlement to writing. Said settlement shall not constitute a precedent unless both parties so agree.
- d. If mediation fails to settle the dispute, the mediator may not serve as an arbitrator in the same matter nor appear as a witness for either party. Nothing said or done in mediation may be referred to or introduced into evidence at any subsequent arbitration hearing.

Step 4. Arbitration Procedure. If the grievance is not settled in accordance with the foregoing procedures, the Association or Employer may refer the grievance to arbitration within thirty (30) calendar days after the completion of mediation or in the event mediation is bypassed, within thirty (30) calendar days after completion of Step 3. If the request for arbitration is not filed by the Association staff representative or the Employer within thirty (30) calendar days, the Association or Employer waives its right to pursue the grievance through the arbitration procedure. The City and the Association shall attempt to select a sole arbitrator by mutual agreement. In the event the parties are unable to agree upon an arbitrator, either party may request the Public Employment Relations Commission (PERC) to submit a panel of nine (9) arbitrators. Both the City representative and the Association representative shall have the right to strike four (4) names from the panel. The party striking the first name shall be determined by a flip of a coin. The other party shall then strike the next name and so on. The remaining person shall be the arbitrator. The arbitrator shall be notified of his/her selection by a joint letter from the Employer and the Association requesting that he/she set a time and place subject to the availability of the City and the Association representatives.

Section 14.6. Special Provisions:

- A. Each party shall bear the cost of the preparation and presentation of its own case.
- B. The term "Employee" as used in this article shall mean an individual employee, a group of employees, and/or their Association representative.
- C. An aggrieved party shall be granted time off without loss of pay for the purpose of attending a hearing on a grievance.
- D. A grievance may be entertained in, or advanced to, any step in the grievance procedure if the parties so jointly agree.
- E. Any grievance shall be considered settled at the completion of any step if the Employee is satisfied or deemed withdrawn if the matter is not appealed within the prescribed period of time.
- F. Grievance claims involving retroactive compensation shall be limited to one hundred twenty (120) days prior to the written submission of the grievance.

Section 14.7. Discipline:

Disciplinary actions at a level equal to or greater than a suspension of eight hours of work, demotions, and terminations may be processed through the grievance procedure established under this Article, provided that, in no event shall this Agreement alter or interfere with disciplinary procedures followed by the City or provided for by Department Policy, City Ordinance or other applicable law.

The time period for filing a grievance regarding disciplinary action that is subject to appeal under this Agreement, as well as the standard of review, shall be the same as that provided in a disciplinary appeal that may be filed with the Civil Service Commission. A grievance regarding disciplinary action may only be filed by a signatory of this Agreement. Grievances regarding discipline shall proceed through steps 1 through 2, as appropriate, of the grievance process. In the event the grievance is not resolved at one of the first two steps, the Association and the City agree that step 3, Mediation, shall be skipped and the grievance shall proceed per the provisions of step 4, Arbitration.

Section 14.8. Arbitrator's Authority:

In connection with any arbitration proceeding held pursuant to this Agreement, it is understood as follows: The arbitrator shall have no power to render a decision that will add to, subtract from, alter, change, or modify the terms of this Agreement, and the power shall be limited to the interpretation or application of the express terms of this Agreement, and all other matters shall be excluded from arbitration. The decision of the arbitrator shall be final, conclusive and binding upon the City, the Association, and the employee(s) involved. The cost of the arbitrator shall be borne equally by the City, and the association, and each party shall bear the cost of presenting its own case. The arbitrator's decision shall be made in writing and shall be issued to the parties within thirty (30) days after the case is submitted to the arbitrator. Any arbitrator selected under Section 14.5, Step 4 of this Article shall function pursuant to the rules and regulations of the Federal Mediation and Conciliation Services unless stipulated otherwise in writing by the parties to this Agreement.

Section 14.9. Election of Remedies

An employee covered by this Agreement must -- upon initiating objections relating to disciplinary action at a level equal to a suspension of eight hours of work or more, demotion or termination—use either the grievance procedure established under this Agreement or pertinent Civil Service procedures regarding disciplinary appeals. Should the employee attempt to adjudicate their objections(s) relating to a disciplinary action through both the grievance procedure and the Civil Service Commission, the grievance shall be considered withdrawn upon first notice that an appeal has been filed with the Civil Service Commission.

Section 14.10. Retroactivity:

Arbitration awards or grievance settlements shall not be made retroactive beyond the date of the occurrence or nonoccurrence upon which the grievance is based that date being twenty-one (21) calendar days or less prior to the initial filing of the grievance.

ARTICLE 15 -POLICE OFFICERS' BILL OF RIGHTS

A relationship of trust and confidence between employees of the Des Moines Police Department and the community they serve and between employees of the Des Moines Police Department and their Employer is essential to effective law enforcement. Police employees must be free to exercise their best judgment and to initiate law enforcement action in a reasonable, lawful, and impartial manner. In addition, law enforcement employees are obligated to respect the rights of all people, and the Employer is obligated to respect the rights of its employees.

It is essential public confidence be maintained in the ability of the Employer to investigate and properly adjudicate complaints against its employees. The rights of the employee, as well as those of the public, must be protected.

The parties are committed to resolving internal investigation matters involving members of the Association in a manner that is expeditious, fair, and thorough, and is designed to resolve issues at the lowest possible level.

An investigation based on a complaint must be conducted in an open and fair manner, with the truth as the primary objective. The Employer accepts complaints against any of its employees and fully investigates all such complaints to the appropriate disposition.

The Employer has acknowledged its responsibility by establishing a system of complaint and disciplinary procedures which not only shall subject the employee to corrective action when improper action is evident, but also shall provide procedural protection to all employees throughout all steps of this process.

It is the purpose of these procedures to provide a prompt, just, and open disposition of complaints regarding the conduct of employees of the Des Moines Police Department. To this end, the Employer welcomes constructive and valid criticism of Employer procedures and complaints against its employees from concerned citizens of the community and from employees.

Section 15.1. Internal Investigations

When an internal investigation is being initiated regarding an employee, for an act that could lead to punitive action, including dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer, for purpose of punishment, and because of such investigation he/she is being interrogated, such interrogation shall be conducted under the following terms and conditions:

- A. An internal investigation is defined as a formal inquiry into an allegation that an employee or employees violated a law or a department policy or regulation that is supported by reasonable cause to believe the violation may have occurred as alleged. Preliminary investigations which are conducted to determine if reasonable cause exists to conduct an internal investigation, informal discussions regarding work performance, and meetings to discuss performance evaluations and Personal Action Forms are not internal investigations and not the subject of this Article. Nothing in this Article or agreement prohibits an employee from invoking his or her right to have a representative present during a preliminary investigation, discussion, or meeting if the employee reasonably believes disciplinary action might result.
- B. Any employee who is the subject of an investigation shall be informed, in writing, at least seventy-two (72) hours or 3 business days, before any interview of the following: That the employee is considered a subject of the investigation, at that stage, the nature of the investigation, who is the

complainant and/or the victim (unless the employer has reasonable grounds to believe by doing so the complainant and/or victim would be in danger), what allegedly took place, when it allegedly happened, and where it allegedly happened. The employee shall also be afforded an opportunity and facilities to contact and consult with his or her Association representative, and to be represented by the Association representative to the extent permitted by law. The employee under investigation and the Association shall be informed in writing of the nature of the investigation and the person in charge of the investigation, and will be allowed to bring an attorney or Association Representative to represent him/her in the matter when the investigation may involve any discipline up to and/or including termination of the employee.

- C. All interviews shall be limited in scope to activities, circumstances, events, conduct or actions that are the subject of the investigation. If additional information is developed on a subject not related to the initial charge(s), questioning may not commence on the additional information, and the employee and Association shall be notified of additional charges in writing. At the cost of the requesting party and in accordance with Washington State Law, RCW 9.73, the employee or City may request that an investigation interview be recorded, either mechanically or by a stenographer. There can be no "off-the-record" questions. Upon request, the employee under an investigation shall be provided an exact copy of any written statement the employee has signed, or at the employee's expense a verbatim transcript of the interview.
- D. The interview of any employee shall be at a reasonable hour, preferably when the employee is on duty, unless the exigency of the interview dictates otherwise. Interviews shall be completed under circumstances devoid of improper intimidation or coercion. The employee shall be entitled to such reasonable intermissions as the employee shall request for personal necessities, meals, telephone calls, consultation with his/her representative, and rest periods.
- E. If prior to or during an internal investigation interrogation of an employee it is determined he/she may be charged with a criminal offense, he/she shall immediately be informed of his/her constitutional rights;
- F. Employees retain all of their constitutional rights. During an investigation in which an employee has been advised of their Garrity warnings, the employee will be compelled to answer questions directly related to and narrowly focused on the investigation. However, any information gained from the employee cannot be used against that employee in any criminal investigation.
- G. Disciplinary actions may include, but not limited to, the following: verbal warning, written reprimand or written letters of warning, loss of accrued vacation days, suspension, demotion, or discharge. Discipline shall generally be progressive in nature except where the offense warrants higher levels of discipline as determined by the Chief of Police.
- H. No employee shall be required to take a polygraph test and no adverse comment may be included in his/her personnel file or disciplinary hearing for his/her declining to take such polygraph test; (RCW 49.44.120)
- I. Lockers or other space assigned to an employee is considered public property and may be inspected without consent, provided the employee or Association representative has a right to be present.
- J. The employee shall not be subjected to profane language, nor shall the employee be threatened with dismissal or other disciplinary punishment as a guise to obtain the resignation of the employee. The Chief of Police will endeavor to impose discipline in a manner that is least likely

to embarrass the employee.

- K. Should any section, subsection, paragraph, sentence, clause or phrase in this article be declared unconstitutional or invalid, for any reason, such decision shall not affect the validity of the remaining portions of this article.
- L. The Association recognizes the administration's effort to improve procedures involving complaints against its members. In an effort to ensure that these procedures are accomplishing their goals, there will be a review, as needed, of the procedures in a meeting between the Association and the Chief of Police.

Section 15.2 Investigation Timeline:

If an employee is facing discipline due to an internal investigation, the following shall govern the timeliness of the investigation:

- A Internal Investigations shall be completed within ninety (90) calendar days, subject to the provisions of paragraph 2, 3, and 4 below. In the event the internal investigation has not been completed within (90) days, and no notice of extension has been provided to the Association and employee, a grievance may be filed. In the event exigent circumstances such as an Emergency Declaration is declared by the City Manager or Governor, timelines relating to internal investigations will stop until the emergency no longer exists.
- B The Employer shall notify the employee and the Association by way of Statement of Charges at the start of the internal investigation and upon completion of an internal investigation with a Memorandum of Finding, or a Lauderhill process.
- C Internal Investigations may be extended due to determined, exigent circumstances beyond the control of the Employer or Association. Such circumstances shall include the following: (a) complexity of the investigation, (b) pre-scheduled, extended leave (including extended annual leave or mandatory training) or unexpected illness of personnel integral to the investigation, (c) unavailability of witnesses after reasonable efforts to locate, (d) undue delays in transcription of interview recordings, (e) delays caused by the Association or its representatives, (f) the Chief of Police may request an extension to review completed investigation files or (g) emergencies. Investigations covered by this paragraph may also be extended if the Chief of Police requests specific, additional investigation. An extension on this basis shall require the notification in paragraph 4 below and shall be only for such time necessary to complete the additional investigation but no more than thirty (30) additional days at a time without additional notification. If the reason for the additional time stated in the extension request does not fall under paragraph three (3) above, the extension must be agreed upon by the Employer and the Association.
- D The Employer shall notify the employee being investigated and the Association of any extension. The notification shall include the following information: (a) when the Employer anticipates completing the investigation, and (b) explanation of the reason for the extension. If the investigation is not completed on the anticipated completion date the notification shall be repeated. An extension on this basis shall be only for such time necessary to complete the additional investigation but no more than thirty (30) additional days at a time without additional notification.
- E The Employer's obligation to limit extensions of investigations under paragraph 3 shall be subject to the grievance procedure in Article 16, to include arbitration.

- F In the event an internal investigation has identified possible criminal conduct the internal investigation may be suspended pending the outcome of the criminal investigation and judicial process. This will stop all time clocks as relating to internal investigations.
- G Investigations shall be deemed completed when the employee is advised of the Employer's memorandum of findings, pre-discipline process begins (Laudermill) or in the event the investigation has determined the allegations are not sustained and a final review is completed by the Chief of Police.
- H At the conclusion of the investigation and no later than (3) business days, (not to include weekends) prior to a pre-disciplinary process, the employee and the Association shall be advised of the results of the investigation and the recommended disposition (which may be a range of possible dispositions). The employee and the Association shall be provided with a copy of the complete investigatory file no less than (3) business days, not to include weekends, prior to the pre-disciplinary process, for the employee to prepare a response at the disposition hearing
- I Complaints not meeting the severity of internal investigations will be investigated. Investigations arising out of these complaints shall be completed within thirty (30) calendar days and subject to the provisions of paragraph C, and D above in the event the investigation requires additional time for completion. If the investigation is not completed within forty five (45) calendars days, and subject to the provisions of paragraph C, and D above no discipline shall be discharged. The original complaint and all the attendant documentation shall be removed from the employee's disciplinary and personnel records. The affected employee and the Association shall be notified in writing of the findings of these investigations within 7 business days, not including weekends, of the completion of the investigation.

Section 15.3. Psychological and Medical Evaluations:

The purpose of this Section is to balance the interest of the Employer in obtaining a psychological and medical evaluation of an employee to determine the employee's fitness for duty and the interest of the employee in having those examinations being conducted, in the least intrusive manner as possible, and in a manner as to protect the employee's right to privacy.

- A. **Conditions Under Which Evaluations Will Take Place:** No evaluation will take place without there being a reasonable suspicion to believe that an employee is psychologically or medically unfit to perform the job. If the employer has facts which provide reasonable suspicion that an employee may be unfit for duty, the employer will bring those facts to the attention of a doctor chosen from a list of doctors previously agreed to by the Employer and the Association. In the event the City and the Association do not reach agreement on an appropriate list, the City may select a doctor of its choosing. The employer may refer the employee to the selected doctor for evaluation. Any relevant medical history of the employee which the examining doctor requests shall be released by the employee only to the examining doctor. Whenever an employee is directly involved in an incident which results in a fatality, the employee will be required to have a psychological assessment and counseling prior to returning to full duty. Employees who are indirectly involved in such fatal incidents are encouraged to seek psychological assessment and counseling. The City will continue to pay for these visits.
- B. **Results of the Evaluation:** The doctor will issue a written report to the employer and the employee. The only information which the doctor may disclose shall be whether the employee is fit or unfit for duty or requires modified work conditions, and the prognosis for recovery. Additionally, where the cause of the unfitness is duty related, the doctor shall disclose that cause.

If the doctor believes the employee is fit for duty but needs modified work conditions and/or continued treatment, the doctor will indicate what modifications and/or treatment are necessary and the extent and projected duration of the modification and/or treatment plan. The employee shall follow the prescribed treatment plan. The doctor will keep all data that has been made available to him or her confidential and not release it to any party except the employee. Modified work conditions may include light duty assignments as provided in Section 6.4. Light Duty.

- C. If the employee is referred back to work by the doctor, but the employer still has reasonable suspicion that the employee remains psychologically or medically unfit to perform the job, employer may again refer the employee back to the original evaluating doctor for further evaluation.
- D. The employer has the right to send a pre-evaluation and/or post-evaluation questionnaire to the doctor listing any expectations, responsibilities and/or concerns the employer may have relating to the employee. The doctor will determine if the employee is capable of fulfilling the expectations and responsibilities outlined and clear up the concerns specified. The doctor shall provide such written determination to the employer prior to the employee's return to full duty.
- E. As used in this section, "doctor" refers to a physician, psychologist or psychiatrist.
- F. This section shall not be interpreted to limit the City's or employee's rights, obligations, or access to information under the rules and regulations applicable pursuant to the Americans with Disabilities Act, Family Medical Leave Act, or Worker's Compensation statutes.

Section 15.4 Officer involved Critical Incidents:

Any time a critical incident occurs the following will apply:

- A. Upon arrival at a scene where use of a firearm has taken place, representatives of the Employer shall only request from the employee Public Safety Information needed to secure the scene and identify and apprehend any perpetrators of the crime who may be at large. The Employer will not question the employee(s) regarding any non-essential information regarding the incident.
- B. The employee involved in a critical incident will be given reasonable accommodations to have contact with any persons allowed under RCW 5.60.060 (spouse, clergy, peer support, etc.)
- C. The case investigation will be made available to the Association or its attorney, upon request when completed and available to the department.
- D. The Employer must preserve a chain of custody for the weapon or weapons utilized in an incident and the employee may be immediately issued a replacement weapon or weapons (department issued weapons only) unless circumstances as determined by Command Staff deem it inappropriate to do so.
- E. If there are multiple investigators assigned because concurrent investigations are underway, the investigators will coordinate so one investigator will be primarily responsible for the interview. All attempts will be made to minimize the need for successive interviews.
- F. During the interview of the employee relating to a critical incident, the employee will be given reasonable breaks and periods to prepare for the interview, and be given the right to consult with legal counsel and /or Association representation prior to and during the interview upon request. If

requested, the interview may be postponed until the employee has been able to seek professional counseling before the interview takes place.

- G. If the incident is captured on video, the employee will be allowed to review the video prior to any statement being made unless the investigation has determined possible criminal culpability by the involved employee.
- H. At the option of the Employer (considering input from the affected employee and/or Association Representative), the employee shall be placed on administrative duty or administrative leave. Employees placed on either of these two leaves will revert to a weekly (Monday through Friday) dayshift work schedule for interview and administrative availability.
- I. While on administrative assignment, the employee will be allowed access to the employee's choice of counselors or doctors without loss of pay or benefits to the employee for a reasonable period determined by the employer and under medical coverage plan options.
- J. When either the employee or the Employer believes the employee should return to the employee's regular assignment, at the Employer's option, the employee shall provide documentation from his/her counselor or doctor indicating the employee is fit to return to his/her regular duties or to modified duties. The Employer at its option may request (at their expense) an independent examination of fitness for duty.
- K. After returning to duty, the employee will be encouraged and allowed full access to counselors without loss of pay or benefits to the employee while participating in a Department/City approved program.
- L. The Association President, or his designee, will be advised as soon as possible of any change(s) or deviation from the Officer Involved Shooting (310) policy is made by the Chief of Police or his designee.

ARTICLE 16 -COMPENSATION

Section 16.1. Salaries:

- A. **Signing Bonus:** all members of this bargaining unit shall receive a signing bonus equal to four (4) percent of salary paid for all of 2010 on the second paycheck issued in January 2011.
- C. Effective January 1, 2011, all members of the bargaining unit shall receive a cost of living adjustment to base salaries of a two (2) percent salary increase and salary shall be increased an additional four (4) percent representing a cost of living adjustment for 2010 of two (2) percent and a salary adjustment of two (2) percent.

Section 16.2. Off Duty Employment:

An employee who wishes to engage in additional employment, during off-duty hours must first submit a written request seeking approval to the Chief of Police and receive the Chief's approval before accepting the employment. In doing so, the employee will: (1) name the company and/or employer, (2) fully describe the nature of the work to be performed, (3) list hours of work, and (4) obtain from the company/employer an agreement in a form approved by the City that indemnifies, releases and holds the City harmless from any liability arising from the employee's discharge of his/her duties as an employee of the company/employer. If the employee complies with the above requirements, the Chief shall authorize an employee to perform other employment during off-duty hours provided such employment does not: (1) interfere with the efficiency of law enforcement and public safety; (2) interfere with the employee's performance of regular police duties; (3) detract from the image of the police profession; (4) conflict with the Employer's published policies and regulations; (5) involve the use of department uniforms or equipment unless authorized in writing by the Chief of Police; (6) involve work in conjunction with or in any capacity with a tow company, taxicab or ambulance company; (7) involve work upon any commercial premises where intoxicants are served for public consumption except in a security capacity; (8) follow or result in an unusual sick or absence record in an employee's primary police employment; (9) conflict with departmental regulations or policy governing outside employment (10) involve misuse of the commission; (11) adversely affect the department's image or efficiency; or (12) relate to any activity of a law enforcement nature.

This article also applies to off-duty work with volunteer groups. Time worked in off-duty employment, for anyone other than the City of Des Moines, is not recognized as hours worked on duty.

The Management Association agrees to appoint a member of the Bargaining Unit to coordinate off duty scheduling. The Management Association agrees that hours worked for off duty employment for anyone other than the City shall not be counted as hours worked on duty regardless of who pays the Employee.

Section 16.3. Working Out of Classification:

- A. Any employee who is assigned to perform duties of a higher paying classification for periods of 40 consecutive hours (regardless of days off) or more, shall be paid at the rate of the higher classification. If the Department does not have a Deputy Chief assigned, the acting employee shall receive acting pay of five (5%) pay.
- B. The Chief of Police must make formal acting assignments before provisions of this section apply, naming person placed in temporary classifications, temporary rank, and length of time employee will be working out of his/her regular classification.

Section 16.4. Educational Incentive:

Educational Incentives - Educational incentive pay will be paid to Employees with a qualifying AA or AS degree equal to 2.5% base pay, 4% for a BA or BS degree, and 5% for an MA, MS, or MPA. Qualifying degrees are Police Science, Political Science, Sociology, Psychology, Community Service, Business Administration, Criminology, Law, Criminal Justice, Public Administration, and any other degrees approved by the Chief of Police. Employees currently earning educational incentives for degrees other than those listed will continue to receive such pay and the increases itemized in this Agreement.

Section 16.5. Clothing and Equipment:

- A. The Employer agrees to provide all uniform clothing and equipment which an employee is authorized to wear and authorized to purchase by the Chief of Police.
- B. The Employer agrees to provide necessary cleaning of all such clothing and equipment.
- C. The Employer agrees to replace or repair clothing and equipment which is damaged in the line of duty including "fair wear and tear"
- D. Commanders shall be granted a clothing allowance for non-uniform clothing of 1% of base pay per year. Cleaning shall be provided as defined in Subsection B above.

Section 16.6. Compensation for Training:

The City agrees to compensate any employee for training time which is a result of an employee's required attendance at any symposium, seminar, or training school.

Section 16.7. Retiree Rights:

Effective the first of the month after ratification of this agreement. An employee separating from service in good standing with five (5) or more years of service with the Des Moines Police Department, and who meets LEOFF eligibility requirements to receive retirement benefits will receive a retiree badge and commission card from their last duty assignment served.

An employee separating from service, in good standing with twenty (20) or more years of service as a Commissioned and/or Certified Police Officer, and the last five (5) or more years of service with Des Moines Police Department, and who meets meeting LEOFF eligibility requirements to receive retirement benefits will additionally receive their duty weapon at retirement.

The Chief of Police shall have the discretion to issue or deny department equipment to the retiree under certain and/or exceptional circumstances.

ARTICLE 17 -INSURANCE COVERAGE

Section 17.1. Health Care Insurance:

The following health care plans are offered to bargaining unit members:

Medical, Dental, and Vision: Regular full-time employees and regular part-time employees budgeted for thirty-two (32) or more hours per week shall be eligible to participate in the City's health insurance plans. Premiums shall be paid by the City on behalf of all full-time employees and all part-time employees budgeted for thirty-two (32) or more hours per week according to the following schedule:

- A. One hundred percent of a LEOFF II employee's premium for Regence Blue Shield/Regence Northwest Health – AWC Plan A or AWC Group Health of Puget Sound Co-pay Plan 1.
- B. Ninety percent (90%) of the spouse and dependents' premium for Regence Blue Shield/Regence Northwest Health - AWC Plan A or AWC Group Health of Puget Sound Co-pay Plan 1.
- C. One-hundred percent (100%) of the premium for AWC - Washington Dental Service Plan F.
- D. One-hundred percent (100%) of the premium for AWC - Vision Service Plan, Full Family \$25 Deductible

The City reserves the right to select other insurance plans and carriers or to self-insure to provide the benefits outlined in Section 19.1.1., provided that the benefits are comparable with those currently offered.

Section 17.2. Long Term Disability Insurance:

In lieu of Social Security disability and survivor benefits, the City covers all regular full-time Employees and regular part-time employees budgeted for twenty-one (21) or more hours per week under the Fortis Long Term Disability (LTD) and Survivors Income Benefit (SIB) Plans. The City will continue to pay 100% of premiums for the SIB program and employees shall pay one-hundred percent (100%) of the premium for the LTD through payroll deduction on a post tax basis.

Section 17.3. Forms Handling:

- A. The Association and its membership agree to cooperate with the City in all requirements relating to insurance forms and processing such. It is mutually agreed that forms handling is a necessary part of the employee and City's duties, and that expeditious handling is in the best interest of both parties.
- B. Each employee shall be responsible for obtaining and filling out necessary application forms, change in coverage forms, or providing other information necessary to determine eligibility for insurance coverage.

Section 17.4. Hepatitis B Vaccination Program:

The City will provide employees with the opportunity to receive vaccinations and the follow-up tests to help prevent contraction of the Hepatitis B virus. The program will be voluntary in nature and in accordance with applicable Washington State Law, WISHA directives, and Labor & Industry regulations, and Des Moines Police Department policies. Employees who wish to waive their opportunity to receive vaccinations and follow-up tests after exposure must sign a waiver form.

Section 17.5. 401 Savings Plan:

In lieu of Social Security, all Employees are covered under a qualified 401 retirement plan administered by ICMA-RC. The City will contribute an amount equal to 5% of the employee's wage, while the employee contributes an amount equivalent to the current employee Social Security deduction rate. To qualify for this program Employees must be full-time or regular part-time and work a minimum of 21 hours per week. The city will continue to contribute the current 1.52% of the employee's wage into the employees' 457 Deferred Compensation plan.

Section 17.6. Indemnification:

The City shall indemnify and defend any police officer against any claim or suit, where such claim or suit arose because such Employee exercised his/her lawful authority as a Des Moines Police Officer. The City shall pay, on behalf of any Employee in the Bargaining Unit, any sums which the Employee shall be legally obligated to pay as a result of that Employee's reasonable and lawful activities and exercise of authority within the scope of his/her lawful duties and responsibilities as a Des Moines Police Officer.

This protection shall also apply for any claims or suits arising from an employee's authorized off duty employment within the city limits of Des Moines; provided such claim or suit results from the employee's reasonable and lawful activities and exercise of authority within the scope of his/her duties and responsibilities as a Des Moines Police Officer. This shall not preclude the City from recovering losses, to the extent coverage is otherwise provided by the off duty Employer or his insurer.

Indemnity and defense shall not be provided by the City for any dishonest, unlawful, fraudulent, criminal, or malicious act.

ARTICLE 18 -MILITARY LEAVE

Military Paid Leave of Absence - An employee who is a member of the reserves or any branch of the uniformed service, who is ordered to involuntary active duty by the United States government, thus requiring a leave of absence from his or her City position, and who has exhausted annual military leave as provided by RCW 38.40.060 will be granted a paid leave of absence from their City position at their regular base rate of pay including educational incentive pay less the amount of military pay to which they are entitled.

ARTICLE 19 -SAVINGS CLAUSE

If any article of the agreement or any addenda hereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article should be restrained by such tribunal, the remainder of the agreement and addenda shall not be affected thereby and the parties shall enter immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such article.

ARTICLE 20 -ENTIRE AGREEMENT

The agreement expressed herein in writing constitutes the entire agreement between the parties and no oral statement shall add to or supersede any of its provisions.

The parties acknowledge that each has had the unlimited right and opportunity to make demands and proposals with respect to any matter deemed a proper subject for collective bargaining. The results of the exercise of that right are set forth in this agreement.

ARTICLE 21 -TERM OF AGREEMENT

This Agreement shall become effective on the date of execution. This agreement shall remain in full force and effect through December 31, 2011.

Approved this ____ day of _____, 2011.

Anthony A. Piasecki, City Manager
City of Des Moines

Kevin Tucker, President
Des Moines Police Management Association

APPENDIX A

Des Moines Police Management Association

Pay Schedule 2010

<u>Range</u>	<u>Position</u>	C	D	<u>E</u>
PMA 34	Commander	\$102,588	\$107,712	\$113,100

Pay Schedule 2011

\$104,628	\$109,860	\$115,356
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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Council Rules of Procedure

ATTACHMENTS:

1. Draft Resolution No. 10-088
2. Draft Council Rules of Procedure as amended by the City Council
3. City Manager proposed changes to Rule 5(b) and 5(c).

FOR AGENDA OF: January 6, 2011

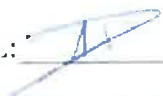
DEPT. OF ORIGIN: Administration

DATE SUBMITTED: December 28, 2010

CLEARANCES:

|| _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to allow the City Council to review and adopt changes to its Rules of Procedure.

Suggested Motion

"I move to adopt Draft Resolution No. 10-088 adopting changes to the City Council Rules of Procedure and inserting the changes to Rule 5(b) and (c) as proposed by the City Manager."

Alternative Motions

1. "I move to adopt Draft Resolution No. 10-088 adopting changes to the City Council Rules of Procedure and keeping the changes to Rule 5(b) and (c) as originally proposed to the City Council at the October 7, 2010 meeting."
2. "I move to adopt Draft Resolution No. 10-088 adopting changes to the City Council Rules of Procedure and removing Rule 5(b) and (c)."

Background

The City Council discussed changes to its Rules of Procedure at its October 7, 2010 meeting. At that meeting, Council agreed to various changes to the rules, as noted in attachment 2. The only changes not

agreed to were the additions of subsections (b) and (c) to Rule 5. Council remanded these changes back to the Ad hoc Council Rules Committee for further re-wording.

Discussion

The City Manager proposed to the Ad hoc Rules Committee changes to Rule 5 (b) and (c) as shown in attachment 3. The Committee did not meet to discuss the proposal and the proposal is now before the City Council for its consideration.

Alternatives

See the recommended and alternative motions. Council may also develop an alternative revision of Rule 5 (b) and (c) at the January 6th Council meeting.

Financial Impact

None.

Recommendation

Staff recommends the City Council adopt Draft Resolution No. 10-088, and include the City Manager's proposed changes to Rule 5 (b) and (c).

Concurrence

None.

CITY ATTORNEY'S FIRST DRAFT 8/30/10

DRAFT RESOLUTION NO. 10-088

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, adopting amendments to the *Des Moines City Council Rules of Procedure*.

WHEREAS, DMMC 4.12.10 provides that "rules of procedure governing and regulating meetings of the City Council shall be adopted in resolution form, and shall have the force of law," and

WHEREAS, DMMC 4.12.030 provides that the rules "may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the Council," and

WHEREAS, DMMC 4.12.030 further provides that "Any such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the Council agenda under order of new business," and

WHEREAS, the City Council formed a Council Rules Committee to review and update the current Council Rules, and

WHEREAS, The Council Rules Committee met on April 30 and August 13, 2010, and recommend amendments to the *City Council Rules of Procedure* as attached; now therefore,

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

The attached document entitled *Des Moines City Council Rules of Procedure, Updated _____, 2010*, is hereby adopted as the official *City Council Rules of Procedure* substantially in the form as attached and is effective immediately upon adoption.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2010 and signed in authentication thereof this ____ day of _____, 2010.

M A Y O R

Attachment #1

Resolution No. ____
Page 2 of ____

APPROVED AS TO FORM:

City Attorney

ATTEST:

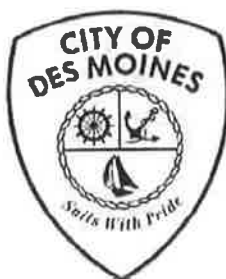
City Clerk

DRAFTRES:

12/28/10 3:20 PM

DES MOINES CITY COUNCIL

RULES OF PROCEDURE



Adopted Pursuant to DMMC 4.12.010

Updated 7/89

Updated 7/90

Updated 10/90

Updated 11/90

Updated 8/91

Updated 10/91

Updated 12/91

Updated 4/92

Updated 2/94

Updated 3/94

Updated 8/94

Updated 6/95

Updated 9/00

Updated 5/03

Updated 9/03

Updated 8/04

Updated 4/05

Updated 5/06

Updated

Attachment #2

DES MOINES CITY COUNCIL RULES OF PROCEDURE

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DES MOINES CITY COUNCIL RULES OF PROCEDURE

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SECTION I COUNCIL MEETING - LOCATION

RULE 1. All meetings of the City Council shall be held at the location specified in DMMC 4.04.010. (Ord. 329 §1, 1973).

COUNCIL MEETING - TIME

RULE 2. The regular meetings of the City Council shall be held at the times specified in DMMC 4.04.020. (Ord. 1039 §1, 1993).

COUNCIL MEETINGS - OPEN TO THE PUBLIC

RULE 3. All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140. (Res. 525 §1, 1988).

ELECTION OF OFFICERS

RULE 4. Procedures for electing officers are as follows:

(a) Biennially, at the first meeting of the new Council, the members thereof shall choose a presiding officer from their number who shall have the title of Mayor. In addition to the powers conferred upon him/her as Mayor, he/she shall continue to have all the rights, privileges and immunities of a member of the Council. If a permanent vacancy occurs in the Office of Mayor, the members of the Council at their next regular meeting shall select a Mayor from their number for the unexpired term. Following the election of the Mayor, there shall be an ~~election~~ election for Mayor Pro Tempore. The term of the Mayor Pro Tempore shall run concurrently with that of the Mayor.

(b) The election for Mayor shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the City Council shall be permitted to nominate one (1) person who has previously served on the Council for a minimum of two years, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations are then closed. The election for Mayor Pro Tempore shall be conducted by the Mayor-elect, and nominations shall be made in the manner previously described for the election of the Mayor. Candidates for Mayor Pro Tempore shall have previously served on the Council for a minimum of one year. The minimum experience condition for candidacy for Mayor or Mayor Pro Tempore may be waived by the vote of five councilmembers. ~~Motion to remove new language failed - No~~

(c) Except when there is only one nominee, election shall be by written ballot.— Each ballot shall contain the name of the Councilmember who cast it. Each succeeding ballot shall include the name of all Councilmembers nominated (unless they have withdrawn). Voting shall continue until a nominee receives a majority of the votes. The City Clerk shall publicly announce the results of the election by reading each ballot into the record, stating the name of each voting Councilmember and the manner in which the

Councilmember voted. Thereafter, the City Clerk shall record in the minutes of the meeting the manner in which each voting member of the Council cast his or her ballot.

(d) In the event the Council is unable to agree on a Mayor by majority vote of members present, the Office of Mayor shall be temporarily filled by an Acting Mayor. The Acting Mayor shall be the Councilmember who just previously served as Mayor; or if such person is not a member of the Council, the Councilmember who just previously served as Mayor Pro Tempore; or if such person is not a member of the Council, the Councilmember with the highest seniority as determined by the City Attorney. Ties shall be resolved in a contest by chance. The office of Acting Mayor Pro Tempore shall be filled by the Councilmember who just previously served as Mayor Pro Tempore; or if such person is not a member of the Council, by the Councilmember with the next highest seniority. The Acting Mayor and Acting Mayor Pro Tempore shall continue in office and exercise such authority as is described in Chapter 35A.13 RCW until the members of the Council agree on a Mayor, at which time the Office of Acting Mayor and Acting Mayor Pro Tempore shall cease and terminate. (Res. 525 §1, 1988, amended by Res. 594 §1, 1989, amended by Res. 672, 1991, amended by Res. 754 §1, 1994.)

PRESIDING OFFICER

RULE 5. The Mayor shall preside at meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. The Mayor shall have no regular administrative or executive duties. In case of the Mayor's absence or temporary disability the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. When the Mayor Pro Tempore acts as Mayor by participating in preparation of a Council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Mayor Pro Tempore shall have authority only to approve the Council meeting agenda or study session worksheet as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the Council shall act as Mayor during the continuance of the absences or disabilities. The Mayor or Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedure. (Res. 525 §1, 1988, amended by Res. 961 §1, 2003).

(a) The Mayor and the Council have the authority to issue proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council.

(b) The Mayor has the lead in representing Des Moines to those from outside the community who are interested in joint ventures and efforts to bring economic development and investments to the City, including other local governments, regional organizations, and federal, state, and international government representatives, promoting a favorable image of the local government and pursuing resources that will benefit the community. A Councilmember cannot commit the City without authorization of a majority of the City Council.

(c) The Mayor informs the public, the media, and staff about issues affecting the community. The Mayor is the spokesperson on actions taken by the Council.

(Remanded back to committee – 10/7/10)

QUORUM

RULE 6. At all meetings of the Council four Councilmembers, who are present and eligible to vote, shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior Council Chamber doors per RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered a regular meeting for all purposes. (Res. 525 §1, 1988).

ATTENDANCE, EXCUSED ABSENCES

RULE 7. RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or City Clerk, who shall convey the message to the Presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes. (Res. 525 §1, 1988).

SPECIAL COUNCIL MEETINGS

RULE 8. It is the intent of the Des Moines City Council that the procedures of this Council Rule 8 are enforceable to the same extent as RCW 42.30.080, as the City's implementation of the Open Public Meetings Act special meeting requirements set forth at RCW 42.30.080. Procedures for setting a special meeting are as follows:

(a) A special meeting may be called by the Mayor or any four members of the Council.

(b) Notice of the special meeting shall be prepared in writing ~~by the City Clerk~~. The notice shall contain the following information about the meeting: time, place, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press.

(c) (1) The notice shall be delivered by mail, by electronic mail to an address designated by the receiver of the email, or personally to each Councilmember, the City Manager, and the business office of each local newspaper and radio and television station which has on file a written request for notice of special meetings. The notice must be delivered at least twenty-four (24) hours prior to the meeting. (2) When email notice is given to Councilmembers, the City Clerk shall provide confirming follow up of such email notice by making a personal telephone call directly to each Councilmember who has made a standing written advance request to the City Clerk for such follow up telephone call. The City Clerk shall document the date and time of such follow up telephone call.

(d) The notices provided in this section may be dispensed with in the circumstances provided by RCW 42.30.080; that is: (1) As to any member who at or prior to the time the meeting convenes files with the Clerk a written waiver of notice, (2) As to any member who was actually present at the meeting at the time it convenes, and (3) In the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such

notice would make notice impractical and increase the likelihood of such injury or damage. (Res. 525 §1, 1988, amended by Res. 788, 1995, amended by Res. 1011, 2006).

COUNCIL MEETING AGENDA

RULE 9. This rule specifies the method of preparation of a Council meeting agenda for meetings other than study sessions. The Presiding Officer, three (3) Councilmembers, or the City Manager may introduce a new item to the preliminary agenda. The Presiding Officer shall have the option of deleting any item, other than those items introduced by three (3) Councilmembers, from the preliminary agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda for a subsequent Council meeting. The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the Council. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press ~~seventy-two (72) hours prior to the close of business leading prior to the Regular Council Meeting, except in case of an emergency, before a regular Council meeting.~~ ~~New language passed 9-30-16 unanimously.~~ (Res. 525 §1, 1988, amended by Res. 961 §2. 2003).

STUDY SESSIONS

RULE 10. Regular Council meetings that are held during the first and third week of each month in accordance with Rule 2, may be designated as Study Sessions by the Presiding Officer, ~~when there are no more than four (4) items of business.~~ Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. Comments from the public, limited to the items of business on the Study Session agenda, may, at the discretion of the Presiding Officer, be allowed so long as the comments are in accordance with Council Rule 20(f). The purpose of Study Session discussions is to allow Councilmembers to be made aware of impending business and allow informal discussion of issues that might be acted on at a future meeting. These conditions will allow the Councilmembers to communicate informally about these impending issues. No final Council action shall be taken on ordinances and resolutions at Study Sessions. The City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall, for each item, contain the Discussion Item, the Discussion Item Moderator, and the Discussion Goal. After the proposed Council Study Session worksheet has been approved ~~as to form only,~~ by the Presiding Officer, a copy of it along with any supporting materials shall be prepared for Councilmembers, the City Manager, and the press ~~on or before 4:30 PM, five (5) working days -~~ before the Council Study Session. During the Council Study Session the Discussion Item Moderator may: 1) introduce the subject and give background information; 2) identify the discussion goal; 3) act as facilitator to keep the discussion focused to the eventual discussion goal; 4) alert the Presiding Officer when it is appropriate to call for a motion or other official direction of the Council. The Presiding Officer retains the option of assuming the function of the Discussion Item Moderator in order to keep the discussion properly focused. (Res. 525 §1, 1988, amended by Res. 659, 1991, amended by Res. 754 §2, 1994, amended by Res. 961 §3, 2003.)

CITY MANAGER

RULE 11. The City Manager, as the chief executive officer and head of the administrative branch of City government or his/her designee, shall attend all meetings of the City Council, unless excused by the Presiding Officer or Council. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City. The City Manager shall recommend for adoption by the Council such measures as he/she may deem necessary or expedient; prepare and submit to the Council such reports as may be required by that body or as the City Manager deem it advisable to submit; keep the Council fully advised as to the business of the City; and shall take part in the Council's discussion on all matters concerning the welfare of the City. In the event that both the City Manager and Assistant City Manager are unable to attend a Council meeting, the City Manager or Assistant City Manager shall appoint a key staff member to attend the meeting as the representative of City Administration. (Res. 525 §1, 1988).

CLERK

RULE 12. The City Clerk shall be ex-officio Clerk of the Council and shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, ~~and~~ including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council. (Res. 525 §1, 1988, Amended by Res. 949, 2003).

SECTION II DUTIES AND PRIVILEGES OF MEMBERS

FORMS OF ADDRESS

RULE 13. The Mayor shall be addressed as "Mayor (surname)" or "Your Honor". The Mayor Pro Tempore shall be address as "Mayor Pro Tem (surname)". Members of the Council shall be addressed as "Councilmember (surname)". (Res. 525 S1, 1988).

SEATING ARRANGEMENT

RULE 14. Councilmembers shall occupy the respective seats in the Council Chamber assigned to them by the Mayor. (Res. 525 S1, 1988).

APPEARANCE OF FAIRNESS DOCTRINE

RULE 15. Appearance of Fairness Doctrine and its Application. (Res. 571 S1, 1989).

(a) Appearance of Fairness Doctrine Defined. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." Zehring v. Bellevue, 99 Wn.2d 488 (1983).

(b) Types of Hearings to Which Doctrine Applies. The appearance of Fairness Doctrine shall apply only to those actions of the Council which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents of the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. RCW 42.36.010. Some examples of quasi-judicial actions which may come before the Council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the Hearing Examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits.

(c) Obligations of Councilmembers, Procedure.

(1) Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should disclose such facts to the City Manager who will seek the opinion of the City Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.

(2) Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.

(3) The presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.

(4) Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.

(d) Specific Statutory Provisions.

(1) Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. RCW 42.36.040.

(2) A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. RCW 42.36.050.

(3) During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. RCW 42.36.060.

(e) Public Disclosure File. The City Clerk shall maintain a public disclosure file, which shall be available for inspection by the public. As to elected officials, the file shall contain copies of all disclosure forms filed with the Washington State Public Disclosure Commission. As to

members of the Planning Agency, the file shall contain for each member a disclosure statement. The Planning Agency disclosure statement shall list all real property and all business interests located in the City of Des Moines in which the member or the member's spouse, dependent children, or other dependent relative living with the member, have a financial interest.

(f) ~~Procedure on Application.~~ Any person making application for any action leading to a quasi-judicial hearing shall be provided with a document containing the following information: (1) the names and address of all members of the City Council, the Planning Agency, and Community Land Use Councils; (2) a statement that public disclosure information is available for public inspection regarding all such members; and (3) a statement that if the applicant intends to raise an appearance of fairness issue, the applicant should do so at least two weeks prior to any public hearing. The applicant shall acknowledge receipt of such document.

DISSENTS AND PROTESTS

RULE 16. Any Councilmember shall have the right to express dissent from or protest against any ordinance or resolution of the Council and have the reason therefore entered in the minutes. (Res. 525 S1, 1988).

ADMINISTRATIVE INTERFERENCE BY COUNCILMEMBERS

RULE 17. Neither the Council, nor any of its committees or members shall direct or request the appointment of any person to, or his/her removal from, any office by the City Manager or any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative branch solely through the City Manager and neither the Council nor any committee or member thereof shall give any orders to any subordinate of the City Manager, either publicly or privately; provided, however, that nothing herein shall be construed to prohibit the Council, while in open session, from fully and freely discussing with the City Manager anything pertaining to appointments and removals of City officers and employees and City affairs. (RCW 35A.13.120) (Res. 525 S1, 1988).

SECTION III COUNCIL PROCEDURES

RULES OF ORDER

RULE 18. Rules of order not specified by statute, ordinance, or resolution shall be governed by the most recent edition of The Scott, Foresman-Robert's Rules of Order Newly Revised, 1990 Edition, as published by Scott, Foresman and Company. (Res. 525 S1, 1988, Amended by Res. 618 1990 and amended by Res. ___, 2010).

(a) Courtesy. Members of the Council, in the discussion, comments, or debate of any matter or issue, shall be courteous in their language and demeanor and shall not engage in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant, as determined by the presiding officer, to the question or matter under discussion.

(b) Interruption. No member of the Council shall interrupt or argue with any other member while such member has the floor.

MOTIONS

RULE 19. All items of business placed before the Council that require the expenditure of Council and/or administration resources, shall be in the form of an affirmative motion. (Res. 525 S1, 1988).

(a) Rule 19(a) – Speaking to Motion. No member of the Council shall speak more than twice on the same motion except by consent of the majority of the Council Members present at the time the motion is before the Council. After the motion is put and before the next item is read, a member shall be able to speak briefly to the previous motion. Questions and answers by members of the Council are not considered as speaking to the motion.

(b) Rule 19(b) – Time Limit. Each member of the Council shall speak for no more than ten (10) minutes unless granted an exemption by the majority of the Council.

(c) Rule 19(c) – Donation of Time. No member of Council may give his allotted time to another member unless there is approval of the majority of the council.

ORDER OF BUSINESS

RULE 20. The business of all regular meetings of the Council shall be transacted as follows; provided, however that the Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

(a) Call to order by the Presiding Officer.

(b) Pledge of Allegiance.

(c) Invocation (Presiding Officer's discretion).

(d) Roll call (See Rule 7 for procedure to excuse an absence).

(e) Correspondence not previously received by the Council.

(f) Comments from the public (non-public hearing topics). Public comments are encouraged and appreciated. The information and advice received from citizens helps the City Council make the best possible decisions.

(1) Procedure.

a. Citizens are encouraged to supplement verbal comments through written submittals.

b. All citizens desiring to address Council during the Public Comment period shall first fill out a sign-in sheet and submit the form to the City Clerk prior to the start of Public Comments.

(2) Scope of Comments.

a. Subjects not on the current agenda. Any member of the public may request time to address the Council after first stating their name, address, and the subject of their comments. The Presiding Officer may then allow the comments subject to such time limitations as the Presiding Officer deems necessary. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to administration or a Council committee for investigation and report.

b. Subjects on the current agenda. Any member of the public who wishes to address the Council on an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. The Presiding Officer shall rule on the appropriateness of public comments as the agenda item is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (.e.) proponents, opponents, adjacent owners, vested interests, etc.).

c. Subjects of a Public Hearing. Comments made during the Public Comment period on a topic set for a public hearing by the City Council shall be out of order. To ensure a fair hearing to applicants or matters that

are subject to a public hearing before the City Council, the presiding officer may rule public comments made outside the scope of a public hearing record to be out of order.

d. Any ruling by the Presiding Officer relative to the preceding two subsections may be overruled by a vote of a majority of members present.

(3) Rules of Conduct. A minimum number of basic rules are established to ensure that all individuals wishing to address the City Council are fairly heard.

a. Each person addressing the Council shall step up to the indicated speakers table, give his or her name and address for the record, and shall limit comments to three (3) minutes. Groups may be allotted five (5) minutes by the presiding officer.

b. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated speaking table and addressed to the Council as a body and not to individual members, the audience or the television cameras.

c. The presiding officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude his or her remarks. All speakers are encouraged to submit supplemental or detailed written remarks for Council consideration.

d. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be ordered to leave the meeting. The presiding officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct and to enforce these rules.

e. The presiding officer may rule "out of order" any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

f. Any person whose comments have been ruled out of order by the presiding officer shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from personal, inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the presiding officer may subject the individual to removal from the Council Chambers.

g. Committee and board reports.

(1) Procedure. Councilmembers and the presiding officer may give reports regarding boards or committees to which they have been appointed.

(2) Scope and Time Limits.

a. The presiding officer may rule "out of order" any comments made during this portion of the meeting that do not pertain to the activities of the Councilmembers' boards or committees.

b. Board and committee reports shall also be limited to three (3) minutes unless extended time is granted by the presiding officer for matters of significant importance. The presiding officer or designee shall notify the Councilmember when the allotted time has expired and the Councilmember shall promptly conclude his or her report.

(h) Presiding Officer's report. In addition to any special board or committee reports, the presiding officer may give a report on any activity participated in as part of the official duties of the Mayor.

(i) Councilmember comments (non-agenda topics).

(1) Procedure. Councilmembers may comment on other subjects of importance and/or respond to citizen comments.

(2) Scope and Time Limits.

a. Councilmember comments during this portion of the meeting shall be limited to subjects not on the current agenda. The presiding officer may rule "out of order" any comment made during this portion of the meeting with respect to any agenda item or quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter and/or during that portion of the meeting for which the agenda item is scheduled.

b. Councilmember comments during this portion of the meeting shall also be limited to three (3) minutes. The presiding officer or designee shall notify the Councilmember when the allotted time has expired and the Councilmember shall promptly conclude his or her remarks.

(j) Administration reports.

(k) Consent Calendar.

(1) The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Calendar which have been: (a) previously discussed by the Council, or (b) based on the information delivered to members of the Council by administration that can be reviewed by a Councilmember without further explanation, or (c) are so routine or technical in nature that passage is likely, or (d) as directed by the City Council.

(2) The Clerk shall read the Consent Calendar, including the titles of any ordinances or resolutions contained therein.

(3) The proper Council motion on the Consent Calendar is as follows: "I move adoption of the Consent Calendar". This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent Calendar. Since adoption of any item on the Consent Calendar implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Calendar. Therefore, prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any Councilmember wishes an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the item withdrawn from the consent calendar shall be the next business in order following the conclusion of the consent calendar.

•(1) Public Hearings (see Rule 21 for procedural details).

(m) Old Business.

(n) New Business.

(o) Executive Session (as required)

(p) Next meeting date announced by Presiding Officer.

(q) Adjournment. No meeting shall be permitted to continue beyond 10:30 PM without approval of three fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 10:30 PM, the items not acted on shall be deferred to the next regular Council meeting as old business, unless the Council, by a majority vote of members present, determines otherwise. (Res. 525 §1, 1988, amended by Res. 894 §1, 2000, amended by Res. 961 §4, 2003, amended by Res. 977, 2004.

ACTIONS FOR A PUBLIC HEARING

RULE 21. The procedures for a public hearing are as follows:

(a) Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the

Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the Council, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).

(b) The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting.

- (1) "All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here."
- (2) "It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent."
- (3) "No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting."
- (4) "There will be no demonstrations during or at the conclusion of anyone's presentation."
- (5) "These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech."

- (c) (1) When Council conducts a hearing to which the Appearance of Fairness Doctrine, (Rule 15) applies, the Presiding Officer, or in the case of a potential Rule 15 violation by that individual, the Mayor Pro Tem, will ask if any Councilmember knows of any reason which would require such member to excuse themselves pursuant to Rule 15. The suggested form of the announcement is as follows:

"All Councilmembers should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Councilmember should answer in the affirmative, then the Councilmember should state the reason for their answer at this time so that the Chair may inquire of Administration as to whether a violation of the Appearance of Fairness Doctrine exists."

- (2) When Council conducts a "quasi-judicial" hearing, the Presiding Officer may require that all persons wishing to provide testimony during the course of such hearing provide an oath, on the record, affirming the truth of their testimony. The suggested form and process for such oath is as follows:

■ _____ The Presiding Officer asks all possible speakers to raise their right hand, asks such individuals to consider the following question and respond "I do", and inquires:

_____ "Do you affirm under penalty of perjury under the laws of the State of Washington that the testimony you are about to provide is true and accurate to the best of your knowledge?"

(d) At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will call upon City Administration to describe the matter under consideration, including legal standards for approval of the item before the Council, and announce the legal standards for zoning amendments and ask the parties to limit their presentations to information within the scope of the standards. The suggested form of the announcement is as follows:

_____ "The following constitute the legal standards for zoning amendments under the law of the State of Washington:

_____ (1) The current zoning is presumed valid;

_____ (2) The burden of proof is on the applicant for the rezone to establish by proof in sufficient measure that conditions in the area have substantially changed since the enactment of the current zoning or that the proposed rezone would implement policies or provisions of the City's Comprehensive Plan. This proof may, of course, come from any source; either the applicant, the administration, or the public. The important consideration is that the decision must be made on the basis of information provided at this meeting or any continued meeting;

_____ (3) A rezone must bear a substantial relationship to the public health, safety, morals or welfare.

(4) Any terms of a concomitant agreement intended to neutralize the impact of the proposed property usage such as (without limitation) intermediate density, increased setbacks, screening, reduced building height restrictions, building or roads and sidewalks or other off site requirements, and the like should be developed in writing upon the recommendation of the administration prior to the first public hearing on the application. However, the City Council may introduce such terms on their own motions. In any event, it is the City Council's practice to withhold final action until such terms are agreed to in writing.

(5) Following the decision, this body must make findings of fact and conclusions of reasons for its action. These findings may be drafted by Administration or there may be a recess for the drafting of such items.

Bearing in mind the legal standards I have just described, please limit your comments to information within the scope of these standards."

(e) The Presiding Officer calls upon City Administration to describe the matter under consideration.

(fc) The Presiding Officer calls for proponents in quasi-judicial proceedings and for speakers in non-quasi-judicial proceedings. When considering a zoning amendment or zoning reclassification the Presiding Officer shall announce: "Site Plans, artistic renditions, and the like in support of the zoning amendment should be avoided except as they help explain the terms of a concomitant agreement. Any graphic representations should be used for illustrative purposes only and the Planning Agency or City Council should avoid indicating approval or disapproval of such plans, since the City of Des Moines has established a design review process through the City Planning Department for such purposes."

(gf) The proponents or speakers now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).

(hg) The Presiding Officer calls for additional proponents or speakers three times.

(ih) In non-quasi-judicial proceedings refer to Rules 21(l), otherwise the Presiding Officer calls for opponents by announcing the following:

"At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation. The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."

(ji) Opponents speak.

(kj) The Presiding Officer calls for additional opponents three times.

(~~kk~~) The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.

(~~ml~~) The Presiding Officer announces the following:

"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."

(~~nm~~) The Presiding Officer inquires as to whether any Councilmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Councilmember has questions, the appropriate individual will be recalled to the podium.

(~~on~~) The Presiding Officer closes the public hearing.

(~~po~~) The Presiding Officer inquires if there is a motion by any Councilmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Councilmembers. The Presiding Officer may call on individual Councilmembers in the discussion.

(~~qp~~) The Presiding Officer inquires if there is any further discussion by the Councilmembers.

(~~rq~~) The Presiding Officer inquires if there are any final comments or recommendations from administration.

(~~sr~~) The Presiding Officer inquires of the Councilmembers as to whether they are ready for the question.

(~~ts~~) The Clerk shall conduct a roll call vote.

(~~ul~~) The Presiding Officer directs administration to prepare findings consistent with the action. (Res. 571 §2, 1989).

(Res. 894, §2, 2000)

VOTING

RULE 22. The votes during all meetings of the Council shall be transacted as follows:

(a) Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice, except that at the request of any Councilmember, a roll call vote shall be taken by the Clerk. The order of the roll call vote shall be determined by the Presiding Officer.

(b) In case of a tie in votes on any proposal, the proposal shall be considered lost.

(c) Every member who was in the Council chambers when the question was put, shall give their vote unless the Council member excuses himself or herself, for special reasons, shall excuse the member by motion or unless the Council member is excused in accordance with Rule 15. If any unexcused Council member refuses to vote "aye" or "nay", their vote shall be counted as a "nay" vote.

(d) The passage of any ordinance, grant or revocation of franchise or license, any resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the whole membership of the Council.

(e) The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency such as a budget amendment shall require the affirmative vote of at least a majority plus one of the whole membership of the Council.

(f) The passage of any motion or resolution not subject to the provisions of RCW, DMMC, or this Resolution as amended, shall require the affirmative vote of at least a majority of the membership of the Council who are present and eligible to vote.

~~(g) Four members are needed to constitute a forum for taking action. (Res. 525-51, 1988). Removed 10/7/10 as redundant~~

COMMITTEES

RULE 23. The procedures governing all committees of the Council shall be as follows:

(a) The following standing committees shall consist of three members of the Council appointed by the Mayor in January of each year or at such time as new standing committees are authorized: Environment, Municipal Facilities, and Public Safety & Transportation, and Finance and Economic Development.

~~(b) Special committees for a particular purpose may be appointed by the Mayor. Council Committees for a particular purpose may be formed by motion of Council and members shall be appointed by the Mayor.~~

(c) Committees shall make a recommendation on proposed ordinances, resolutions and motions, within their area of responsibility before action is taken by the Council. Minutes shall be kept of each City Council standing and special committee meeting, and the minutes shall include: list discussion topics, comments made, and any final recommendations.

~~(1) In the first paragraph: the purpose(s) of the meeting; the name of the committee; the date and time of the meeting; the location of the meeting; the names of Committee members present and members absent; the names of other present; whether the minutes of the previous meeting were read and approved, as read, or as corrected; and the names and subject of any guest speakers.~~

(2) ~~In the body of the minutes: list of discussion topics, comments made and by whom, list of action items assigned and the responsible committee member, and any final recommendations made and by whom.~~

(3) ~~In the last paragraph: date and time of next meeting and time of adjournment.~~

(4) ~~The name and signature of the secretary submitting the minutes.~~

The Committee Chair shall present the recommendations of the committee to the City Council at a regular City Council meeting during the discussion of the item of business. (Res. 575 §1, 1989, Amended by Res. 602 1990, Amended by Res. 633 1990, Amended by Res. 664 1991 Amended by Res. 685 1992, Amended by Res. 754 §3, 1994, Amended by Res. 931, §1, 2002, Amended by Res. 940, §1 2002.)

ENACTED ORDINANCES, RESOLUTION AND MOTIONS

RULE 24. An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired. An enacted motion is a form of action taken by the Council to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law. (Res. 525 §1, 1988).

RESOLUTIONS

RULE 25. A resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall in all cases be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting. (Res. 525 §1, 1988).

ORDINANCES

RULE 26. The procedure for ordinances ~~are~~ is as follows:

(a) ~~A Councilmember may, in open session, request of the Presiding Officer that the Council study the wisdom of enacting a particular ordinance. The Presiding Officer then may assign the proposed ordinance to a specific committee of the committee of the whole for consideration. The committee shall report its findings to the Council.~~

(ab) All ordinances shall have two separate readings. At each reading the title of an ordinance shall in all cases be read prior to its passage; provided that should a Councilmember request that the entire ordinance or certain of its sections be read, such

requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.

(eb) The provision requiring two separate readings of an ordinance may be temporarily suspended at any meeting of the Council by a majority vote of all members present.

(ed) If a Motion to pass an ordinance to a second reading fails, the ordinance shall be considered lost.

~~(e) Any ordinance repealing any portion of the DMMC shall also repeal the respective portions of the underlying ordinance(s).~~

~~(f) Any ordinance amending any portion of the DMMC shall also amend the respective portions of the underlying ordinance(s).~~ (Res. 525 S1, 1988.)

PERMISSION REQUIRED TO ADDRESS THE COUNCIL

RULE 27. Persons other than Councilmembers and administration shall be permitted to address the Council upon introduction by the Presiding Officer ~~or the chair of the appropriate Council committee.~~ (Res. 525 S1, 1988).

RECONSIDERATION

RULE 28. Any action of the Council, including final action on applications for changes in land use status; but excluding a reconsideration of any action previously reconsidered, motions to adjourn, motions to suspend the rules, an affirmative vote to lay on the table or to take from the table, or a vote electing to office one who is present and does not decline; shall be subject to a motion to reconsider. Such motions can only be made by a member of the prevailing side on the original action. A motion to reconsider must be made no later than the next succeeding regular Council meeting. A motion to reconsider is debatable only if the action being reconsidered is debatable. Upon passage of a motion to reconsider, the subject matter is returned to the table anew at the next regular Council meeting for any action the Council deems advisable. (Res. 525 S1, 1988).

LEGISLATIVE PROCESS, PREPARATION, INTRODUCTION AND FLOW OF ORDINANCES AND RESOLUTIONS AND MOTIONS

RULE 29. Ordinances and resolutions shall be prepared, introduced, and proceed in the manner described on the flow chart attached hereto as Exhibit "A", and by this reference incorporated herein. Prior to final passage of all ordinances, resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:

(a) PROPOSED DRAFTS shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the City Council where a vote is taken directing some official action or further consideration.

(b) COUNCIL DRAFTS shall be documents or proposals which have been presented in open session and voted on by the City Council when the resultant Council action was other than passage or a vote to cease further consideration. (Res. 525 S1, 1988).

COUNCIL RELATIONS WITH BOARDS, COMMISSIONS AND COUNCIL CITIZEN ADVISORY BODIES

RULE 30. All statutory boards and commissions and Council citizen advisory bodies shall provide the Council with copies of minutes of all meetings. Communications from such boards, commissions and bodies to the City Council shall be made in the form of a motion and recorded in the minutes. Any such communication shall be officially acknowledged by the Council and receipt noted in the minutes. The procedure for acknowledging such receipt shall be as follows. Any member of the Council may bring such communication to the Presiding Officer's attention under the agenda item "Committee and Board Reports." The presiding Officer shall state: "So noted for the record", and thereafter the Clerk shall make an appropriate notation in the minutes. Should any member of the Council determine that any such communication be officially answered by the Council, the Presiding Officer shall place the matter on the agenda under New Business for the current meeting or any subsequent meeting. (Res. 525 S1, 1988).

COMPLAINTS AND SUGGESTIONS TO COUNCIL

RULE 31. When citizen complaints or suggestions are brought before the City Council not on an agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

(a) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to a committee, Administration or the Council of the whole for study and recommendation.

(b) If administrative and a complaint regarding administrative staff performance, administrative execution of legislative policy or administrative policy within the authority of the City Manager, the Presiding Officer should then refer the complaint directly to the City Manager for his/her review if said complaint has not been so reviewed. The City Council may direct that the City Manager brief or report to the Council when his/her response is made. (Res. 525 S1, 1988).

ADMINISTRATIVE COMPLAINTS MADE DIRECTLY TO INDIVIDUAL COUNCILMEMBERS

RULE 32. When administrative policy or administrative performance complaints are made directly to individual Councilmembers, the Councilmember may then refer the matter directly to the City Manager for his/her view and/or action. The individual Councilmember may request to be informed of the action or response made to the complaint. (Res. 525 S1, 1988).

FILLING COUNCIL VACANCIES

RULE 33. If a vacancy occurs in the office of Councilmember, the Council will follow the procedures outlined in RCW 35A.13.020. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of the vacancy, the procedure and any application form for applying. The Council will draw up an application form which contains relevant information to answer set questions posed by the

Council. The application forms will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Councilmember. (Res. 525 S1, 1988).

PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE -- PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION

RULE 34. No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, flood lights, or similar artificial illumination shall be made at City Council Meetings without the consent of the Presiding Officer or a majority of the Council. (Res. 525 S1, 1988).

AUDIO RECORDINGS OF MEETINGS

RULE 35. All meetings of the City Council ~~held in the Des Moines City Service Center at 21630 11th Avenue South shall~~ should be recorded by the City Clerk on an audio recording device. (Res. 657, 1991).

VIDEO RECORDING AND BROADCAST

RULE 36. All ~~regular~~ meetings of the City Council held in the Des Moines City Service Center at 21630 11th Avenue South ~~are should be video recorded on video tape and such tapes are and~~ cablecast within the City. (Res. 772, 1994).

SPIRIT OF DES MOINES AWARD PROGRAM

RULE 37. It is the intent of the Des Moines City Council that a Spirit of Des Moines Awards Program be enacted by the Council to honor the commitment and dedication of its named recipients. Awards will be of two kinds: an annual award or lifetime achievement award. The awards shall be made in accordance with the Spirit of Des Moines Awards Policy attached to the Appendix to these City Council Rules.

REFERENCES TO DES MOINES MUNICIPAL CODE (DMMC) AND
REVISED CODE OF WASHINGTON (RCW)

DMMC 2.56.010 Council Meetings—City Hall Location:

~~All meetings of the City Council shall be held at 21630 11th Avenue South, which is designated as the location of the City Hall, except that, when necessary, the City Council may hold meetings at other places.~~

DMMC 2.56.020 Council Meetings—Time:

~~The regular meetings of the City Council shall be held each and every Thursday, with the meetings convening at seven thirty p.m.; provided, that when the regular meeting date falls on a legal holiday, as defined in DMMC 1.01.055, the meeting shall be cancelled and the City Council shall not meet. The Presiding Officer may cancel any regular meeting at his/her discretion as the business of the City Council requires; provided, that the Presiding Officer shall not cancel regular meetings to be held on the second or fourth Thursday of the month. Cancellation of any regular meeting to be held on the second or fourth Thursday of the month shall be by motion regularly passed by the City Council; provided, however, that the City Council shall meet at least once each month as required by RCW 35A.13.170.~~

RCW 35A.12.060 Forfeiture of Office:

~~A Mayor or Councilman shall forfeit his office, creating a vacancy, if he ceases to have the qualifications prescribed for such office by law, charter, or ordinance, or if he is convicted of a crime involving moral turpitude or an offense involving a violation of his oath of office. A Councilman also shall forfeit his office if he fails to attend three consecutive regular meetings of the Council without being excused by the Council.~~

RCW 35A.13.020 Election of Councilmen—Eligibility—Terms—Vacancies—Forfeiture of Office—Council Chairman:

~~In council-manager code cities, eligibility for election to the Council, the manner of electing councilmen, the numbering of council positions, the terms of councilmen, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060 and 35A.12.065 relating to the council of a code city organized under the mayor council plan: *Provided*, that in council-manager cities where all council positions are at large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one on or after September 8, 1975, shall be the Council chairman and shall carry out the duties prescribed by RCW 35A.13.030, as now or hereafter amended.~~

RCW 42.30.080 Special Meetings:

~~A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written~~

notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

RCW 42.30.090 Adjournments:

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

RCW 42.30.110 Executive Sessions:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

- (a) To consider matters affecting national security;
- (b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- (c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;
- (d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood increased costs;
- (e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;
- (f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- (g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when the governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;
- (h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

~~(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;~~

~~(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public.~~

~~(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.~~

RCW 42.30.140 Chapter Controlling Application:

~~If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: *Provided*, that this chapter shall not apply to:~~

~~(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation or profession or to any disciplinary proceedings involving a member of such business, occupation or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or~~

~~(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or~~

~~(3) Matters governed by Title 34 RCW, the administrative procedure act, except as expressly provided in RCW 34.04.025; or~~

~~(4) That portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by such governing body during the course of any collective bargaining, professional negotiations, grievance or mediation proceedings, or reviewing the proposals made in such negotiations or proceedings while in progress.~~

RCW 42.36.010 Local Land Use Decisions:

~~Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.~~

RCW 42.36.040 Public Discussion by Candidate for Public Office:

~~Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17.020 (5) and (25) no public discussion by expression of an~~

opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

RCW 42.36.050 Campaign Contributions:

~~A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.~~

RCW 42.36.060 Quasi-judicial Proceedings—Ex Parte Communications Prohibited, Exceptions:

~~During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:~~

- ~~(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and~~
- ~~(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.~~

REFERENCES TO DES MOINES MUNICIPAL CODE (DMMC) AND
REVISED CODE OF WASHINGTON (RCW)

DMMC 4.04.010 Council Meetings - City Hall Location.

All meetings of the City Council shall be held at 21630 11th Avenue South, which is designated as the location of the City Hall, except that, when necessary, the City Council may hold meetings at other places.

DMMC 4.04.020 Council Meetings - Time.

4.04.020 Council meetings – Time.

(1) The regular meetings of the city council are held every Thursday, with the meetings convening at 7:30 p.m.; except when the regular meeting date falls on a legal holiday the meeting is canceled and the city council shall not meet.

(2) The presiding officer may cancel a regular meeting at the presiding officer's discretion as the business of the city council requires; except the city council shall meet at least once each month. The regular meetings of the City Council shall be held each and every Thursday, with the meetings convening at seven thirty p.m.; provided, that when the regular meeting date falls on a legal holiday, as defined in DMMC 1.01.055, the meeting shall be cancelled and the City Council shall not meet. The Presiding Officer may cancel any regular meeting at his/her discretion as the business of the City Council requires; provided, that the Presiding Officer shall not cancel regular meetings to be held on the second or fourth Thursday of the month. Cancellation of any regular meeting to be held on the second or fourth Thursday of the month shall be by motion regularly passed by the City Council; provided, however, that the City Council shall meet at least once each month as required by RCW 35A.13.170.

RCW 35A.12.050 and 12.060 Forfeiture of Office.

The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in chapter 42.12 RCW. An incumbent councilmember is eligible to be appointed to fill a vacancy in the office of mayor. A Mayor or Councilman shall forfeit his office, creating a vacancy, if he ceases to have the qualifications prescribed for such office by law, charter, or ordinance, or if he is convicted of a crime involving moral turpitude or an offense involving a violation of his oath of office. A Councilman Councilmember also shall forfeit his office if he fails to attend three consecutive regular meetings of the Council without being excused by the Council.

RCW 35A.13.020 Election of Councilmen - Eligibility - Terms - Vacancies - Forfeiture of Office - Council Chairman.

In council-manager code cities, eligibility for election to the Council, the manner of electing councilmen, the numbering of council positions, the terms of councilmen, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060 and 35A.12.065 relating to

the council of a code city organized under the mayor-council plan, provided except, that in council-manager cities where all council positions are at-large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one on or after September 8, 1975, shall be the Council chairman and shall carry out the duties prescribed by RCW 35A.13.030, as now or hereafter amended.

RCW 42.30.080 Special Meetings.

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally, by mail, by fax, or by electronic mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram, by fax, or electronic mail. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

RCW 42.30.090 Adjournments.

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

RCW 42.30.110 Executive Sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting.

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a

likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when the governing body elects to take final action hiring, setting the salary or an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public.

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

RCW 42.30.140 Chapter Controlling - Application. If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: *Provided*, that this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation or profession or to any disciplinary proceedings involving a member of such business, occupation or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by Title 34.35 RCW, the administrative procedure act, except as expressly provided in RCW 34.04.025; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress. That portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by such governing body during the course of any collective bargaining, professional negotiations, grievance or mediation proceedings, or reviewing the proposals made in such negotiations or proceedings while in progress.

RCW 42.36.010 Local Land Use Decisions.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

RCW 42.36.040 Public Discussion by Candidate for Public Office.

Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17.020 (5)(9) and (25)(41) no public discussion by expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

RCW 42.36.050 Campaign Contributions.

A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.

RCW 42.36.060 Quasi-judicial Proceedings - Ex Parte Communications Prohibited. Exceptions. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

- (1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and
- (2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

REFERENCES TO
RESOLUTION NO. 1070 POLICIES GOVERNING CITY COUNCIL PARTICIPATION IN
PUBLIC CONTRACTS

1. Interlocal Agreements. Chapter 39.34 RCW requires the governing bodies of participating public agencies to take appropriate action by ordinance, resolution or otherwise before interlocal agreements may enter into force. All interlocal agreements should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

2. Franchise Agreements. Franchise agreements such as Comcast, PSE, water, sewer, and the like require City Council approval. Franchise agreements should be referred to an *Ad Hoc* Council Committee for the study and recommendation prior to presentation to the City Council for approval.

3. Public Works (small works roster).

(a) MRSC rosters. The City wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to adopt for City use those state-wide electronic databases for small works roster and consulting services developed and maintained by MRSC and authorizes the City Manager to sign that contract. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments.

(b) Small works rosters. The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155:

(i) Cost. The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair or improvement of real property where the estimated cost does not exceed Two Hundred Thousand Dollars (\$200,000.00), which includes the costs of labor, material, equipment, and sales and/or use taxes as applicable. Instead, the City may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a small works roster.

(iii) Telephone or written quotations. The City shall obtain telephone, written, or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350(2).

(A) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

(B) Quotations may be invited from all appropriate

contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five (5) contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from One Hundred Thousand Dollars (\$100,000.00) to Two Hundred Thousand Dollars (\$200,000.00), the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The City has the sole option of determining whether this notice to the remaining contractors is made by:

(1) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;

(2) Mailing a notice to these contractors; or

(3) Sending a notice to these contractors by facsimile or email.

(C) At the time bids are solicited, the City representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.

(D) A written record shall be made by the City representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(c) Limited public works process.

(i) If a work, construction, alteration, repair, or improvement project is estimated to cost less than Thirty-Five Thousand Dollars (\$35,000.00), the City may award such a contract using the limited public works process provided under RCW 39.04.155(3). For a limited public works project, the City will solicit electronic or written quotations from a minimum of three (3) contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

(ii) For limited public works projects, the City may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(iii) The City shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

(iv) Determining the lowest responsible bidder. The City Council shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best

price obtainable, all bids may be rejected and the City may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the City.

(v) Award. The City Manager or his designee shall present all telephonic quotations/bids, and recommendation for award of the contract to the lowest responsible bidder to the City Council. However, for public works projects under Fifty Thousand Dollars(\$50,000.00), the City Manager shall have the authority to award public works contracts without City Council approval. For public works projects over Fifty Thousand Dollars (\$50,000.00), the City Council shall award all public works contracts.

(c) Consulting services rosters.

(i) Consulting services. Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the City who can provide further details as to the City's projected needs for consulting services. Firms or persons providing consulting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a consulting services roster.

(iii) Professional architectural and engineering services. The MRSC rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate City documents.

4. Public Works (Subject to Bid). Public work projects exceeding \$400,000\$200,000 are subject to bid laws and shall be processed in accordance with the Revised Code of Washington. After opening of bids, results shall be submitted to the Council Committee of origin for study and recommendation prior to being presented to the City Council for approval and if there is no Council Committee of origin, shall be considered by the Council as a whole. Action taken by the City Council in awarding the bid and directing the City Manager to sign contracts should include authority granted to the City Manager to expend funds in the amount of the bid award plus ten percent.

5. Purchase of Supplies, Material, Equipment, and Non-Professional Services. For Code cities of a population of 20,000 or greater there are no bidding requirements for purchases of supplies, material, equipment, or services which are not purchased in connection with a public work. For such purchases, the City Manager shall adopt written guidelines, subject to City Council approval, to ensure that purchases are made at the lowest possible price from a responsible vendor.

6. Architectural and Engineering Services. Chapter 39.80 RCW provides that in selecting architect and engineer consultants the City shall conduct discussions with one or more firms and

shall select the firm deemed the most highly qualified to provide the services required for the proposed project. The Attorney General of the State of Washington has issued an opinion precluding cities from considering price when selecting architects and engineers, except for a final price negotiation after the most qualified architect or engineer has been selected. The following process shall govern awarding of contracts to architects or engineers:

- a. The City Manager shall advertise the architectural and engineering requirements;
- b. The City Manager shall thereafter enter into discussion with several firms and select the most qualified architect or engineer;
- c. The City Manager shall then negotiate the scope of work and price with the architect or engineer selected; and
- d. If the contract amount does not exceed \$20,000 and has been previously budgeted, the City Manager shall be authorized to sign a contract for such services without approval by the City Council or any committee thereof. If the contract amount exceeds \$20,000, the Contract should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.
- e. In case of a disaster, emergency, or immediate City need, including assistance on Capital Improvement Program projects and general engineering services previously approved by the Council, the City Manager shall be authorized to sign Task Order Assignments on multi-year "on-call" civil engineering services consultant contracts, which have been previously approved by the Council for services if the Task Order Assignment does not exceed \$50,000.
- f. The City Manager shall, as part of the City Manager's monthly report, provide the City Council with a list of contracts with consultants that have been approved by the City Manager pursuant to this resolution.
- g. The City Manager shall not allow task order assignments for a specific single project that cumulatively add up to an amount greater than \$50,000.00 without being approved by the City Council.

7. Leases of City Real Property. Leases of City real property are subject to review and approval by the City Council. The Mayor shall have discretion to submit any such lease to a standing or ad hoc committee for study and recommendation prior to being presented to the city Council for approval.

8. Contracts for General Professional Services. Contracts for general professional services, which do not involve architects or engineers, are not subject to the bid laws of the State of Washington. Examples of such services are computer consultants, financial consultants, management consultants, and the like. The process for awarding general professional services contracts shall be as follows:

- a. The City Manager shall research the persons and firms that are available to such professional services, taking into consideration recommendations from any source.
- b. The City Manager shall then negotiate a contract with the party selected, including scope of work and price.
- c. If the contract amount does not exceed \$20,000 and has been previously budgeted, the City Manager shall be authorized to sign a contract for such services without the approval by the City

Council or any committee thereof. If the contract amount exceeds \$20,000, the contract should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

9. Administrative Contracts. Administrative contracts are contracts which do not fall into any other category described in this rule, and are for services previously budgeted by the City Council. Examples of administrative contracts are agreements with the Sexual Assault Center, VanGo, Senior Nutrition, D.A.W.N., and the like. The City Manager is authorized to execute administrative contracts, and the same shall not be subject to approval by the City Council or any committee thereof.

REFERENCES TO
RESOLUTION NO. 753 POLICIES GOVERNING CITY COUNCIL PARTICIPATION IN
PUBLIC CONTRACTS

1. Interlocal Agreements. Chapter 39.34 RCW requires the governing bodies of participating public agencies to take appropriate action by ordinance, resolution or otherwise before interlocal agreements may enter into force. All interlocal agreements should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

2. Franchise Agreements. Franchise agreements such as CATV, Puget Power, water, sewer, and the like require City Council approval. Franchise agreements shall be referred to an Ad Hoc Council Committee for study and recommendation prior to presentation to the City Council for approval.

3. Public Works (Small Works Roster). Under current state law, code cities of a population of 20,000 or greater are required to go to bid on public work projects if the cost of the public work exceeds \$20,000 for a single craft or trade or \$35,000 for a multiple craft or trade. Code cities with a population of 20,000 or greater are permitted to adopt a small works roster for a public work of \$100,000 or less. The City Council has adopted the small works roster. All public work contracts between \$35,000 and \$100,000 shall be subject to the approval of the City Council and shall be referred to the Council Committee of origin for study and recommendation, and if there is no committee of origin, shall be considered by the Council as a whole.

4. Public Works (Subject to Bid). Public work projects exceeding \$100,000 are subject to bid laws and shall be processed in accordance with the Revised Code of Washington. After opening of bids, results shall be submitted to the Council Committee of origin for study and recommendation prior to being presented to the City Council for approval and if there is no Council Committee of origin, shall be considered by the Council as a whole. Action taken by the City Council in awarding the bid and directing the City Manager to sign contracts should include authority granted to the City Manager to expend funds in the amount of the bid award plus ten percent.

5. Purchase of Supplies, Material, Equipment, and Non-Professional Services. For Code cities of a population of 20,000 or greater there are no bidding requirements for purchases of supplies, material, equipment, or services which are not purchased in connection with a public work. For such purchases, the City Manager shall adopt written guidelines, subject to City Council approval, to ensure that purchases are made at the lowest possible price from a responsible vendor.

6. Architectural and Engineering Services. Chapter 39.80 RCW provides that in selecting architect and engineer consultants the City shall conduct discussions with one or more firms and shall select the firm deemed the most highly qualified to provide the services required for the proposed project. The Attorney General of the State of Washington has issued an opinion precluding cities from considering price when selecting architects and engineers, except for a final price negotiation after the most qualified architect or engineer has been selected. The following process shall govern awarding of contracts to architects or engineers:

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THE SPIRIT OF DES MOINES AWARDS

The spirit of any community is its citizens, community leaders, volunteers and donors. We are all bettered by the commitment and dedication they exhibit in keeping or enhancing those things that make the City of Des Moines special to us. We are remiss if we don't, from time to time, acknowledge those efforts. That is the impetus behind the Spirit of Des Moines Awards.

PURPOSE

The Spirit of Des Moines Award is given to publicly acknowledge the efforts and accomplishments of individuals' civic and community service to the betterment of the community of Des Moines, Washington – both over the course of a year, and over a lifetime.

ELIGIBILITY

Up to two individuals may be acknowledged in both the annual award, and lifetime award categories. Nominees for the award need not be Des Moines residents, but must have shown a consistent commitment and dedication to the betterment of Des Moines. Any person is eligible for the annual Spirit of Des Moines Award. Any person is eligible for the lifetime Spirit of Des Moines Award who has demonstrated at least two decades of civic and community service, or who has performed an extraordinary service to the community with long-lasting implications. An annual award recipient is eligible to be considered for future Spirit of Des Moines awards. A lifetime award recipient is ineligible to be considered for future Spirit of Des Moines awards.

NOMINATIONS

In September of each year, the community shall be solicited for nominees for the annual and lifetime Spirit of Des Moines Awards. Nominations shall be reviewed by a community-based review committee, and ~~recipients~~ finalists will be chosen based on the eligibility criteria and any materials submitted to support the nomination. There will be at least two finalists for each position.

REVIEW COMMITTEE

A community-based review committee shall be established to review nominations from the community for the Spirit of Des Moines Awards. The review committee shall have no more than nine (9) members, and no fewer than five (5) members. The members of the review committee, who must be residents of Des Moines, shall be chosen from a cross-section of the Des Moines community – both geographically and in terms of the activities of the community. The mayor and one other Des Moines city councilmember shall serve on the committee, and the mayor will be entrusted with choosing the remaining committee members. Neither elected official shall chair the review committee. Meeting notes shall be taken by the review committee, and those notes shall be kept and maintained by the City of Des Moines.

REVIEW PROCESS

Nominations are solicited from the community in September each year. The review committee shall meet no later than October 15th, and ~~recipients~~ finalists shall be chosen by the committee no later than November 1st. Recipients shall be chosen by the Council from the group of finalists.

PUBLIC ACKNOWLEDGEMENT

The Spirit of Des Moines Awards shall be given out at a public meeting or event by the mayor, no later than the middle of November each year. The physical awards reflect the connection of Des Moines, Washington to Puget Sound, and the official City of Des Moines theme of "the Waterland Community".

CONTRIBUTIONS AND SPONSORSHIPS

Contributions and sponsorships may be solicited to offset the cost of presenting the Spirit of Des Moines Awards. Any funds collected in excess of the direct cost of presenting the awards shall be shared equally among Award recipients, and given as donations in their name to a local charity of their choosing.

ORGANIZATION AWARD

An honorary award may be given each year, at the ~~discretion~~ recommendation of the review committee, to recognize the activities of an organization that has demonstrated a consistent commitment and dedication to the betterment of Des Moines.

PRESIDING OFFICER

RULE 5. The Mayor shall preside at meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. The Mayor shall have no regular administrative or executive duties. In case of the Mayor's absence or temporary disability the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. When the Mayor Pro Tempore acts as Mayor by participating in preparation of a Council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Mayor Pro Tempore shall have authority only to approve the Council meeting agenda or study session worksheet as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the Council shall act as Mayor during the continuance of the absences or disabilities. The Mayor or Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedure. (Res. 525 §1, 1988, amended by Res. 961 §1, 2003).

(a) The Mayor ~~and the Council have~~ ~~has~~ authority to ~~issue~~ ~~introduce~~ proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council.*

(b) To promote a favorable image of the City and pursue resources that will benefit the community, the Mayor, or another Councilmember designated by the City Council, may take the lead in representing the Des Moines City Council to those from outside the community who are interested in joint ventures and efforts to bring economic development and investments to the City, including other local governments, regional organizations, and federal, state, and international government representatives. Neither the Mayor, nor a Councilmember can commit the City without authorization of a majority of the City Council.

(c) The Mayor, or another Councilmember designated by the City Council, is the spokesperson on actions taken by the Council. On behalf of the City Council, the Mayor or designated Councilmember may inform the public, media, and staff about issues affecting the community.

*The change to Rule 5(a) was approved by the City Council at the 10/07/10 meeting. It is presented here to show what Rule 5 would look like with the City Manager's changes to subsections (b) and (c).

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:
Intergovernmental Policies and Positions

ATTACHMENTS:

1. Proposed 2011 Intergovernmental Policies and Positions
2. Association of Washington Cities 2011 Legislative Priorities

FOR AGENDA OF: January 6, 2011

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: December 27, 2010

CLEARANCES:

|| _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to allow the City Council to review and adopt the City's Intergovernmental Policies and Positions for 2011.

Suggested Motion

"I move to adopt the 2011 Intergovernmental Policies and Positions as submitted."

Alternative Motion

"I move to adopt the 2011 Intergovernmental Policies and Position as amended by the City Council."

Background

The City Council first adopted a set of intergovernmental policies and positions in 1998, to let the public and our state and national legislative delegations know the official positions of the City of Des Moines on a variety of issues and subjects. Having adopted positions also allows staff to accurately relate the City's positions when discussing issues with other elected officials, in particular our state senator and representatives. Since these positions were first adopted, the City Council has reviewed and, if needed, amended and updated them on an annual basis. The last review of these positions was in January 2010.

Discussion

The 2011 State Legislative session will begin in the middle of January and the new U.S. Congress will be seated and begin its work in early January. It is, therefore, appropriate for Council to review its intergovernmental policies and positions before these legislative bodies start to meet. Attached for

- Council's convenience are draft policies and positions for 2011. The only change submitted is to position 2.a. to include restoring state funding to previous year's levels for the planning, acquisition, restoration, and development of recreational and boating facilities and wildlife habitat. Also attached for Council's information is AWC's 2011 Legislative Priorities. Council may want to add positions in support of public records act modification, amendments to binding interest arbitration for public safety contract disputes, regulatory flexibility, and economic development programs.

Alternatives

Council may chose not to adopt the attached intergovernmental relations policies and positions, leaving them as they currently.

Financial Impact

None.

Recommendation

Staff recommends that Council adopt the attached intergovernmental policies and positions.

Concurrence

None.

City of Des Moines

2011~~10~~ Intergovernmental Policies and Positions

A. General Policies

1. Any new, law, regulation, or requirement from the county, state, or federal levels should be matched with ongoing secure sources of revenue sufficient to fund the mandate.
2. Decisions affecting Des Moines are best made at the local level. Therefore, county, state and federal legislation or mandates should not erode or curtail local authority.
3. The City opposes any federal, state or regional actions which reduce the fiscal capacity of the City to provide services to its citizens.

B. Intergovernmental Positions

1. Metropolitan King County
 - a. The City supports continued King County funding of regional human service needs from current or future county revenues. Des Moines should remain a provider of local human services.
 - b. Any King County budget or service reductions should treat residents of incorporated and unincorporated areas equally.
 - c. King County Metro should provide the following transit services to Des Moines residents.
 - (1) Existing routes
 - (2) Metro should restore service lost to cutbacks in 2000.
 - (3) Provide looped service to the Woodmont and Redondo areas of Des Moines.
 - (4) Provide Dial-a-Ride service to the citizens of Des Moines.
 - (5) Continue to fund the Access transit program.
 - (6) Institute the planned rapid transit route along Pacific Highway S. to and from the Tukwila Sounder rail station.

(7) Continue to fund the Senior Services Des Moines/Normandy Park Shuttle

- d. The City supports development of the Lake to Sound Trail System in south King County.
- e. The City will participate in the WRIA9 water quality improvement process. Any changes in or new sources of revenue from Des Moines residents to support projects should be subject to City Council review and authorization.
- f. The City of Des Moines supports other suburban cities in their negotiations to have King County fund infrastructure improvements in unincorporated areas prior to annexation. New unincorporated developments should provide urban level improvements such as adequate right-of-way, curb, gutter, underground utilities, etc.
- g. The City supports re-initiation of 24-hour booking at the Regional Detention Center in Kent.
- h. The City opposes re-initiation and expansion of fill mining on Maury Island.
- i. King County should respect previous agreements regarding regional governance.

2. State of Washington

- a. Des Moines supports restoration of and additional funding for the planning acquisition, restoration and development of recreational and boating facilities and wildlife habitat.
- b. The City supports additional state funding for local criminal justice needs and training.
- c. Des Moines supports added state funding to meet local and regional transportation maintenance and capacity needs.
- d. The City supports the restoration of historic levels of Public Works Trust Fund and Transportation Improvement Board funds and re-authorization of funding for the Community Economic Revitalization Board (CERB) and the Local Infrastructure Financing Tool (LIFT) program for local government infrastructure projects.
- e. Any electric utility deregulation should not result in increases for local rate payers and should provide for consumer aggregation

options for bulk purchases. (This policy also applies at the federal level.)

- f. The City supports tort reform that reduces municipal liability and exposures.
- g. The City opposes legislation that preempts local zoning control.
- h. Des Moines supports legislation that treats City leases of DNR aquatic lands equal to Port leases and opposes legislation that increases the City's current lease rate.
- i. The City opposes personnel and labor relations legislation which diminishes its management rights or mandates additional unfunded programs and benefits. (This policy also applies at the federal level.) Des Moines supports legislation providing civil immunity from reference checks.
- j. The City supports continued improvements to high speed passenger rail travel from Portland to Vancouver, B.C. to reduce dependence on planes and automobiles.
- k. The City supports legislation which would abolish the 1889-1890 right-of-way vacation by operation of law statutes.
- l. The City supports legislation returning to Des Moines at no cost and with no conditions any portions of the SR-509 right-of-way south of South 216th Street not used for traffic improvements.
- m. The City opposes any legislation which directly or indirectly aids in the expansion of Sea-Tac International Airport or the lengthening of any of its runways. (This policy also applies at regional and federal levels.)
- n. The City opposes any legislation which reduces the authority of cities to annex territory.
- o. The City opposes legislation which reduces the authority of cities to assume special purpose districts.
- p. The City supports legislation that requires either sponsors of essential public facilities or jurisdictions in which EPF's are located to fully mitigate environmental, social, and economic impacts of the EPF in neighboring impacted jurisdictions.
- q. The City opposes legislation that would reduce municipal control over city streets and rights-of-way.

- r. The City supports legislation to elect Port commissioners by district.
- s. The City opposes mandatory requirements for affordable housing, housing growth, and residential density targets.
- t. The City supports legislation clarifying the right of cities to exercise use and zoning powers with respect to gambling activities, including the power to adopt moratoria, interim zoning controls, and prohibit gambling activities.
- u. The City supports legislation to increase the local share of municipal court fines and forfeits.
- v. The City supports legislation to allocate surplus LEOFF I pension funds to local government to assist in meeting LEOFF I medical and long term care obligations.
- w. Des Moines supports full state funding for Shoreline Management Plan updates.
- x. The City supports legislation establishing a state process for siting an additional major airport at a location at least 15 miles from SeaTac International Airport and other essential public facilities of a regional nature.
- y. The City supports legislation and legal appeals that overrule Washington Utilities and Transportation Commission decisions regarding city rights-of-way and Puget Sound Energy. Cities should not be required to purchase private easements for utilities and rules regarding utility relocates and undergrounding should be re-enacted.
- z. The City supports investigations into whether or not Streamlined Sales Taxes are being properly collected and remitted to cities into which purchased items are delivered.
- aa. The City supports retention of full local authority to operate municipal courts. Additionally, the City supports the position that cities may contract with another city to provide municipal court services and opposes legislation that would erode or eliminate this ability.
- bb. The City supports flexible use of Real Estate Excise Taxes.

3. Federal

- a. Utility deregulation – see Policy B.2.e.
- b. Airport – The City supports the Port of Seattle in conducting a comprehensive Part 150 study that is in complete compliance with all applicable federal laws and regulations and encourages expansion of the noise mitigation program to provide insulation to all buildings within the noise contours that trigger such action for single-family homes. See also Policy B.2.m.
- c. Personnel – see Policy B.2.i.
- d. The City supports continued Community Development Block Grant funding.
- e. The City opposes legislation that nationalizes cable television and telecommunications franchising, reduces or eliminates cities' ability to manage their rights-of-way, or reduces or eliminates cities' ability to impose franchise fees and utility taxes.
- f. The City supports increasing federal funding of emergency preparedness for local first responders

4. Interjurisdictional and Regional

- a. The City is open to the consideration of Des Moines as a site for a future passenger-only ferry.
- b. The City supports a phased approach to the extension of SR-509. Phase I should guarantee completion of the route from I-5 to SR509 and include the following features: the I-5 collector/distributor lanes, a grade-separated interchange at South 200th Street, the planned South Access with interchange to SeaTac International Airport, and provisions for 24th/28th Avenues to continue uninterrupted beneath or over SR-509.
- c. The City supports construction of a bridge over I-5 at South 240th Street.
- d. The City supports completion of the higher speed south access route from the SR-509 extension to the south end of the airport during Phase I of the project, to be funded by the Port of Seattle.
- e. The City supports the construction of the 28th-24th arterial as a separate business access roadway and opposes any interim use of this route for airport south access.

- f. Des Moines supports the development and implementation of a comprehensive regional and state Emergency Management, Response, and Communication System.
- g. The City supports straightening the Kent-Des Moines boundary on Highway 99 south of Kent-Des Moines Road so that Highway 99 would be the dividing boundary between the two cities.
- h. The City generally supports local, state, and regional efforts to proactively improve salmon habitat to avoid imposition of more restrictive and less flexible federal standards and efforts to continually improve and upgrade surface water capital facilities.
- i. The City supports and encourages local water districts to engage in regional and local efforts to ensure adequate future water through conservation and development of new supplies.
- j. The City supports either a light rail alignment on or east of the SR 99 center median, or along 30th Avenue South, provided a light rail stop is added in the vicinity of South 216th Street; or the designation of the west margin of Interstate 5 as the light rail corridor through Pacific Ridge.
- k. The City supports retention of local control over its roads.
- l. The City supports interlocal agreements with its neighboring cities to coordinate the collection of traffic impact fees and imposition of appropriate environmental mitigation for development projects near our respective boundaries.
- m. The City supports continued coordination with utility and other special districts to plan for capital improvements within the City limits.
- n. The City opposes legislation that limits any city's ability to implement a Crime-free Rental Housing program that reflects its community circumstances.

Adopted by the
Des Moines City Council
At an open public meeting
January 6, 2011 ~~28, 2010~~



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www.awcnet.org

AWC 2011 Legislative Priorities

Major priorities

New approaches to contain public records and personnel costs

Washington's cities are already making the tough choices and squeezing the maximum level of service out of their limited resources. But cost-cutting and user fees can only take our communities so far.

- Pursue options for creating sustainable personnel related cost:
 - Amendments to binding interest arbitration criteria (ability to pay, economic conditions, other regional characteristics, and qualifications for arbitrators) and
 - Level/stable pension contribution rates that do not fluctuate with economic "boom/bust" cycles.
- Pursue pro-active public records proposals that address some of the problems that come with the burgeoning public records requests. AWC staff will work with other local government associations to identify proposals for 2011. To date, the associations have identified two potential proposals: cost recovery and "meet and confer".

Fiscal and regulatory flexibility

In 2009 and 2010, AWC advanced a broad city flexibility package focusing on fiscal health, land use, infrastructure, community safety, public records management, and more. AWC will continue to pursue proposals that support fiscal and regulatory flexibility and allow cities to provide essential services. Examples include:

- Expand use of real estate excise tax
- Raise SEPA exemption threshold
- Delay 2012 stormwater permit requirements
- Extend schedules for mandated land use and environmental plans
- Add flexibility on expenditure of impact fees
- Extend period by which you have to spend impact fees
- Fund or repeal buildable lands provision in King, Pierce, Snohomish, Kitsap, Thurston and Clark counties

Strategic infrastructure investment

We can only create a public works investment system for the 21st century if the state and cities work together to address the infrastructure deficit. Investments are needed to support the economic recovery, address the most critical infrastructure deficits, and help meet state and federal regulatory requirements. AWC will pursue critical infrastructure funding. Examples include:

- Public Works Assistance Account funding
- Street maintenance utility – voter approved
- Community Economic Revitalization Board funding
- Washington Wildlife & Recreation Program funding
- Municipal stormwater funding
- City transportation funding in a state package

Tax increment financing

If authorized, cities and towns could create a tax "increment district" and finance public improvements within the area by using increased revenues from local property and/or sales taxes generated within the area.

Tax increment financing (TIF) taps increased taxes generated by private development, and applies those taxes to pay bonds issued to finance the public infrastructure supporting the development. A particular TIF district could be located within various overlapping taxing districts, and the TIF mechanism captures the increased taxes of all of the overlapping taxing districts

Other significant issues

Additional tools for combating gang activity including funding for gang intervention and prevention activities.

- Support local tools and innovation for gang prevention and intervention including sustainable, ongoing funding for such activities.
- Support new approaches both criminal and civil for addressing criminal street gang activity including nuisance abatement and protection order authority.
- Cities need a broad spectrum of tools so they can use those that work best for their community.

Mitigating medical costs for offenders

- Pursue legislation clarifying responsibility for medical costs related to felon arrestees.
- Pursue legislation that would clarify how uninsured offender medical costs should be accounted for, look at using a Medicaid based rate of reimbursement.

Preserve photo enforcement authority

Endorse

City Fiscal Health & Flexibility

- **Extend provisions of furlough impact to pensions:** Current law mitigates the pension impact of furloughs on some employees. It adjusts a retiring employee's benefit calculation to account for compensation the employee would have earned had it not been for the furlough – during the 2009-11 biennium only. AWC will seek extension of these calculations in 2011-13.

Flexible General Government Operations

- **Establishing the Office of Open Records:** Creates a voluntary appeals process through a new state agency. Office would be funded through user fees.
- **PRA clarification:** Amend the Public Records Act (PRA) to clarify that after an agency fully responds to a public records request by either producing documents or citing relevant exemptions, there is no continuing obligation to provide records created after receipt of the request, or review documents withheld to ensure exemptions still apply at some later date.
- **Exempting identities of witnesses and complainants:** Authorize the application of the exemption for the identity of witnesses to a crime and the identity of individuals who file complaints with law enforcement and investigative agencies unless a witness or complainant gives an agency the permission to disclose their identity.
- **Mutual aid agreement for building safety officials:** Statewide facilitated agreement allowing building inspectors and other building officials to provide disaster assistance when requested by another jurisdiction.

Safe & Healthy Communities

- **Public defense funding & standards:**
 - Support additional funding for local grants through the Office of Public Defense.
 - Oppose efforts to impose additional unfunded mandates that increase costs to local governments.
- **Funding for auto theft prevention authority:** Continue to support dedicated funds for auto theft enforcement.
- **Vehicle prowl penalties:** Support enhanced penalties for repeat offenders.
- **Vulnerable roadway users:** Support increased infraction penalties for drivers who act negligently and seriously injure or kill a bicyclist, pedestrian, or other vulnerable roadway user.
- **Administrative warrants and abatements of solid waste nuisance conditions:** Support legislation that would provide authority for jurisdictions to investigate and abate properties with solid waste problems as a public nuisance.
- **Addressing workplace violence:** Support legislation that would allow an employer to petition for a workplace violence protect order in cases of workplace harassment.

Economic Development & Quality Infrastructure

- **Parking fee/tax:** Current law enables a commercial parking tax that only a few cities use due to the inability to create a level tax/fee system for parking in their respective city or town. As an alternative, pursue a generic parking stall tax.
- **Pursue taxable bond issuance flexibility:** Allow the city governing body the option to adopt a bond ordinance or bond resolution, then delegate to an authorized representative the authority to finalize the maturity amounts, interest rates, etc., all within tight parameters fixed by the governing body.
- **Boating facilities funding**
- **Street vacation revisions**
- **Clarification is requested on who can authorize a street vacation within a city**
- **Biennial arterial network reporting:** This law is a result of the Blue Ribbon Commission on Transportation in 2001. Initially it required 70% of the arterial network to be reported, with 5% increments in successive biennia.
 - Reaching "full" reporting will require significant resources for our cities, with little statistical gain.
 - The cost of conducting the paving surveys is expensive and is not funded by the state for large jurisdictions.

Monitor

Flexible General Government Operations

- **Metadata:** A recent Washington State Supreme Court decision provides for the disclosure of metadata. AWC is consulting with city attorneys and other stakeholders about how to proceed.

Safe & Healthy Communities

- **Impacts of charging decisions and expanding caseload and subject matter jurisdiction in municipal courts:** Monitor legislations that would shift additional cases to cities and municipal courts, seek funding to assist with any increase in caseload and the public safety implications of charging decisions; require counties to charge misdemeanants in Superior court within the threshold limits for which they are responsible.
- **Driving with license suspended:** Monitor legislation that would modify provisions related to the charge of Driving with Licenses Suspended in the 3rd degree (DWLS 3).
- **Rental housing safety:** Retain authority to implement rental housing safety programs and inspections.
- **Emergency management funding/communications interoperability:**
 - Support opportunities to improve emergency response capabilities
 - Seek state and federal funding to meet interoperability standards and narrow banding requirements.

- **Model Traffic Ordinance (MTO):** In July it was discovered that the MTO had not been regularly updated by DOL calling into question some infractions that had been made using the MTO. Legislation clarifying that cities do not need to cite to the MTO and can cite directly to RCW may be necessary. DOL is requesting an Attorney General Opinion on this issue that may clarify the question without need for legislation.
- **Bail task force recommendations:**
 - Bail schedules left to discretion of the court
 - Develop state-wide bail justification and standards system
 - Make the DOC risk assessment tool available to judges statewide
 - Create a failure to appear risk assessment tool
 - Require all law enforcement to use a superform that includes information regarding domestic violence and mental health.
 - Develop a definition of bail
 - Various regulatory requirements for bail bond agents

Land Use & Environmental Stewardship

- **Create incentives for cities to use hearings examiners**
- **Transfer of development rights:** The Cascade Land Conservancy is working with a number of jurisdictions and interests in the Central Puget Sound to determine ways to help cities get new infrastructure funding in exchange for accepting density transfers from rural areas
- **Water rights processing:** DOE is drafting one or more legislative proposals that would help fund the Water Resources Division and facilitate issuance of water rights permits (with conditions)
- **Climate change:** Various state and federal agencies have programs, proposals or rules addressing climate change and cities
- **Zoning authority for gambling establishments:** Allow cities an option other than ban or allow house-banked card rooms.
- **Zoning authority and development near airports:** Monitor actions related to land use aviation and work cooperatively with WSDOT Aviation exploring appropriate ways to protect aviation assets as essential public facilities.

Health Care

- **Federal Health Care Act:** Monitor to ensure that the State's efforts to implement the Federal Health Care Act do not have a negative impact on cities and towns.

Economic Development & Quality Infrastructure

- **Dig law reform (Call before you dig) :** AWC staff has been engaged with various stakeholders for one year on re-writing the Dig Law. AWC is sympathetic to enhancing the industry standards, but does not want any additional liability; especially as it relates to ownership and marking of sewer laterals.
- **Transportation Benefit Districts (TBDs):** Look for opportunities to enhance TBDs if a transportation revenue package moves forward. If other legislation is advanced, ensure cities receive a credit for their existing authority. (Avoid the opportunity for "double dipping" of existing local taxes and fees."
- **Transportation efficiency study:** This is a 2010 legislative study that is looking at how the Transportation Improvement Board, Freight Mobility Strategic Investment Board, County Road Administration Board and WSDOT-Highways and Local Programs Division can be more efficient.

Strongly defend against

City Fiscal Health & Flexibility

- **Transfers of state-shared revenues or state funds to the state general fund:** Protect critical city revenues such as Liquor Excise Tax, Liquor Profits, Streamlined Sales Tax Mitigation, Municipal Criminal Justice Account funding, City-County Assistance Account funding, and public health funding.

Safe & Healthy Communities

- **Requiring all judges to be elected:** Oppose efforts to require that all municipal court judges, regardless of the number of hours they work, be elected.
- **Liability for local government:**
 - Continue to pursue reforms that limit joint liability for public entities, especially in the context of proposed expanded wrongful death claimants and damages. Defend against proposals that expand liability.
 - Continue to work to amend the law so that juries may know if a person involved in an injury accident was wearing his or her seatbelt.

Land Use & Environmental Stewardship

- **Eliminating or amending fiscal incentives for annexations in King, Pierce and Snohomish Counties:** Currently the state offers fiscal assistance to cities through a state sales tax credit in King, Pierce and Snohomish counties if the annexation is of 10,000 or more people. There is potential for this sales tax incentive to be amended or eliminated.
- **Prohibiting impact fee collection until economy improves:** an AWB/Homebuilder/Realtor proposal
- **Restricting the timing at which cities can collect impact fees:** another proposal from Business
- **Eliminating assumption of water/sewer districts:** possible proposal to eliminate the current authority

Health Care

- **Expansion of LEOFF medical costs:** Oppose any further expansion of LEOFF retiree medical benefits without an alternative funding source. Cities and towns are not in a position to take on any additional costs. Look for opportunities to fund ongoing LEOFF retiree health care costs.



DATE _____

[illegible]

[illegible]

My email to the Mayor and City Council- marked Important-

Dear Mayor Sheckler and Council Members:

If it was possible to become more horrified by the actions of the Des Moines, WA police department than I was at the shooting of poor Rosie it has now happened. Calling for the Mayor's resignation is so "beyond the Pale" that it defies description.

The honor and integrity of any person or group is no more clearly evidenced than by their willingness to admit when they make a mistake. The dashcams' release in Rosie's murder only confirm what thousands of us believed earlier, these officers were bent on killing Rosie from the beginning. What's much worse and more horrifying is they enjoyed it and made a joke of it. They wave guns around a residential neighborhood like they are band batons. IF their excuse is that the joking was a reaction to the "fright" Rosie gave them then there is even more reason to release these supposed officers from police duty. They are too ignorant of dog language and not stable enough to be entrusted with protecting the public. They are only concerned with protecting themselves.

I have seen neither written word, nor audio, nor video which warrants any of you resigning from your posts. The police created this horrible, horrible result for poor Rosie, her family and dog owners every where. The world-wide black eye the Des Moines police department has is THEIR doing, not yours. They are the ones who need to resign. Every citizen of Des Moines ought to be terrified for their own lives and the lives of their children and pets. I keep coming back to the fact it took multiple shots, in parts of the body guaranteed to inflict maximum pain before poor Rosie died. These yahoos are either blood thirsty or such poor shots that they should be relieved of duty on that basis alone.

For the sake of all that should be good, fair, honorable and, dare I say it, holy in the world I beg and implore you all- see that these officers are relieved of their positions by whatever legal means you have to use. There is a way. You will help to redeem the status of Des Moines around the world, satisfy your own sense of honor and restore the faith of thousands of people.

Sincerely yours,

Emmie Lou Tucker- owner of 10 rescued dogs including Thunder, the Newfoundland

