

STUDY SESSION DES MOINES CITY COUNCIL - April 3, 2003 - 7:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

INVOCATION

ROLL CALL

DISCUSSION ITEMS:

1. Draft Ordinance No. 02-177 Mobile Home
Park Regulations - 2nd Reading

DISCUSSION LEADER:

Community Development
Director

GOAL:

Approval

EST. TIME:

5 Minutes

2. Draft Ordinance No. 02-264 Traffic Impact
Fess - 2nd Reading

Public Works Director

Approval

20 Minutes

3. ACC Funding

Councilmember Sheckler

Discussion/Direction

20 Minutes

4. Draft Ordinance No. 03-075 Right-of-way &
Park Use Permits

City Manager

Discussion/Direction/Approval 20 Minutes

5. Ad Hoc Marina Rate Committee

Mayor

Discussion/Direction

15 Minutes

do memo about
study session/
regular meeting

DM MC 1.04
RP 20
RR 10

cont
24/10

continued
2d reading

removed

removed

✓ 6. City Web Site

Assistant City Manager

Briefing/Direction

40 Minutes

✓ 7. Pacific Highway South Project - Overview
and Status Report

Public Works Direction &
Assistant City Engineer

Discussion/Information

20 Minutes

8. Planning Agency History/Background
Presentation of Potential Duties Discussed
In Fall of 2001

moved to 4/24/02
Community Development

Presentation/Discussion

20 Minutes

removed
✓ 9. Utility Tax

Mayor

Discussion/Direction

20 Minutes

removed
✓ 10. Draft Resolution No. 03-098 -
Requiring Full Council Participation In
Final Appointment to Vacant Council Position

Councilmember Sheckler

Discussion/Approval

5 Minutes

NEXT MEETING DATE: Regular Meeting April 10, 2003

*Maggie Samp ok
to continue
HC interviews
not until
after 4/25*

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Ad Hoc Marina Rate Committee

FOR AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: March 28, 2003

ATTACHMENTS:

Staff memo distributed at the March 27, 2003
City Council meeting

CLEARANCES:

☒ Marina

☐ _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL:



PURPOSE and RECOMMENDATIONS:

The purpose of this agenda item is to allow the City Council to discuss the possibility of creating an Ad Hoc Marina Rate Committee. Mayor Steenrod placed this item on the March 27, 2003, City Council Agenda. As the March 27th meeting ended without the Council discussing this item, per Rule 20 of the City Council Rules of Procedure, it has been moved to the agenda of April 3.

Recommended Motion:

"I move to direct the city manager to develop a resolution to implement an Ad Hoc Marina Rate Committee as outlined in the attached staff memo."

Alternative Motion:

"I move to direct the city manager to develop a resolution to implement an Ad Hoc Marina Rate Committee as discussed by the City Council."

Background

The Municipal Facilities Committee, as part of its discussions on the recent change to Marina Rates, elected to recommend to the City Council the creation of an Ad Hoc Marina Rates Committee. Mayor Steenrod placed this item on the March 27, 2003, meeting agenda but the City Council did not get to it before the end of the meeting. Per Rule 20, it has been placed on the agenda of April 3, 2003.

Discussion

The attached memo from outlines staff's recommendation for composition, charge, and time frame for this Committee.

Alternatives

The Committee could be made up of any number of members from various backgrounds. Staff recommends a minimum of 5 members and a maximum of 13. Staff also recommends at least one member represent the boating users of the Marina, one represent the non-boating residents of Des Moines, and one represent the Des Moines business community.

Recommendation

Staff recommendation is attached.

Memo

To: City Council
Via: Tony Piasecki, City Manager
From: Staff
Date: 03/27/2003
Re: Marina Rate Study Committee

Chapter 4.24 of the DMMC contains the provisions regulating appointive committees. In general, members are appointed by the mayor and confirmed by the City council. Members must be a resident of the City and can serve on a committee for two consecutive two-year terms. The committee must elect a president and vice-president and all committee actions must be approved by a majority vote when a quorum is present. Minutes must be taken at each minutes and distributed to the City Manager and the City Council.

Staff Recommendation

The staff recommends that the Mayor appoint nine City residents to the committee, comprised as follows:

- ξ One committee member recommended by the Des Moines Yacht Club. DMYC is the Marina's largest tenant, and many of the club members are tenants.
- ξ One committee member recommended by the Des Moines Marina Association. Approximately 250 of the Marina's tenants are members of the DMMA.
- ξ One committee member recommended by the Three Tree Point Yacht Club. After DMYC, TTPYC is the largest club that considers Des Moines their homeport.
- ξ One committee member who is a Marina tenant but is not a member of any of the organizations listed above

All three of the organizations listed above have widespread memberships, and as such they should provide a good cross-section of the boating community, both demographically and by boat. Adding one member who is not a member of an organization should give the committee good representation from the boating community.

- ξ Five at-large members. None of the at-large members should have moorage in the Marina. It may be helpful if one or more of the at-large members came from the City's business community and if one of the at-large members has a background in finance or economics.

Ideally, one or more of the committee members would be a long-time City resident that remembers the history of the Marina and some of the motivations that the citizens had for building the Marina.

The Harbormaster and the Finance Director would provide staff support.

Councils Instructions to the Committee

The staff recommends that the Council charge the committee with reviewing the current rate structure at the Marina and develop a formula or system that generates rates that are equitable, provide for the operations and capital needs of the Marina, and are cognizant of the market for moorage in the Puget Sound area. The committee should also be aware of the Council's vision of the Marina, (as expressed in the Comprehensive Marina Master Plan), as an important public space that should be available to the non-boating citizens of Des Moines as well.

Schedule

The staff recommends that the Council adopt an aggressive schedule, possibly as short as three or four months from start to final recommendation.

AGENDA ITEM

SUBJECT: Traffic Impact Fees

ATTACHMENTS:

A. Fifth Draft of Ordinance No. 02-264 adopting the use of traffic impact fees.

B. Excerpt from Des Moines City Council Minutes of March 6, 2003

AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: March 19, 2003

CLEARANCES:

[X] Finance

[X] Public Works

[X] Legal

APPROVED BY CITY MANAGER
FOR SUBMITTAL: *CR for TP*

*Return
Options
- 11/104 start
excerpt single family
adopt Lacey*

Purpose and Recommendation:

The purpose of this agenda item is for the approval of Fifth Draft Ordinance 02-264 adopting the use of traffic impact fees.

Suggested Motion

"I move to approve the Fifth Draft of Ordinance 02-264 establishing a transportation impact fee service area, imposing impact fees to finance part of the costs of improvements to serve new development, provide disposition of such impact fees and establish an appeal process."

Background:

At the January 30th Council meeting, Council agreed impact fees were necessary, but discussion ensued as to the amount to charge developers. Council tabled the ordinance until March 6th for final consideration, then directed the Council Public Safety and Transportation (PS&T) Committee to discuss the funding level and bring back to the full Council a recommendation for an impact fee rate. It was felt that the rate should work toward the goal of funding the City's transportation's needs due to development, yet not be so cost prohibitive to developers doing business in our City that a significant amount of development moves outside the City as a result the fee.

On February 6th, the PS&T Committee met and discussed various options taking into consideration other cities' rates in the region for assessing impact fees. After careful consideration, the PS&T Committee's recommended option to be presented to the Council via Draft Ordinance 02-264 is a phased-in rate. The original 2001 base rate of \$2,539 per new PM peak hour trip as computed by methodologies recommended by the City's consultant, The Transpo Group, would first be adjusted yearly by inflation. For the calendar years 2003 through 2005, the impact fee rate would be phased in at a percentage of the then-current base rate as follows: 70% in 2003, 80% in 2004, and 90% in 2005. For 2006 and all subsequent years, the impact fees will be paid in the amount of 100% of the then-current base rate. This proposal would provide an incentive for development to occur in the near term, before the full rate goes

into effect. The Ordinance spells out the establishment of a service area and a method of imposing impact fees on development, including disposition of impact fee revenue, refunds if applicable, and an appeal process if the developer does not agree with the fee. At the March 6th Council meeting, there were a few remaining questions related to the Fourth Draft of Draft Ordinance No. 02-264. As a result of Council direction, staff has made a number of changes to the Draft Ordinance to clear up areas of Council concern.

Discussion:

At the March 6th Council meeting, there was a discussion about details within Draft Ordinance No. 02-264 in order to make sure that the public, and staff, would have clear direction from Council (See Attachment B). The motion made at the meeting directed staff to respond to four items:

1. add language to Section 4(a) to reference the Comprehensive Transportation Plan
2. include the Pacific Ridge area fees
3. make the refund section clearer, including development, which does not occur
4. what happens with an expired building permit or no certificate of occupancy issued

The City's Legal and Public Works staff has made the requested changes. For the first item, Section 4(a) was expanded which eliminated the need for Section 4(d). For the second item, the Draft Ordinance now clearly refers to the Pacific Ridge Transportation Mitigation Fee in Sections 3 and 4. Expanded language in Section 6 (3) responds to Item 3 and Section 6 (2) covers Item 4.

Alternatives:

Beginning the rate at 100%, which many Council members felt was too onerous for a new fee of this type. It would also be possible for Council to set the rate at any level under 100%; however, a lower rate would not provide as much funding for critical transportation projects.

Financial Impact:

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

Recommendation/Conclusion:

The PS&T Committee, after evaluating transportation needs and funding options, recommends that Council adopt the use of traffic impact fees based on the stepped rate phased in over the course of four years starting at 70% in 2003 and stepping up to 100% in 2006.

Concurrence:

Finance and Legal

CITY ATTORNEY'S FIRST DRAFT 11/21/02
CITY ATTORNEY'S SECOND DRAFT 12/12/02
CITY ATTORNEY'S THIRD DRAFT 02/20/03
CITY ATTORNEY'S FOURTH DRAFT 03/04/03
CITY ATTORNEY'S FIFTH DRAFT 03/17/03
CITY ATTORNEY'S SIXTH DRAFT 03/27/03

DRAFT ORDINANCE NO. 02-264

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON establishing a transportation impact fee service area, imposing impact fees therein to finance part of the costs of improvements to serve new development, providing for the disposition of such impact fees, establishing an appeal process, and adding a new chapter to Title 12 DMMC.

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

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

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

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

Sec. 1. Definitions.

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

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

ATTACHMENT A

p.m. peak hour trip, as computed using methodologies from the most current edition of the Institute of Transportation Engineers Trip Generation Manual or other industry sources approved by the Public Works Director. This impact fee base rate shall be adjusted annually based on the construction cost index for the Seattle area as reported in the March issue of the Engineering News Record periodical. Based upon the above impact fee base rate and adjustments, the base rate as of January 1, 2003 will be Two Thousand Six Hundred Fifteen dollars (\$2,615.00) per peak p.m. trip. For the calendar years 2003 through 2005, the impact fee shall be phased-in as follows: for the calendar year 2003, the impact fee shall be paid in the amount of Seventy percent (70%) of the then-current base rate; for the calendar year 2004, the impact fee shall be paid in the amount of Eighty percent (80%) of the then-current base rate; and for the calendar year 2005, the impact fee shall be paid in the amount of Ninety percent (90%) of the then-current base rate. For the calendar year 2006, and for all subsequent years, the impact fee shall be paid in the amount of One Hundred percent (100%) of the then-current base rate.

(2) Such impact fees shall:

(a) Only be ~~imposed~~ ^{used} for system improvements that are reasonably related to new development and identified in the Comprehensive Transportation Plan as "Intersection and Roadway Capacity Improvement Projects for the Traffic Impact Fee Program;" and,

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

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

~~((d) Be used for facilities identified in the Comprehensive Transportation Plan as "Intersection and Roadway Capacity Improvement Projects for the Traffic Impact Fee Program."))~~

(3) Such impact fee schedule is based upon the formula for calculating the proportionate share of the cost of the system

improvements, including the costs of previously constructed system improvements, necessitated by new development to be borne by impact fees, which formulas are described in the Comprehensive Transportation Plan element of the Greater Des Moines Comprehensive Plan and incorporated herein by this reference.

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

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

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

Sec. 5. Disposition of impact fee revenues.

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

(2) The impact fees deposited in each account in the impact fee fund, and the interest and profit received from the investments therefrom shall be expended only for public facilities of the type for which such impact fees were collected, in conformity with the Greater Des Moines Comprehensive Plan and

Comprehensive Transportation Plan, and expended or encumbered within six years of receipt by the City, unless written findings by the City Council identify an extra-ordinary and compelling reason for the City to hold the fees for a longer time. The City shall account for annual expenditures and shall comply with this section in successive comprehensive plans, transportation plans and capital facilities plans as appropriate.

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

Sec. 6. Refunds.

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

(2) The City shall also refund to the current owner of property on which an impact fee has been paid all impact fees paid with respect to such property if the development activity for which the impact fee was imposed did not occur and no impact has resulted. (~~(, provided, that)~~)

(3) If some, but not all, of the development activity for which the impact fee was imposed occurred, the impact will be deemed to have occurred, and no refund will be (~~(available under this section)~~)payable, provided however, that the property on which the impact fee was paid shall receive a credit toward any subsequent development activity on the property up to the full amount of the payment.

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

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

Sec 7. Appeals.

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

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

Sec. 8. Codification. Sections 1 through 7 of this ordinance shall be codified as a new chapter in Title 12 DMMC.

Sec. 9. Severability - Construction.

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

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

Sec. 10. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

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

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

**EXCERPT
DES MOINES CITY COUNCIL MINUTES
March 6, 2003**

Draft Ordinance No. 02-264 Traffic Impact Fees

Public Works Director Heydon advised that at Council direction at the February 6th Study Session, Council sent the draft ordinance to the Public Safety & Transportation Committee to review the level of fees.

City Attorney Marousek called Council's attention to the new codification language in the draft ordinance.

Mayor Pro Tem Benjamin, Chairman of the PS&T Committee, informed Council that the Committee recognized the impacts of new construction and the need to fund transportation improvements, however had some concern that the fees would be a deterrent to attacking new businesses. He informed Council that the Committee determined that businesses are committed to proper roads and their maintenance, and wants assurance of proper traffic flow. Therefore, the transportation impact fee is good for business. The Committee is recommending an incentive for new businesses by using a graduated rate schedule as follows: 70% base rate for 2003, 80% base rate for 2004, 90% base rate for 2005, with the full 100% base rate to be instituted in the year 2006.

Upon questioning by Mayor Steenrod regarding the City of Kent using an LID process, Public Works Director Heydon explained that the City of Kent has a large staff to handle only commercial development. He noted a Local Improvement District, requires a large amount of engineering, technical and legal staff. He felt this would not work for Des Moines.

In response to Council questioning, Acting City Manager Loch advised that the traffic impact fees for the Pacific Ridge area were developed to encourage development by allowing developers to know up front what fees will be expected. He felt that early notification to developers is important and will work City-wide.

Assistant City Engineer Andrews noted that the residential zone of the Pacific Ridge area is exempt and the commercial area east of the Highway is split, with a credit for impacts fees in place.

Mayor Steenrod commented that Section 4(a) needs to be clarified by adding the language "as identified in the Comprehensive Transportation Plan, or as may be amended."

Councilmember Thomasson felt it important to add a new section to the draft ordinance showing the City wide-fee and include the Pacific Ridge area language too.

Councilmember Wasson suggested that the portion of the Comprehensive Transportation Plan pertaining to improvements, should be included to help make it easier for developers. He further noted that he would like to see an installment payment plan so that huge costs up front for developers could be avoided.

ATTACHMENT B

Councilmember Thomasson stated that most developers will get a construction loan and a lender would not look favorably on an installment fee schedule. He felt the City should get the transportation impact fee up front with the building permit.

Public Works Director Heydon remarked upon questioning by Council, that there is a 6 year limit on how long the City can hold the fees. If they are not spent on a project in that time, the fee must be given back to the developer.

After further discussion regarding the fees, it was determined that the phase in fee plan as recommended by the PS&T was the best compromise.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously, to place the draft ordinance on a future agenda and incorporate the following changes:

- add language to Section 4(a) to reference the Comprehensive Transportation Plan
- include the Pacific Ridge area fees
- make the refund section clearer, including development which does not occur
- what happens with an expired building permit or no certificate of occupancy issued

A G E N D A I T E M

SUBJECT:

Revision of mobile home park regulations

AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Community Development 

DATE SUBMITTED March 4, 2003

ATTACHMENTS:

1. Draft Ordinance 02-177

CLEARANCES:

☒ LEGAL 

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

Suggested Motion:

"I move to adopt Draft Ordinance 02-177

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

Background:

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

Except for the mobile home parks in the Woodmont/Redondo area, staff has no site plans for any mobile home park in the city.

On February 27, 2003 the Council discussed the draft ordinance. During the discussion administration addressed the letter from the owner of the Pine Terrace Mobile Home park, Gordon Gray. Administration discussed these proposed changes with City Council and based on Administration recommendations Council moved the draft ordinance to a second reading. These changes have been included in the revised draft ordinance included in this packet.

Discussion:

The changes to the draft ordinance include:

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

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

Alternatives:

The Council has three options concerning this ordinance:

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

Financial Impact:

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

Recommendation/Conclusion:

Administration recommends adoption of draft ordinance 02-177

Concurrence:

None

COMMUNITY DEVELOPMENT'S FIRST DRAFT 9/12/02
COMMUNITY DEVELOPMENT'S SECOND DRAFT 3/05/03

DRAFT ORDINANCE NO. 02-177

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

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

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

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

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

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

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

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

Sec. 1 Chapter 14.48 DMMC and sections 143, 144, 145, 146, 147, 148, 149(part), 149(A), 149(B), 149(C), 149(D), 149(E), 149(F), 149(G), 149(H), 149(I), 149(J), 149(K), 149(L), 149(M), 149(N), 149(O), 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, and 161 of Ordinance No. 938 and section 1 of Ordinance No. 978 are each amended to read as follows:

14.48.010 Short title. This chapter shall be known and may be cited as the "mobile home park regulation code."

14.48.020 Findings and policy.

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

(a) Promote the safety and health of the residents of such parks and of other nearby neighborhoods; and

(b) Encourage economical and orderly development of such parks and other nearby neighborhoods.

(2) It is, therefore, declared to be the policy of the City to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land by providing for planning and operating mobile home parks and by providing for the standards and regulations necessary to accomplish these purposes.

14.48.030 Definitions.

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

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

industrialized, modular, sectional, or sectionalized construction.

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

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

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

(5-6) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use with or without motive

power of such size and weight as not to require a special highway movement permit and certified as approved as such by the State Department of Labor and Industries. Recreational vehicles shall include but are not limited to campers, motor homes, travel trailers, and camping trailers.

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

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

(89) "Utility building" means an accessory structure intended for the storage of typical outdoor equipment incidental to the occupants of the mobile home, i.e., lawn mower, lawn chairs, barbecue, etc. Utility buildings are limited to one per mobile home lot.

14.48.040 General requirements.

(1) Mobile homes are a permitted use in mobile home parks only. Mobile home parks shall be developed in accordance with the requirements of either Title 17 DMMC or chapter 18.52 DMMC together with the requirements of this chapter.

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

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

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

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

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

(7) The provisions of this chapter shall not apply to factory-built housing.

14.48.050 Business license required. All persons who rent or sell lots in a mobile home park for mobile homes and/or who sell mobile homes therein, shall possess a valid business license from the City. In addition to meeting all requirements of chapter 5.04 DMMC, relating to business licenses, the mobile home park shall be inspected by the Seattle-King County department of public health prior to issuance of a business license by the City Clerk. The applicant shall remedy all unsanitary conditions found by the health department. Failure to remedy such conditions shall be grounds for denial or revocation of the business license by the City Manager. All mobile home parks shall be inspected by the Community Development Department annually for compliance to this chapter. Failure to remedy corrections in a timely manner shall be ground for denial or revocation of the business license by the City Manager.

14.48.060 Density requirements.

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

(2) The number of mobile homes in the mobile home park shall not exceed the allowable number of dwelling units in the zone district in which the mobile home park is located.

14.48.070 ~~Development standards~~ Compliance. In addition to the requirements of either Title 17 DMMC or chapter 18.52 DMMC, mobile home parks shall comply with the following development standards and requirements.

14.48.080 ~~Development standards~~ Lots.

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

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

(3) Every mobile home lot shall have a pad hard surfaced with concrete or asphaltic concrete of minimum thickness of four inches. It shall be

of a size not less than that of the mobile home to be parked on the lot.

14.48.090 ~~Development standards~~ - Lot coverage. All impervious surfaces, including but not limited to mobile homes, service/utility buildings, carports, patios, driveways, and streets shall not exceed 50 percent of the lot area.

14.48.100 ~~Development standards~~ - Setbacks.

(1) Minimum front yard setbacks for all structures shall be 10 feet.

(2) Minimum rear yard setbacks for all structures shall be 15 feet.

(3) Minimum side yard setbacks for all structures shall be 10 feet.

(4) Corner lots shall observe a minimum 15-foot setback from all streets and alleys.

(5) The minimum clearance between mobile homes shall not be less than required by the fire code.

(6) The clearance between mobile homes and any service/utility building(s) situated on the same lot shall not be less than required by the Uniform Fire Code.

(7) Eaves may project up to a maximum of 18 inches into any required setback area.

14.48.110 ~~Development standards~~ - Parking spaces.

(1) A minimum of two off-street parking spaces per mobile home shall be provided on the lot on which the mobile home is located.

(2) In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each two mobile/manufactured lots, and shall be distributed for convenient access to all lots and may be provided by a separate parking area. Clubhouse and community building parking facilities may account for up to 50 percent of this requirement.

(3) Setbacks for mobile/manufactured home units shall not be calculated for purposes of meeting the minimum parking requirements. All off-street parking spaces shall conform to the dimensional requirements contained in chapter 18.44 DMMC.

(4) Vehicles over 8,500 pounds gross license weight and recreational vehicles shall not be parked or stored on the individual lots or on any street. A separate storage area shall be provided with appropriate fencing and visual screening as determined by the Community Development Department.

14.48.120 ~~Development standards~~ Streets and access.

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

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

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

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

(5) All streets and access roads so designated either in the subdivision or PUD review process shall be completed prior to occupancy of any mobile home.

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

14.48.130 ~~Development standards~~ - Building heights. The maximum building height shall be 25 feet.

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

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

(2) A 15-foot minimum buffer area around the perimeter of the mobile home park is required. The buffer area shall contain perimeter screening of dense evergreen plantings, a minimum of five feet in height when installed, which will grow to a minimum of eight feet in height within five years.

(3) The developer shall furnish to the City a performance bond or other suitable security in a form approved by the City Attorney and in an amount approved by the Community Development Department to insure installation of the landscaping prior to any construction in the mobile home park.

14.48.150 ~~Development standards~~ - Drainage.
Drainage and runoff plans shall be approved by the public works director.

14.48.160 ~~Development standards~~ - Sewers.
Each mobile home shall be connected to sanitary sewers. A valid side sewer permit shall be obtained prior to any connection to any sewers.

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

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

14.48.190 ~~Development standards~~ - Recreation areas. Playground facilities or play area shall be conveniently situated, containing a minimum of five percent of the total gross area of the park and shall be restricted to such use. Such an area shall further be placed within the mobile home park so as to be properly protected from streets, highways, roadways, and parking areas. Such playground space may be provided in one or more locations within the mobile home park.

14.48.200 ~~Development standards~~ - Screening.

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

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

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

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

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

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

(4) Recycling facilities shall be provided as determined by the Community Development Department.

14.48.220 ~~Development standards~~ - Skirting. Skirtings are required and shall be constructed of nonflammable material. Every mobile home skirt shall be provided with a door or easily removed portion thereof through which an inspector may gain access to the crawl space under the unit.

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

14.48.240 Smoke detectors. Smoke detectors, of a type approved by the building official, shall be installed in all newly set mobile homes.

14.48.250 Furnace controls - Power switch. All furnace controls and power switches shall be placed on the exterior of the furnace enclosure.

14.48.260 Tie downs. All mobile homes shall be equipped with tie downs of a type that has been approved by the building official.

14.48.270 Site plan required - Preexisting parks. The owners of mobile home parks existing before ~~((July 1, 1992))~~ September 30, 2003, shall provide the City with a site plan, prepared by a registered civil engineer professional surveyor or engineer and/or in a form acceptable to the Community Development Department showing the number of mobile homes presently on the site, their location, and the dimensions of all lots and the location and size of all roads, sewers, water lines, all other utilities and other structures on the property. The site plan shall be submitted in

conjunction with the application or renewal of a
business license as required by DMMC 14.44.050.

14.48.280 Preexisting mobile home parks.

All mobile home parks existing before ~~((July 1, 1992))~~ September 30, 2003, and which were in compliance with existing City or county codes at the time of their establishment, shall be legal, nonconforming uses and are entitled to the number of mobile homes which was permitted by the applicable ordinance in effect at the time the mobile home park was established, the number and configuration of individual spaces which are provided for placement of a mobile home for dwelling unit purposes existing on ~~((July 1, 1992))~~ September 30, 2003, and the privilege of locating in such spaces mobile homes of a size suitable to the dimensions of the individual spaces and subject to the actual setbacks existing on September 30, 2003, as documented in the plan or schematic required in subsection (1) of this section; ~~which are provided for mobile home placement;~~ provided:

(1) The owner of the mobile home park shall provide the City Community Development Department by ~~December 28, 1992~~ June 30, 2003, September 30, 2003 a plan or schematic of the mobile home park drawn to scale, showing the location and dimension of each space for the placement of mobile homes;

(2) All other provisions of this mobile home park regulation code shall be applicable; and

(3) No increase in density and no increase in the number of mobile homes are allowed unless all of the provisions of this chapter are met.

14.48.290 Administration. The Community Development Director or his/her designee shall enforce the terms of this chapter according to the provisions of this title.

14.48.300 Inspections.

(1) No person may occupy or allow or suffer another person to occupy a mobile/manufactured home before the same has been inspected and approved by the State Department of Labor and Industries, and the installation has been approved by the building official.

(2) The installer/owner shall request an inspection after all aspects of the installation, other than installation of the skirting, have been completed. If the inspection is not completed within 10 business days, the tenant or owner may occupy the mobile/manufactured home at his or her own risk. Occupancy before inspection does not imply City approval.

14.48.310 Authority to issue permits for and inspect installation of mobile/manufactured homes. *Repealed by Ord. 946.*

14.48.320 Mobile/manufactured home installation. No person may install a mobile home unless that person owns the mobile home, is a licensed mobile home dealer, or is a contractor registered under chapter 18.26 RCW, as presently constituted or as may be subsequently amended.

14.48.330 Permits for accessory structures. Building permits shall be required pursuant to chapter 14.08 DMMC for all accessory structures on a mobile/manufactured home lot, including but not limited to awnings, porches, steps, decks, storage sheds, and carports.

14.48.340 Park administration.

(1) The owner(s) of a mobile/manufactured home park shall be responsible for the development and maintenance of the park in strict conformity

with this chapter, the building site plan, and all other applicable laws and ordinances.

(2) A mobile/manufactured home park shall have internal rules and regulations governing, at a minimum, the following:

(a) A requirement that all tenants comply with state inspection codes at the time a mobile/manufactured home is installed or modified.

(b) A requirement that all tenants comply with zoning code restrictions relating to the use of their mobile/manufactured home and lot.

(c) A requirement that all landscaping, buffer areas, recreational areas and facilities, storage areas, streets, walkways, and other common areas and facilities be continuously maintained to at least the minimum standard required by the City and approved by the enforcing agency at the time of initial occupancy.

(3) A mobile/manufactured home park shall have a full time resident manager on site who shall be the agent of the owner with authority to communicate directly with City officials regarding compliance with codes and requirements and who shall be responsible for the enforcement of park rules and regulations.

NEW SECTION. Sec. 2 Severability-Construction

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

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

Ordinance No. ____
Page 16 of ____

NEW SECTION. **Sec. 3. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

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

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

DRAFTORD/02/177

DISCUSSION ITEM
#3

Agenda of 4/3/03

DISCUSSION ITEM #3 - ACC FUNDING

There is no prepared packet for this discussion item. The item was placed on the agenda for discussion by Councilmembers Sheckler, Thomasson and White per Council Rules of Procedure, Rule 9.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Right of Way and Park Use Permit Ordinance

ATTACHMENTS:

Draft Ordinance No. 03-075

FOR AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Public Works/Parks

DATE SUBMITTED: March 24, 2003

CLEARANCES:

☒ Legal

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

PURPOSE AND RECOMMENDATION

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

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

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

also needs to be reconciled with DMMC 12.04.090, which provides that applications for right of way permits be submitted 30 days in advance

- The proposed amended section of DMMC 19.08.020 (2) (**Sec. 5 (2) of the draft ordinance**) requires definitions for those events and/or uses of city parks and park facilities that will need council approval;
- The proposed amended section of DMMC 19.08.020 (3) (**Sec. 5 (3) of the draft ordinance**) requires a final decision for required time limitations for obtaining approval for use of park buildings and structures. Currently DMMC 19.08.020, provides that park buildings and structures may not be reserved more than 90 days in advance;
- The proposed amended section of DMMC 19.08.020 (9) (**Sec. 5 (9) of the draft ordinance**) requires a final decision and description of city costs to be reimbursed and whether the Council may waive reimbursement.

If the council wants to take further action on this matter it may complete and/or amend the draft ordinance and pass it on to a second reading for enactment at the next available calendar.

BACKGROUND

Currently, DMMC Chapter 12.04.060 (City Right of Way Code) provides that the director of the department of public works, under the supervision of the city manager, has the power, without approval of the city council, to prepare and adopt procedures as needed to implement and carry out the city right of way code, including the issuance of all right of way permits.

Likewise, DMMC Chapter 19.08.020 (City Park Use Regulations) provides that the city manager has the authority, without approval of the city council, to promulgate rules setting forth the times and conditions upon which city parks and park facilities will be open, closed, or used by the public.

There have been past instances when the city manager has sought guidance from the council regarding policy and approval of right-of-way and park special use permits and past instances when the council has deemed it appropriate to provide policy and guidelines for approval of right-of-way and park special event permits. This draft ordinance is in anticipation that there will be future instances where it will be appropriate for the city council to provide policy, guidelines, and approval of right-of-way use permits and park special event permits.

Because the intent of this action is to provide policy and guidelines in regards to special events and use of city property the action is presented in the form of an ordinance amending both existing ordinances (12.04 and 19.08), establishing policy, guidelines and approval criteria as part of the city code and requiring a council resolution for approval of specified permits.

DISCUSSION

The central issues are:

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

ALTERNATIVES

ACTION ALTERNATIVES:

The council has the following action alternatives:

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

EVENTS/USES/PURPOSES ALTERNATIVES:

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

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

3. Events allowing concessions for sale of food, drinks, merchandise or services;
4. Events where the expected attendance is over a specified number of people.
5. Events where the purpose is not a public benefit.
6. Events where the purpose is for specific activities, such as fund raising or general for-profit activities.

FINANCIAL IMPACT

The financial impact of any of the above actions or alternatives is minimal.

RECOMMENDATION

Staff has no recommendation.

CONCLUSION

Further action requires direction from the council as specified above.

CITY ATTORNEY'S FIRST DRAFT 3/24/03

DRAFT ORDINANCE NO. 03-075

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

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

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

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

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

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

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

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

Council approval-When required. City Council approval by resolution is required for the following right of way permits:

(1)

(2)

(3)

(4)

NEW SECTION. Sec. 2. A new section is added to chapter 12.04 to read as follows:

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

Sec. 3. DMMC 12.04.060 and section 6 of Ordinance No. 872 are amended to read as follows:

Powers of the director. The director, under the supervision of the City Manager, shall have the power to:

(1) Prepare and adopt procedures as needed to implement this chapter and to carry out the responsibilities of the department. Except for those right-of-way permits that require City Council approval by resolution, ((§))such procedures do not require approval of the City Council;

(2) Administer and coordinate the enforcement of this chapter and all procedures adopted under this chapter relating to the use of rights-of-way;

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

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

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

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

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

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

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

19.08.020 Administration.

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

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

(a)

(b)

(c)

(d)

~~((+2+))~~ (3) Persons or community groups desiring to use park buildings or structures shall obtain a permit from the City Manager or his designee for approval at least 90(?) days prior to the event. Park buildings or structures may not be reserved more than ~~((90))~~ 180 (?) days in advance unless otherwise authorized by the division.

~~((+3+))~~ (4) Religious services or group rallies may be permitted in City parks where facilities are adequate, and where such activities will not conflict with normal park usage. A community group permit must be obtained prior to the service or rally.

~~((+4+))~~ (5) All persons must leave park buildings and structures in a condition satisfactory to the division. No person shall conduct activities causing extra custodial work unless previous agreement has been made to pay for such work and this is stated on the use permit. The division may require a cleaning deposit sufficient to cover possible added custodial costs.

~~((+5+))~~ (6) Persons using facilities by permit will be required to protect, defend, save, and hold the City, its elected and appointed officials and employees, while acting within the scope of their duties, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account

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

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

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

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

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

NEW SECTION. **Sec. 7. Severability - Construction.**

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

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

Ordinance No. ____
Page 6 of ____

NEW SECTION. **Sec. 8.** **Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

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

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

DRAFTORD/03/075

A G E N D A I T E M

SUBJECT: New Internet website.

AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: March 27, 2003

ATTACHMENTS:

CLEARANCES:

1. Sample website pages.

[] LEGAL: _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation:

The purpose of this agenda item is to provide the City Council with an opportunity to review and discuss the City's new draft website. Staff seeks Council authorization to launch the new website.

Administration recommends the City Council approve the website and authorize its implementation. A motion consistent with staff's recommendation is provided below:

"I move Administration be authorized to launch the new website."

Background:

City staff has been working for some time to create a website that can be maintained and operated using in-house expertise and resources. Administration retained consultant services to develop a website that can be managed and maintained by City employees. The consultant, CPF Marketing Communications (CPF), has performed admirably throughout this project. The new website is approximately 98 percent complete. Samples of the website pages are provided as Attachment 1.

Discussion:

The existing website was established in 1995 by Richard Kennedy. Mr. Kennedy has provided Webmaster service since that time. City staff appreciates the significant contributions made over the years by Mr. Kennedy, but staff would now like to assume full control over the appearance, layout, and function of the City website. Advances in both in-house expertise and website software now make it possible for City employees to maintain our website.

As announced regularly in the City Manager's written reports to the City Council, Administration has been working with CPF to create a website that is attractive, informative, and easy to navigate.

Opportunities were provided earlier for comments on the general "look and feel" of the website. When all suggestions on the "look and feel" had been received, template pages were created for the input of content material. At this point, a significant effort would be required to change the general appearance/layout of the website. Suggestions regarding content and function are encouraged.

A website is a communication tool that will continually evolve. The draft website does not have every feature or function imaginable, but it does offer Internet users a great deal of information about Des Moines. Over time, more and more of our services and information will be available via the Internet. Staff will continually refine the website.

Councilmembers can view the draft website at:


<http://66.175.34.161/index.html>

Once Council authorizes implementation of the new site, the City's new website address will be:


www.desmoineswa.gov

The address of our old website will bring users to the City's new homepage. At the April 3, 2003 Council meeting, staff will have the website projected on the overhead screen and provide an overview of the site's features.

Alternatives:

1. Authorize deployment of the draft website.
2. Authorize deployment of the draft website as revised by the City Council.
3. Direct changes to the draft website for Council review at a future meeting.

Financial Impact:

A new contract for website hosting was created that will result in reduced costs for that service. For the current website, hosting service is provided by **Steem** for **\$1548** per year. New hosting service will be provided by **Cedant** for **\$948** per year.

Over time, there will occasionally be a need to contract for outside website services. For example, new software and website coding will be required when the City is ready to create an automated, online system for pet licenses, simple building permits,

business licenses, etc. These costs will be evaluated on a case-by-case basis, and do not necessarily equate to costs that could be avoided via our current arrangement for Webmaster services.

Recommendation/Conclusion:

Administration recommends the Council authorize the new website.

Concurrence:

N/A.

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[City Government](#)
[Departments](#)

[Services/Resources](#)
[Doing Business](#)
[About Des Moines](#)





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Welcome to Des Moines, Washington, a friendly community on the shore of Puget Sound.

Des Moines offers an excellent blend of quality homes, natural beauty, and business opportunity - all within minutes of the Seattle and Tacoma metropolitan areas. Our six miles of shoreline include public beaches, natural areas, waterfront parks, a 900-slip marina, fine dining, and a popular boardwalk. Des Moines neighborhoods offer housing of every type and price range-from waterfront mansions to affordable apartments. There are numerous commercial properties ready for redevelopment.



Highline School District is currently undertaking an ambitious plan to renovate most of the school buildings in and around Des Moines. The City is also home to Highline Community College, and a future satellite campus for Central Washington University. Des Moines is easily accessible from Interstate 5, Pacific Highway South, and Sea-Tac International Airport. "The Waterland City" welcomes you to our community.



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March 27, 2003

THE LATEST DES MOINES NEWS:

New Website: The City of Des Moines launched this new website to expand the public's access to City services.
[More>>](#)

Annual Spring Clean Event: The curbside Spring Clean pick-up provided by Sea-Tac Disposal Company is scheduled for the week of April 21st. [More>>](#)

Redondo Boat Launch: The Redondo Boat Launch will be closed during part of the 2003 boating season for renovation. [More>>](#)



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DEPARTMENTS

- City Manager
- City Clerk
- City Attorney
 - o Glossary of Legal Terms
 - o Staff Directory
- Finance
- Parks and Recreation
- Senior Services
- Marina
- Community Development
- Court
- Police
- Public Works / Engineering

Des Moines City Attorney

The City Attorney's Office is responsible for legal advice to the City Council and the City administration. The City Attorney's Office reviews City ordinances and contracts, assists with preparation and review of resolutions, and advises Council and staff at public meetings. This division also provides proactive legal advice to ensure that every action by the City is legally defensible, complies with the most current state of the law, and minimizes the potential for litigation. The City Attorney's Office also provides prosecution services in Des Moines Municipal Court.

The City Attorney (or City Attorney staff) cannot give legal advice about a personal legal issue. The City Attorney represents the City government. The City Attorney must decline to assist citizens with individual legal problems.

March 27, 2003

Helpful Links:

- Glossary of Legal Terms
- King County District Court
- King County Prosecutor's Office
- Seattle-King County Public Defender Association
- Washington State Court Forms
- RCW and WAC
- Des Moines Municipal Code

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Des Moines Parks and Recreation Department

1000 South 220th Street
Des Moines, WA 98198
(206) 870-6527
Fax (206) 870-6587
E-mail: recreation@cityofdesmoines.com

Mission Statement:

To provide the opportunity and to encourage the diverse population of the greater Des Moines area to participate in life-enhancing activities through developed and well-maintained park land and facilities, professional programming and services, and the optimum utilization of community resources.

Inclement Weather Policy:

Des Moines Park & Recreation does its best to follow established activity schedules but occasionally changing Northwest weather dictates the need to cancel or postpone activities.

Ballfield Conditions Line: Do you have a game or practice on one of our fields and it is raining? Call our Ballfield Conditions Line to check the status of your field! (206) 870-6597.

Before & After School Program: Snow or other unscheduled closure days are difficult for everyone involved. When your school has a late start because of snow or an unscheduled closure, the Before and After School Programs will be cancelled.

March 27, 2003

CURRENT EVENTS:

Spring Egg Hunt - Saturday, April 19th - 9:00am-11:00am
Join Des Moines Park and Recreation Department for an old-fashioned Easter Egg Hunt at the Des Moines Beach Park! Candy for every child and the opportunity to win tons of great prizes!
[More >>](#)

Spring Break Camp - April 7th - 11th & 14th - 18th
What do you do with the kids when they have a week off from school but you still have to go to work? Send them to Break Camp with the City of Des Moines Park & Recreation Department! Make Sure to register early.
[More >>](#)

1st Annual Des Moines Sports Night - Saturday, May 3rd - 6:00-9:00pm
Presented by Des Moines Legacy Foundation, Des Moines Dollars for Scholars, and the Kiwanis Club of Des Moines. Join us for dinner, auction, and a sports speaker at the newly renovated Des Moines Activity Center.



DISCUSSION ITEM
#7

Agenda of 4/3/03

**DISCUSSION ITEM #7 - PACIFIC HIGHWAY SOUTH
PROJECT - OVERVIEW & STATUS REPORT**

There is no background packet for this discussion item. Staff will make a presentation.

AGENDA ITEM

SUBJECT: Planning Agency -
History/Background

AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: March 28, 2003

ATTACHMENTS:

1. Council Packet 2/1/01
2. Council Packet 7/12/01
3. Council Packet 8/9/01

CLEARANCES:

[] _____
[] _____
[] _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to present Councilmembers with a background history of discussions and actions leading to the changing of Planning Agency duties.

Suggested Motion:

None.

Background:

Background information is contained in the City Council packets provided with this packet. Excerpts of Minutes are contained within each Council Agenda item. Note that the minutes contained in the packet dated February 1, 2001, contain the minutes of the October 9, 2000 Council meeting. No agenda item packet is available for that meeting.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL CITY OF DES MOINES, WA

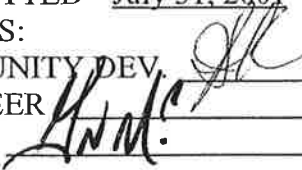
SUBJECT: Duties of the Planning Agency

ATTACHMENTS:

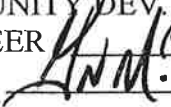
1. Draft Ordinance No. 01-119.
2. Meeting minutes.

FOR AGENDA OF: August 9, 2001
 DEPT. OF ORIGIN Community Dev.
 DATE SUBMITTED July 31, 2001

CLEARANCES:

☒ COMMUNITY DEV. 

☐ ENGINEER

☒ LEGAL 

APPROVED BY THE CITY MANAGER
 FOR SUBMITTAL 

RECOMMENDED ACTION

Alternatives:

1. Adopt Draft Ordinance No. 01-119 as written.
2. Adopt Draft Ordinance No. 01-119 as revised by the City Council.
3. Do not adopt Draft Ordinance No. 01-119.

Staff Recommendation:

Receive comments from the public during a public hearing and continue Council deliberation.

SUMMARY STATEMENT

This agenda item provides a public hearing regarding the duties of the Planning Agency. This matter was last discussed on February 1, 2001, and forwarded to a second reading during the July 12, 2001 meeting (meeting minutes provided as Attachment 2). On February 1, 2001, Council directed staff to prepare an ordinance that would transfer decision-making authority for a variety of land use actions from the City Council to the Planning Agency. That draft ordinance is provided as Attachment 1. The draft ordinance has been revised to delete Section 22. Administration recommends this change as legal research indicates that addition of City Councilmembers to the Planning Agency would violate the doctrine of incompatible offices.

Public notice of this public hearing was published in the Seattle Times on July 21, 2001.

Agenda Item—Pacific Ridge Improvement Plan
December 8, 1999
Page 2

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COMMUNITY DEVELOPMENT'S FIRST DRAFT 06/21/01
DRAFT ORDINANCE NO. 01-119

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the membership and duties of the Des Moines Planning Agency, adding a new section to chapter 18.56 DMMC, amending DMMC 4.28.025, DMMC 4.28.040, DMMC 17.16.080, DMMC 17.16.100, DMMC 17.16.110, DMMC 17.16.120, DMMC 17.16.130, DMMC 17.16.140, DMMC 17.16.150, DMMC 17.16.180, DMMC 17.16.190, DMMC 17.20.020, DMMC 17.20.030, DMMC 17.40.080, DMMC 18.56.020, DMMC 18.56.060, DMMC 18.56.100, DMMC 18.56.180, DMMC 18.56.220, DMMC 18.56.240, and DMMC 18.56.270, and repealing DMMC 4.28.060 and DMMC 17.16.090.

WHEREAS, the Des Moines Planning Agency was established in 1984 to provide recommendations to the City Council regarding certain land use matters, and

WHEREAS, since creation of the Planning Agency, numerous citizens have dutifully and admirably served the Des Moines community as Planning Agency members, and

WHEREAS, the adoption of the Greater Des Moines Comprehensive Plan in 1995 constituted the completion of a thorough, multi-year land use planning effort, and

WHEREAS, changes to permitting procedures enacted in 1996 in response to the Washington State Regulatory Reform Act reduced the scope of duties of the Planning Agency, and

WHEREAS, due to a lack of business items during in recent years, the Planning Agency has met infrequently, and

WHEREAS, during the October 19, 2000 and February 1, 2001 meetings, the City Council discussed potential changes to the scope of Planning Agency duties, and subsequently directed administration to prepare draft legislation to expand the duties of the Planning Agency, and

WHEREAS, the SEPA responsible official has concluded that this ordinance constitutes a procedural action and is categorically exempt from SEPA threshold determination and EIS requirements as allowed by 197-11-800(20), and

THE CITY COUNCIL OF THE CITY OF DES MOINES DOES ORDAIN AS FOLLOWS:

Sec. 1. DMMC 18.56.020 and section 2 of Ordinance 1174 are each amended to read as follows:

18.56.020 Framework for decision.

(1) The scope of a land use action covered by this chapter shall be limited as specified by RCW 36.70B.030 as presently constituted or as may be subsequently amended.

(2) Except when a land use action is categorically exempt from SEPA, environmental review shall be conducted concurrently with review of other proposed land use actions requested by an applicant. Integrated and consolidated review shall be provided as required by RCW 36.70B.120 and 36.70B.140 as presently constituted or as may be subsequently amended.

(3) As allowed by RCW 36.70B.140(1) as presently constituted or as may be subsequently amended, the following land use actions are not subject to the provisions of RCW 36.70B.070, 36.70B.080, 36.70B.090, 36.70B.110, 36.70B.120, and 36.70B.130 because the city council has determined that these projects present special circumstances that warrant a review process different from the process specified by this chapter:

- (a) Business park master plans;
- (b) Street vacations and other actions relating to use of public areas or facilities;
- (c) Type VI land use actions; and
- (d) Abatement of nonconforming uses.

(4) As authorized by RCW 36.70B.140(2) as presently constituted or as may be subsequently amended, the following Type I land use actions shall not be subject to the provisions of RCW 36.70B.060, 36.70B.110, 36.70B.120, and 36.70B.130 as presently constituted or as may be subsequently amended:

(a) Lot line adjustments.

(b) Construction permits required under Title 14 DMMC that are categorically exempt from environmental review under chapter 16.04 DMMC (SEPA Rules), or for which environmental review has been completed in conjunction with other project permits.

(5) Land use actions are classified into ~~((six))~~ seven types, based upon the entity responsible for the decision, the amount of discretion exercised by the decisionmaker, the degree of impact associated with the decision, the amount and type of public input sought, and the type of appeal available. The ~~((six))~~ seven categories of land use actions are as follows:

(a) Type I: Administrative decision made without legal requirement for public comment.

(b) Type II: Administrative decision made after legally required opportunity for public comment.

(c) Type III: Quasi-judicial and other decisions by hearing examiner made after legally required opportunity for public comment.

(d) Type IV: Quasi-judicial and other nonlegislative decisions by city council made after legally required opportunity for public comment.

(e) Type V: Quasi-judicial and other nonlegislative decisions by city council made without legal requirement for public comment.

(f) Type VI: Legislative decision by city council made after legally required opportunity for public comment.

(g) Type VII: Quasi-judicial and other nonlegislative decisions by planning agency made after legally required opportunity for public comment.

(6) The land use review procedures specified by Title 17 DMMC (Subdivisions) for a land use action explicitly covered by that title shall control over the procedures specified by this chapter.

Sec. 2. DMMC 18.56.060 and section 6 of Ordinance 1174 as amended by section 36 of Ordinance 1197 are each amended to read as follows:

18.56.060 Type IV land use action - General.

A Type IV land use action includes quasi-judicial land use decisions and other nonlegislative land use decisions made by the city council. Public notice of application is required for a Type IV land use action. The following actions are designated as Type IV land use actions:

- (1) Zoning map amendment (rezone).
- (2) Unclassified use permit.
- (3) Preliminary planned unit development.
- (4) Business park master plan.
- (5) Final binding site plan for a business park master plan.
- ~~((6) Subdivision preliminary plat.~~
- ~~(7) Preliminary modified subdivision.~~
- ~~(8) Preliminary alteration or vacation of subdivision.))~~
- ~~(9) Preliminary alteration or vacation of short subdivision with public dedication.~~
- ~~(10) Preliminary alteration or vacation of binding site plan with public dedication.~~
- ~~(11) Preliminary alteration or vacation of binding site plan with more than four lots and not involving public dedication.~~

~~(12) Preliminary binding site plan with more than four lots.~~

~~(13) Preliminary townhouse development with more than four lots.~~

~~(14))~~ (6) Shoreline substantial development with an environmental impact statement.

~~((15))~~ (7) Shoreline conditional use.

~~((16))~~ (8) Shoreline variance.

~~((17))~~ (9) City council approval, conditional approval, or denial of a project based upon chapter 16.04 DMMC (SEPA Rules).

~~((18))~~ (10) Actions not specifically listed in this or any other section of this chapter and that are quasi-judicial land use actions made by the city council following a legally required opportunity for public comment.

NEW SECTION. Sec. 3. A new section is added to chapter 18.56 DMMC to read as follows:

Type VII land use action - General.

A Type VII land use action includes quasi-judicial land use decisions and other nonlegislative land use decisions made by the planning agency. Public notice of application is required for a Type VII land use action. The following actions are designated as Type VII land use actions:

(1) Subdivision - preliminary plat.

(2) Preliminary modified subdivision.

(3) Preliminary alteration or vacation of subdivision.

(4) Preliminary alteration or vacation of short subdivision with public dedication.

(5) Preliminary alteration or vacation of binding site plan with public dedication.

(6) Preliminary alteration or vacation of binding site plan with more than four lots and not involving public dedication.

(7) Preliminary binding site plan with more than four lots.

(8) Preliminary townhouse development with more than four lots.

(9) Planning agency approval, conditional approval, or denial of a project based upon chapter 16.04 DMMC (SEPA Rules).

(10) Actions not specifically listed in this or any other section of this chapter and that are quasi-judicial land use actions made by the planning agency following a legally required opportunity for public comment.

Sec. 4. DMMC 18.56.100 and section 10 of Ordinance No. 1174 are each amended to read as follows:

18.56.100 Pre-application meetings.

(1) Informal Pre-Application Meetings. Applicants for a land use action may participate in an informal meeting prior to submittal of the application for land use action or the formal pre-application meeting. The purpose of the meeting is to discuss, in general terms, the proposed land use action, alternatives, required approvals, and the land use action process.

(2) Formal Pre-Application Meetings. Unless waived by the community development director, potential applicants or their designees are required to attend a formal pre-application meeting for all Type III, Type IV, ~~((and))~~ Type VI, and Type VII land use actions. The purpose of the meeting is to discuss the nature of the proposed development, application and approval requirements, fees, review process and schedule, and applicable policies and regulations. As appropriate, the community development director shall invite representatives of affected agencies, such as other city departments and special purpose districts, to attend any formal pre-application meeting. This meeting requirement should be deemed waived in the

event the community development director or the community development director's designee is unavailable to meet within 10 days of a request for such meeting.

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.56 DMMC to read as follows:

18.56.180 Review process for Type VII land use action.

(1) Upon conclusion of the 15-day comment period and any applicable SEPA appeal period, the planning agency may approve, approve with conditions, or deny a Type VII land use action upon compliance with the procedural requirements of chapter 18.94 DMMC (Hearing examiner code).

(3) The planning agency's decision regarding a Type VII land use action is appealable to the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the city council).

Sec. 6. DMMC 18.56.220 and section 22 of Ordinance 1174 as amended by section 6 of Ordinance 1193 are each amended to read as follows:

18.56.220 Procedures for open record public hearings.

(1) Open record public hearings shall be conducted as required by chapter 4.12 DMMC (City Council - Rules of Procedure), chapter 18.94 DMMC (Hearing Examiner), RCW 36.70B.020, 36.70B.060, 36.70B.110, 36.70B.120, 43.21C.075, and other applicable law as presently constituted or as may be subsequently amended. Open record public hearings conducted by the planning agency shall adhere to the City Council Rules of Procedure as well as other applicable provisions.

(2) Written information received from the public or other agencies shall be admitted to the record during the time between the publication of the applicable public notice, and the closing of the open record public hearing by the presiding officer of the (~~city council~~) hearing.

(3) Oral testimony from the public or other agencies shall be admitted to the record during the time between the opening and closing of the open record public hearing by the presiding officer of the ((~~city council~~)) hearing.

(4) Upon the closing of the open record public hearing by the presiding officer of the ((~~city council~~)) hearing, no additional written information or oral testimony from the public or other agencies will be accepted or considered.

Sec. 7. DMMC 18.56.240 and section 24 of Ordinance 1174 are each amended to read as follows:

18.56.240 Reconsideration.

A party to a public hearing or closed record appeal ((~~conducted by the hearing examiner or city council~~)) may seek reconsideration of a final decision. Requests for reconsideration shall be submitted and considered as specified by DMMC 18.94.250 (Decision - Reconsideration).

Sec. 8. DMMC 18.56.270 and section 27 of Ordinance 1174 are each amended to read as follows:

18.56.270 Appeals.

(1) Appeals shall conform to the requirements specified by RCW 36.70B.030, 36.70B.060, 43.21C.075, 90.58.180, chapter 36.70C RCW, and other applicable law as presently constituted or as may be subsequently amended.

(2) Appeal of an administrative land use action shall be filed as specified by DMMC 14.04.130 (Appeals), 16.04.210 (Agency SEPA appeals), 17.12.170 (Appeals), chapter 18.60 DMMC (Amendments, unclassified use permits, planned unit developments, and appeals), DMMC 18.86.150 (Appeals), and chapter 18.94 DMMC (Hearing examiner). Appeal of an administrative decision relating to a proposed Type III, Type IV, or Type VI land use action shall be resolved during the required open record public hearing.

(3) Except for appeal of shoreline substantial development and other shoreline decisions, appeal of a hearing examiner land use decision shall be filed as specified by chapter 18.94 DMMC (Hearing examiner). Appeal of shoreline substantial development and other shoreline decisions shall be filed with the shoreline hearings board as specified by chapter 90.58 RCW as presently constituted or as may be subsequently amended.

(4) Except for appeal of shoreline substantial development and other shoreline decisions, appeal of a planning agency or city council decision and other land use actions for which available remedies have been exhausted shall require the filing of a land use petition in Superior Court of Washington for King County as specified by DMMC 18.94.300 and chapter 36.70C RCW as presently constituted or as may be subsequently amended. Appeal of shoreline substantial development and other shoreline decisions shall be filed with the shoreline hearings board as specified by chapter 90.58 RCW, as presently constituted or as may be subsequently amended.

Sec. 9. DMMC 17.16.080 and section 22 of Ordinance 931 as amended by section 40 of Ordinance 1174 are each amended to read as follows:

17.16.080 Planning agency review.

(1) General. At a public meeting as defined in RCW 36.70B.020(5), the planning agency shall review ~~((each preliminary subdivision application))~~ Type IV land use actions processed in accordance with this chapter after the planning official issues a notice of complete application.

(2) Electronic Sound Recording. The planning agency shall make a complete electronic sound recording of each meeting. ~~((involving the review of a preliminary subdivision.))~~

(3) Recommendation. Upon consideration of the information presented at the public meeting, the planning agency shall, by a majority vote of a

quorum of its membership, make a recommendation to the city council.

(4) Recommendation Criteria. The planning agency may recommend approval of the proposed preliminary subdivision only if it finds that it meets the applicable decisional criteria.

(5) Transmittal of Recommendation. The planning official shall inform the city council of the planning agency's recommendation not later than 15 days following the adoption of the planning agency recommendation.

Sec. 10. DMMC 17.16.090 and section 23 of Ordinance 931 as amended by section 41 of Ordinance 1174 are each repealed.

Sec. 11. DMMC 17.16.100 and section 24 of Ordinance 931 are each amended to read as follows:

17.16.100 Planning Agency or City council review.

(1) General. As specified by chapter 18.56 DMMC, the ((The)) planning agency or city council shall hold a public hearing on each proposed ((preliminary subdivision)) Type IV or VII Land Use Action. No later than the first regular public meeting after receiving the recommendation of the planning agency on the preliminary subdivision, the city council shall set by motion the date of the hearing.

(2) Notice. The planning official shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.070.

(3) Electronic Sound Recording. The planning agency or city council shall make a complete electronic sound recording of each public meeting involving the review of a preliminary subdivision application.

Sec. 12. DMMC 17.16.110 and section 25 of Ordinance 931 as amended by section 42 of Ordinance 1174 are each amended to read as follows:

17.16.110 Public testimony and participation at public hearings.

Any person may participate in the ((city council)) public hearing in either or both of the following ways:

(1) By submitting written testimony either by delivering this testimony to the community development department prior to the hearing or by giving it directly to the planning agency or city council at the hearing.

(2) By appearing in person, or through a representative, at the hearing and making oral testimony directly to the planning agency or city council. The presiding officer may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.

Sec. 13. DMMC 17.16.120 and section 26 of Ordinance 931 as amended by section 43 of Ordinance 1174 are each amended to read as follows:

17.16.120 Continuation of hearing.

The planning agency or city council may continue the hearing if, for any reason:

(1) It is unable to hear all of the public testimony on the matter;

(2) It determines that it needs more information on the matter; or

(3) It directs that the proposed preliminary subdivision be modified.

If, during the hearing, the planning agency or city council announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

Sec. 14. DMMC 17.16.130 and section 27 of Ordinance 931 as amended by section 44 of Ordinance 1174 are each amended to read as follows:

**17.16.130 Planning Agency or City
council's decision.**

(1) General. Following its consideration of the matter, the planning agency or city council shall by motion direct administration to return the proposed preliminary subdivision to the applicant for modification or draft a resolution to either:

(a) Approve the preliminary subdivision; or

(b) Approve the preliminary subdivision subject to certain conditions; or

(c) Disapprove the preliminary subdivision.

(2) Decisional Criteria. The planning agency or city council may approve the proposed preliminary subdivision only if it finds that:

(a) It is consistent with the applicable provisions of the comprehensive plan, zoning code, shoreline master program, and other city policies and regulations; and

(b) It is consistent with the applicable provisions of chapter 17.36 DMMC (Layout and design of subdivisions); and

(c) There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

(d) It will serve the public use and interest and is consistent with the public health, safety, and welfare. The city council shall be guided by the policy and standards and may exercise

the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended;

(e) The proposed preliminary subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate.

(3) Conditions, Restrictions, and Modifications. The planning agency or city council shall include in its decision any conditions, restrictions, and modifications that are determined as necessary to eliminate or minimize any undesirable effects or impacts that would result from approving the proposed subdivision. Any conditions, restrictions, and modifications that are imposed shall become part of the decision.

(4) Dedication. The planning agency or city council may require dedication of tracts, easements, or rights-of-way for utility or other public purposes. Such dedications shall be clearly shown and described on all documents required by this chapter.

(5) Contents of Decision. The planning agency or city council shall adopt by ~~((resolution))~~ regular motion:

(a) A statement approving, approving with conditions, or denying the preliminary subdivision; and

(b) Any conditions, restrictions, and modifications that are imposed; and

(c) Findings of fact that support the decision, including any conditions, restrictions, and modifications that are imposed; and

(d) A statement of the criteria used in making the decision; and

(e) A summary of the rights, as established in this chapter, of the applicant and others to request reconsideration of the decision of the city council.

(6) Distribution of ~~((Resolution))~~ Decision. Within five days following ~~((adoption of))~~ the planning agency or city council's ~~((resolution))~~ decision, the planning official shall distribute the resolution as follows:

(a) To the applicant; and

(b) To each person who submitted timely written or oral testimony to the planning agency or city council for inclusion in the record.

(7) Failure to Resubmit. Preliminary subdivision applications returned to the applicant for modification that are not resubmitted to the planning official within 45 days of the date of the planning agency or city council public hearing will be, for the purposes of this chapter, considered withdrawn; except that the community development director may extend the period to resubmit the application for an additional 45 days upon written request by the applicant submitted within the initial 45-day resubmittal period. Time spent by the applicant to make modifications as directed by the planning agency or city council shall not be counted toward application time limits specified in DMMC 17.16.170 (Processing preliminary subdivisions - Time limits).

Sec. 15. DMMC 17.16.140 and section 28 of Ordinance 931 as amended by section 45 of Ordinance 1174 are each amended to read as follows:

17.16.140 Reconsideration period - Final decision unless reconsidered.

The applicant shall not engage in any activity based on the decision approving the preliminary subdivision until the time to request reconsideration has expired. If the request for reconsideration is granted, the applicant shall not engage in any activity based on the decision

approving the application until the city issues a final decision on the matter. If the decision of the planning agency or city council is not timely reconsidered, that decision shall be the final decision of the city. Distribution of the decision in resolution form under DMMC 17.16.130(6) (Planning agency or ((E))city council's decision) and as required by chapter 18.56 DMMC (Development review procedures) shall constitute notice of final decision.

Sec. 16. DMMC 17.16.150 and section 29 of Ordinance 931 as amended by section 46 of Ordinance 1174 are each amended to read as follows:

17.16.150 Reconsideration.

(1) Who May Request Reconsideration. A request to reconsider the decision or action of the planning agency or city council connected with the subdivision application, other than a motion to reconsider brought under city council rules of procedure, may be made by:

(a) The applicant; or

(b) Any person who submitted timely written or oral testimony to the planning agency or city council for inclusion in the record.

(2) How to Request Reconsideration. The request for reconsideration, in the form of a letter, shall be delivered to the community development department within 10 days following the day of ((~~adoption of~~)) the planning agency or city council's ((~~resolution~~)) decision. The request shall contain:

(a) A clear reference to the preliminary subdivision to be reconsidered; and

(b) A statement of the specific factual findings or conclusions of the planning agency or city council disputed by the person filing the request for reconsideration.

(3) Criteria. The planning agency or city council shall reconsider a decision if ~~((the council finds))~~ it is determined that:

(a) An error of fact, law, or procedure that is more likely than not to affect the outcome of the decision has been made; or

(b) The person requesting reconsideration is seeking to enter previously unavailable information that is more likely than not to affect the outcome of the decision.

(4) Rules. Except as provided in this chapter, requests for reconsideration shall otherwise be processed in conformance with chapter 4.12 DMMC (City council - Rules of procedure).

(5) Notice of Decision. If the planning agency or city council, under the rules of reconsideration specified in this section, reconsiders an application for a preliminary subdivision and ~~((adopts a resolution))~~ passes a motion which results in a change in the original ~~((city council))~~ decision specified in DMMC 17.16.130 (Planning agency or ((C)) city council's decision), the planning official shall within five days of the ~~((adoption date of the city council resolution))~~ decision prepare a notice of decision and distribute it to:

(a) The applicant;

(b) Each person who submitted timely written or oral testimony for inclusion in the record.

Sec. 17. DMMC 17.16.180 and section 32 of Ordinance 931 as amended by section 48 of Ordinance 1174 are each amended to read as follows:

17.16.180 Judicial review - Preliminary subdivision.

General. The action of the planning agency or city council in approving, approving with conditions, disapproving, or returning to the

applicant for modifications a preliminary subdivision may be reviewed for unlawful, arbitrary, or capricious action by filing a land use petition with the Superior Court of Washington for King County as specified by chapter 36.70C RCW, as presently constituted or as may be subsequently amended.

Sec. 18. DMMC 17.16.190 and section 33 of Ordinance 931 are each amended to read as follows:

17.16.190 Effect of preliminary subdivision approval.

(1) General. The approval of a preliminary subdivision by the city constitutes approval of the general concept and layout of the plat as approved. Preliminary subdivision approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the public works director.

(2) Construction of Certain Improvements. The applicant shall submit detailed design documents for all required right-of-way, easement, utility, or other improvements to the community development department. These documents shall be reviewed and approved by the public works director and planning official. Following such approval, the city may issue the necessary permits to construct the improvements.

(3) Deviations from the Preliminary Plat. The city shall not authorize improvements to be constructed, unless the improvements are consistent with the plat concept and layout of the preliminary subdivision approved by the planning agency or city council. In making such a determination, the public works director and planning official shall utilize the criteria for minor deviations set forth in DMMC 17.16.230(2). If consistency with the criteria is not clear, the public works director or planning official shall request a determination from the planning agency or city council.

Sec. 19. DMMC 17.20.020 and section 41(B) of Ordinance 931 as amended by section 53 of Ordinance 1174 are each amended to read as follows:

17.20.020 Procedure.

Requests for modified subdivisions and short subdivisions shall be processed and decided upon as specified in chapters 17.16 and 17.12 (Subdivisions and Short subdivisions), respectively; except that the following additional requirements shall apply:

(1) Public notice shall be expanded to include a description of which aspects of the proposed modified subdivision/short subdivision are requested to deviate from city standards.

(2) The applicant shall submit as part of the required application materials a written narrative entitled "Modified Subdivision/Short Subdivision Design Justification" which states why proposed deviations from city standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions/short subdivision, are incorporated into the proposal to offset the need for such standards.

(3) Within 21 days of the date of the decision to approve, approve with conditions, or disapprove a short subdivision, the planning official shall provide notice of the decision, written findings, and other relevant materials to the ((city council)) planning agency at a regularly scheduled public meeting. The ((city council)) planning agency shall by motion decide whether to concur with the community development director's decision or review the matter further at a future meeting. The decision to approve, approve with conditions, or disapprove an application for modified short subdivision shall not be considered final until ((city council)) planning agency action on the matter is complete.

Sec. 20. DMMC 17.20.030 and section 41(C) of Ordinance 931 as amended by section 1 of Ordinance 1081 are each amended to read as follows:

17.20.030 Approval criteria.

The city may approve a proposed modified subdivision or short subdivision under this chapter only if it finds that all of the following criteria are met:

(1) It is consistent with the intent of the comprehensive plan, zoning code, and shoreline master program; and

(2) All lots within a subdivision meet the lot area and lot width requirements for the zone classification assigned to the property proposed to be subdivided; and

(3) Except for those requirements specifically requested by the applicant to be modified, it is consistent with the applicable provisions of chapter 17.36 DMMC; and

(4) There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

(5) It serves the public use and interest and is consistent with the public health, safety, and welfare. The ((~~city council~~)) planning agency shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended; and

(6) The proposed modified subdivision short subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate; and

(7) The applicant has demonstrated that the proposal includes design features or improvements which are beneficial to the public, typically not found in traditional subdivision proposals, and equivalent in scale or value to the improvements or requirements from which the proposal deviates; and

(8) In subdivisions containing tracts for wetlands, streams, or required buffers, as required by DMMC 17.36.160, the minimum lot size established by Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided may be reduced, provided:

(a) The number of lots within the subdivision shall be no more than allowed by Title 18 DMMC under the provisions for limited density transfer for environmentally sensitive areas; and

(b) Adequate recreation area shall be provided on each lot or by establishing a separate recreation tract in addition to that required by DMMC 17.36.150.

Sec. 21. DMMC 17.40.080 and section 79 of Ordinance 931 as amended by section 58 of Ordinance 1174 are each amended to read as follows:

17.40.080 Official file.

(1) Contents. The planning official shall compile an official file for each application containing the following:

(a) All application materials submitted by the applicant;

(b) Any staff report(s) prepared for the proposal;

(c) All written comments received about the proposal;

(d) All documents prepared or submitted pursuant to State Environmental Policy Act compliance;

(e) If available, the electronic recording of any public meeting on the matter;

(f) The decision or recommendation of the community development director, planning agency, and city council, as applicable;

(g) If the decision of the community development director on a short subdivision is appealed, or the decision of the planning agency or city council on a preliminary subdivision plat alteration or plat vacation is reconsidered, the following shall be added to the file:

(i) The letter of reconsideration or appeal;

(ii) All written comments submitted regarding the reconsideration or appeal;

(iii) The staff report on the appeal;

(iv) The electronic sound recording and minutes of the hearing on the appeal;

(v) The decision of the planning agency or city council on the reconsideration;

(vi) The decision of the hearing examiner on the appeal;

(h) Any other relevant information.

(2) Availability. The official file shall be available for inspection and copying during regular city business hours.

~~Sec. 22. DMMC 4.28.025 and section 1 of Ordinance 930 as amended by section 19 of Ordinance 983 as amended by section 1 of Ordinance 1168 are each amended to read as follows:~~

~~4.28.025 Interim eighth and ninth positions.~~

~~There ((is)) are created ((an)) interim eighth and ninth positions on the planning agency((as an ex officio nonvoting)). Two members of the city council shall be appointed by the mayor and confirmed by the city council to serve in the interim eighth and ninth positions. The mayor is eligible for appointment to one of the interim positions. Persons appointed to the interim eighth and ninth positions shall serve as voting members for a term effective upon appointment through December 31, ((1996)) 2003, at which time the eighth and ninth positions shall lapse.~~

Sec. 23. DMMC 4.28.040 and section 4 of Ordinance 611 as amended by section 1 of Ordinance 689 are each amended to read as follows:

4.28.040 Powers - Duties - Parks. In addition to the powers and duties specified in DMMC 4.28.030, the planning agency ((shall)) may provide comprehensive planning recommendations to the city council for the acquisition of sites or lands for use as park and recreational facilities, consistent with long-range comprehensive planning of the city. Detailed development planning of each specific park or recreation site shall be according to procedures specifically directed by the city council as deemed appropriate for the particular project. Prior to approval of any detailed development park plan, such plan ((shall)) may be presented to the planning agency for its comments as to the consistency of the development plan with the long-range comprehensive park and recreation plan of the city.

Sec. 24. Repealer. DMMC 4.28.060 and section 6 of Ordinance 611 are each repealed.

Sec. 25. Severability - Construction.

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

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

Sec. 26. Effective Date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the city council of the city of Des Moines this ____ day of _____, 2001 and signed in authentication thereof this ____ day of _____, 2001.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

EXCERPT
DES MOINES CITY COUNCIL MINUTES
July 12, 2001

Draft Ordinance No. 01-119 Duties of the Planning Agency - 1st Reading

City Manager Olander informed Council that he had received a call from Mayor Pro Tem Sheckler requesting that Council postpone final action on this issue until he was present.

Community Development Director Kilgore explained that the proposed ordinance would transfer decision making authority for a variety of land use actions from the City Council to the Planning Agency and would expand the agency from seven to nine members. The two additional members would be Councilmembers. Community Development Director Kilgore noted that the draft ordinance had been prepared in response to Council's direction. She detailed the following options before Council:

1. Discuss and/or revise the proposed Ordinance. Direct staff to schedule a public hearing for August 9, 2001 regarding the issue.
2. Direct staff to revise the draft ordinance and return the amended draft to Council for review.
3. Delay discussion of the issue until full Council was present.

Community Development Director Kilgore noted that the word "shall" had been changed to "may" in Section 23 of the proposed ordinance. This change was recommended as it was consistent with current practice. She also said that the draft ordinance directed the Planning Agency to use Council's Rules of Procedure while conducting a public hearing.

Councilmember Sherman confirmed that under the proposed ordinance subdivisions would go before the Planning Agency rather than to Council. Councilmember Sherman cited the comments received from the Zenith residents previously in the meeting as an example of his belief that such decisions should be made by elected officials.

Mayor Thomasson opposed giving Council's legislative duties to the Planning Agency. He felt that the elected Councilmembers and appointed Planning Agency members had different responsibilities. He believed that Council had time to continue reviewing land use issues.

Councilmember Kaplan noted that the Council currently accepted recommendations from other various advisory boards. He felt that the public would petition the decision makers on certain matters whether they were elected or appointed officials. Councilmember Kaplan said that he trusted the appointed members to make sound decisions.

Mayor Thomasson noted that changes to a final plat were limited by the preliminary plat decisions.

Community Development Director Kilgore confirmed that developers would begin improvements after preliminary plat approval was received.

Councilmember Towe concurred with Councilmember Kaplan's comments. He felt that the proposed ordinance would allow Council to serve in a policy role rather than participate in specific plan reviews.

Councilmember Wasson agreed with Councilmember Sherman's statements. He said that the Planning Agency was appointed by Council but had no accountability to the citizens. He noted that the citizens had no opportunity to change the membership of the Planning Agency.

MOTION was made by Councilmember Kaplan and seconded by Councilmember Towe to direct staff to schedule a public hearing on August 9, 2001 to allow public comment on Draft Ordinance No. 01-119 as amended.

City Attorney McLean clarified that an approved motion would move the proposed ordinance on to a second reading.

VOTE ON MOTION: Motion passed, 4 – 2, with Councilmembers Sherman and Wasson opposed.

EXCERPT DES MOINES CITY COUNCIL MINUTES February 1, 2001

DUTIES OF THE PLANNING AGENCY

Community Development Director Kilgore noted that, at Council's request, she has prepared alternatives to the status quo that would enlarge the Planning Agency's responsibilities for Council's consideration. She requested Council's direction on the following proposed changes:

Quasi-judicial Land Use Decisions	Current Decisionmaker	Alternative Decisionmaker
Unclassified use permit	City Council	Planning Agency ¹
Preliminary planned unit development	City Council	Planning Agency ¹
Preliminary plat	City Council	Planning Agency
Preliminary modified subdivision	City Council	Planning Agency
Preliminary binding site plan	City Council	Planning Agency
Preliminary townhouse development	City Council	Planning Agency
Business park Master Plan	City Council	No Change
Right-of-way dedication and vacation	City Council	No Change
Final Plat, planned unit development, etc.	City Council ²	No Change

¹ This change would not be enacted until the Zoning Code is amended to clarify decision criteria.

² Decision on final plat, plan, etc. would be based upon the record of information created during the Planning Agency's public hearing on the preliminary plat, plan, etc.

Legislative Actions	Current Decisionmaker	Alternative Decisionmaker
Textual code amendments	City Council. When appropriate, draft amendments are first forwarded to the Planning Agency for review and comment.	No change
Comprehensive Plan Amendments	City Council. The Planning Agency conducts a public hearing and forwards its recommendations to the City Council.	No change

Other provisions and provisos include:

- For the next 3-5 years, Planning Agency membership would be expanded from seven to nine members. The two additional seats would be filled by Councilmembers, who would serve as voting members. This is intended to promote continuity between goals and values of the City Council and the Planning Agency.
- Two times per year, a joint meeting of the City Council and the Planning Agency would be held to foster direct communication between the two boards.

Council noted that two members of the Planning Agency were in attendance and requested their comments on the proposal.

Planning Agency Member Mark Proulx spoke in support of the proposed changes stating that they strike a balance between duties and a partnership with City Councilmembers.

Mayor Thomasson questioned whether a conflict would exist if Councilmembers voted on matters that would have an appeal of Agency decisions directly to the Council.

City Attorney McLean responded that he would have to research which matters are appealable to the Council. It was noted that Code changes could be instituted to make certain items appealable to the Hearing Examiner or Superior Court, rather than the City Council.

Dave Peterson, Chairman of the Planning Agency, informed Council that he supports the proposed changes and if it is legally permitted, would prefer that the two Councilmembers have the right to vote on issues before the Agency.

Upon questioning by Council, Community Development Director Kilgore reminded Council that in regards to Unclassified Use Permits and Preliminary Planned Unit Developments, the Des Moines Municipal Zoning Code would first have to be amended to clarify decision criteria. Until that process is complete the decisions on these matters would remain with City Council.

MOTION was made by Councilmember Towe, seconded by Mayor Pro Tem Sheckler, to direct staff to prepare a draft ordinance for Council consideration at a future meeting, to change the duties of the Planning Agency as outlined by staff, with two Councilmembers to serve as non-voting members.

Councilmember Sherman spoke in opposition to the motion. He stated that he personally wants to be directly responsible to citizens and that as small city feels the elected officials should make the tough decisions. He noted that he does appreciate the input from the Agency members on issues, but felt there may be other ways to make the Planning Agency a more effective group, without giving up Council's authority.

Mayor Pro Tem Sheckler stated there are two options - do away with the Agency, or not. He felt strongly that if the Planning Agency is to remain then they need to have proper authority to make decisions under guidelines established by the Council. He felt they have much to offer as an individual body, especially with two Councilmembers as members. He noted if this does not work, it can always be changed.

Councilmember Kaplan remarked that the Planning Agency is made up of City residents that obviously want the best for the City and community. He noted members of the Agency represent a good balance of interests and felt with two Councilmembers on the Agency, the group would better serve the Council as a whole and the citizens of the City. He did express concern over any conflicts regarding appeals to Council.

Councilmember Wasson questioned whether the Agency had seen this proposal.

Community Development Director Kilgore informed Council that the City Clerk had mailed Council's study packet to all of the Agency members and that the Agency had an informal discussion regarding the changes at a meeting on Monday, January 29, 2001.

Planning Agency Member Proulx felt that with Councilmembers having a voting status, that it would promote a more active partnership. Upon questioning, he assured Councilmembers that the Agency would not be intimidated by the Councilmembers participation on the Agency.

Councilmember Towe voiced the opinion that delegating more authority to the Agency is not necessarily a bad idea and it would free up Council to work on other issues. He noted there are several large policy issues Council needs to address. Some examples would be how to help promote development of the Pacific Ridge Area, the Marina Master Plan, budget and financial impacts of I-695. He concluded by stating, in his opinion, the proposed changes would strengthen the link between the Council and the Planning Agency.

Councilmember Brazil stated he supports the motion, but would prefer the Councilmembers have a voting status.

Mayor Thomasson voiced agreement with Councilmember Brazil, but stated first the various appeal processes will need to be defined to avoid any conflict.

City Manager Olander stated staff will check all avenues for appeal process that are available. he noted that there are a number of items that Council has not had the time to work on such as updating the City's Zoning Code. He further advised there are major items that will be coming before Council that will require a lot of work, such as updating the Shoreline Master Plan and detailed environmental issues.

Councilmember Sherman advised that the City's codes are not a "cook-book" and that there is a lot of discretion left. He further felt that delegating Council authority in this manner would cut Council off from direct community interaction.

MOTION was made by Mayor Thomasson, seconded by Councilmember Wasson, to amend the original motion to make the Councilmembers voting members.

Councilmember Sherman stated that it would be a mistaken notion to feel that two members of the Council could possibly represent the views of the Council as a whole.

VOTE ON AMENDMENT TO MAIN MOTION: Motion passed 5 to 2 with Councilmembers Kaplan and Sherman voting NO.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Councilmember Sherman voting NO.

**EXCERPT
DES MOINES CITY COUNCIL MINUTES
October 19, 2000**

Planning Agency

Community Development Director Kilgore informed Council that the role of the Planning Agency had decreased in the last few years due to regulatory reform, the completion of the Comprehensive Plan and the lack of subdivisions submitted to the City. In light of these changes, Ms. Kilgore said that the Planning Agency felt that their role required discussion. She outlined the following options for Council to discuss:

1. Dissolve the Planning Agency.
2. Expand the duties of the Planning Agency.
3. Suspend Planning Agency activities for six months to develop a work program for the agency.
4. Do nothing.

Community Development Director Kilgore said that several subdivisions were expected to be reviewed in 2001. She also noted that the Planning Agency had indicated that they felt their recommendation carried little weight with the Council. If Council chooses to continue the agency, Community Development Director Kilgore recommended that Council communicate the Planning Agency's expected roles and duties.

At 7:42 p.m., Councilmember Wasson arrived.

Community Development Director Kilgore explained that the Planning Agency was not receiving as much public input now as Council was conducting all of the public hearings.

Councilmember Sherman said that the Council and the Planning Agency had conducted joint public meetings in the past to solicit public comment. The Planning Agency then discussed the issue and formed a recommendation after the public meeting.

Councilmember Towe spoke in support of Option #2. He said that he preferred to strengthen the dialog with the Planning Agency regarding land use public policy issues. He felt that the role of the Planning Agency could also be expanded for development proposals.

Councilmember Brazil also spoke in favor of Option #2. He said that he favored allowing the Planning Agency to conduct the public hearing for development proposals.

Councilmember Sheckler said that Council had established proper guidelines for the Planning Agency. Therefore, he supported Option #2.

Mayor Thomasson voiced support for either Option #1 or #4. He said that council committees were currently studying several issues such as the Marina Master Plan and the Transportation Plan that could have been delegated to the Planning Agency. He felt that Council held the final responsibility for City issues, as they were the elected officials. If Council no longer wished to review preliminary plats, Mayor Thomasson suggested that a Hearing Examiner be delegated this task rather than the Planning Agency.

City Attorney McLean clarified that the Planning Agency had access to legal counsel.

Councilmember Wasson voiced support for Option #1 as it would eliminate a layer of bureaucracy and would be easier for the customers.

As liaison to the Planning Agency, Councilmember Kaplan informed Council that he had discussed the issue with five of the seven Planning Agency members. He said the lack of regard for Planning Agency recommendations and the lack of communication between Council and themselves frustrated them. Councilmember Kaplan said he personally supported Option #2 as it allowed more individuals to study the issue and provide input. He felt that Council could still retain their authority.

Council asked if any members of the Planning Agency wished to address them.

As Chairman of the Planning Agency, David Peterson said that the agency often feels left out. He stated his preference for Option #2. He noted that, at times, the Planning Agency has needed more time to form their recommendations. He felt that the Planning Agency had enough experience to conduct the public hearings.

Planning Agency member Steve Swank spoke in support of Option #2. He felt that the Planning Agency could be a valuable asset to the City. He suggested that Council and Planning Agency members meet to discuss specific guidelines for the agency.

As a two-year member of the Planning Agency, Mark Proulx voiced support for Option #2. He felt that the Planning Agency could relieve some of the workload of Council and provide additional review of difficult issues. As a citizen, he wished to contribute to the community in this capacity.

Planning Agency member Bruce Young stated his belief that improved communication between the Planning Agency and Council was needed. He voiced support for Option #2.

Noting that Council had been very deliberate in reviewing regulatory reform issues, Mayor Thomasson questioned the process that would be used to expand the duties of the Planning Agency.

Community Development Director Kilgore explained that Council would need to determine which tasks were relinquished to the Planning Agency. She said that if the Planning Agency were given authority to approve preliminary plats then the Planning Agency would also conduct the public hearing associated with the development.

Councilmember Sherman said that he wished to increase public participation but did not want to give up Council's authority. He suggested that joint meetings be conducted between the two boards.

Councilmember Towe felt that Option #2 could include land use and zoning planning and public involvement and outreach.

City Manager Olander confirmed that there was a general consensus to proceed with Option #2. He said that staff would present a list of possible issues to be given to the Planning Agency for Council and Planning Agency review and discussion.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL CITY OF DES MOINES, WA

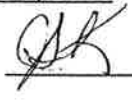
SUBJECT: Duties of the Planning Agency

ATTACHMENTS:

1. Draft Ordinance No. 01-119.
2. Meeting minutes.

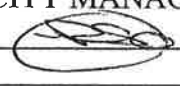
FOR AGENDA OF: July 12, 2001
DEPT. OF ORIGIN Community Dev.
DATE SUBMITTED June 22, 2001

CLEARANCES:

☒ COMMUNITY DEV. 

☐ ENGINEER _____

☐ LEGAL _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL 

RECOMMENDED ACTION

Administration is seeking direction from the City Council regarding Draft Ordinance No. 01-119.

SUMMARY STATEMENT

This agenda item provides for continued discussion regarding the duties of the Planning Agency. This matter was last discussed on February 1, 2001 (meeting minutes provided as Attachment 2). At that time, Council directed staff to prepare an ordinance that would transfer decision-making authority for a variety of land use actions from the City Council to the Planning Agency. The draft ordinance prepared in response to Council's direction is provided as Attachment 1.

If the Council chooses to proceed with the draft ordinance as substantially written, a public hearing can be scheduled for August 9, 2001.

COMMUNITY DEVELOPMENT'S FIRST DRAFT 06/21/01
DRAFT ORDINANCE NO. 01-119

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the membership and duties of the Des Moines Planning Agency, adding a new section to chapter 18.56 DMMC, amending DMMC 4.28.025, DMMC 4.28.040, DMMC 17.16.080, DMMC 17.16.100, DMMC 17.16.110, DMMC 17.16.120, DMMC 17.16.130, DMMC 17.16.140, DMMC 17.16.150, DMMC 17.16.180, DMMC 17.16.190, DMMC 17.20.020, DMMC 17.20.030, DMMC 17.40.080, DMMC 18.56.020, DMMC 18.56.060, DMMC 18.56.100, DMMC 18.56.180, DMMC 18.56.220, DMMC 18.56.240, and DMMC 18.56.270, and repealing DMMC 4.28.060 and DMMC 17.16.090.

WHEREAS, the Des Moines Planning Agency was established in 1984 to provide recommendations to the City Council regarding certain land use matters, and

WHEREAS, since creation of the Planning Agency, numerous citizens have dutifully and admirably served the Des Moines community as Planning Agency members, and

WHEREAS, the adoption of the Greater Des Moines Comprehensive Plan in 1995 constituted the completion of a thorough, multi-year land use planning effort, and

WHEREAS, changes to permitting procedures enacted in 1996 in response to the Washington State Regulatory Reform Act reduced the scope of duties of the Planning Agency, and

WHEREAS, due to a lack of business items during in recent years, the Planning Agency has met infrequently, and

WHEREAS, during the October 19, 2000 and February 1, 2001 meetings, the City Council discussed potential changes to the scope of Planning Agency duties, and subsequently directed administration to prepare draft legislation to expand the duties of the Planning Agency, and

WHEREAS, the SEPA responsible official has concluded that this ordinance constitutes a procedural action and is categorically exempt from SEPA threshold determination and EIS requirements as allowed by 197-11-800(20), and

THE CITY COUNCIL OF THE CITY OF DES MOINES DOES ORDAIN AS FOLLOWS:

Sec. 1. DMMC 18.56.020 and section 2 of Ordinance 1174 are each amended to read as follows:

18.56.020 Framework for decision.

(1) The scope of a land use action covered by this chapter shall be limited as specified by RCW 36.70B.030 as presently constituted or as may be subsequently amended.

(2) Except when a land use action is categorically exempt from SEPA, environmental review shall be conducted concurrently with review of other proposed land use actions requested by an applicant. Integrated and consolidated review shall be provided as required by RCW 36.70B.120 and 36.70B.140 as presently constituted or as may be subsequently amended.

(3) As allowed by RCW 36.70B.140(1) as presently constituted or as may be subsequently amended, the following land use actions are not subject to the provisions of RCW 36.70B.070, 36.70B.080, 36.70B.090, 36.70B.110, 36.70B.120, and 36.70B.130 because the city council has determined that these projects present special circumstances that warrant a review process different from the process specified by this chapter:

- (a) Business park master plans;
- (b) Street vacations and other actions relating to use of public areas or facilities;
- (c) Type VI land use actions; and
- (d) Abatement of nonconforming uses.

(4) As authorized by RCW 36.70B.140(2) as presently constituted or as may be subsequently amended, the following Type I land use actions shall not be subject to the provisions of RCW 36.70B.060, 36.70B.110, 36.70B.120, and 36.70B.130 as presently constituted or as may be subsequently amended:

(a) Lot line adjustments.

(b) Construction permits required under Title 14 DMMC that are categorically exempt from environmental review under chapter 16.04 DMMC (SEPA Rules), or for which environmental review has been completed in conjunction with other project permits.

(5) Land use actions are classified into ~~((six))~~ seven types, based upon the entity responsible for the decision, the amount of discretion exercised by the decisionmaker, the degree of impact associated with the decision, the amount and type of public input sought, and the type of appeal available. The ~~((six))~~ seven categories of land use actions are as follows:

(a) Type I: Administrative decision made without legal requirement for public comment.

(b) Type II: Administrative decision made after legally required opportunity for public comment.

(c) Type III: Quasi-judicial and other decisions by hearing examiner made after legally required opportunity for public comment.

(d) Type IV: Quasi-judicial and other nonlegislative decisions by city council made after legally required opportunity for public comment.

(e) Type V: Quasi-judicial and other nonlegislative decisions by city council made without legal requirement for public comment.

(f) Type VI: Legislative decision by city council made after legally required opportunity for public comment.

(g) Type VII: Quasi-judicial and other nonlegislative decisions by planning agency made after legally required opportunity for public comment.

(6) The land use review procedures specified by Title 17 DMMC (Subdivisions) for a land use action explicitly covered by that title shall control over the procedures specified by this chapter.

Sec. 2. DMMC 18.56.060 and section 6 of Ordinance 1174 as amended by section 36 of Ordinance 1197 are each amended to read as follows:

18.56.060 Type IV land use action - General.

A Type IV land use action includes quasi-judicial land use decisions and other nonlegislative land use decisions made by the city council. Public notice of application is required for a Type IV land use action. The following actions are designated as Type IV land use actions:

- (1) Zoning map amendment (rezone).
- (2) Unclassified use permit.
- (3) Preliminary planned unit development.
- (4) Business park master plan.
- (5) Final binding site plan for a business park master plan.
- ~~((6) Subdivision preliminary plat.~~
- ~~(7) Preliminary modified subdivision.~~
- ~~(8) Preliminary alteration or vacation of subdivision.))~~
- ~~(9) Preliminary alteration or vacation of short subdivision with public dedication.~~
- ~~(10) Preliminary alteration or vacation of binding site plan with public dedication.~~
- ~~(11) Preliminary alteration or vacation of binding site plan with more than four lots and not involving public dedication.~~

~~(12) Preliminary binding site plan with more than four lots.~~

~~(13) Preliminary townhouse development with more than four lots.~~

~~(14))~~ (6) Shoreline substantial development with an environmental impact statement.

~~((15))~~ (7) Shoreline conditional use.

~~((16))~~ (8) Shoreline variance.

~~((17))~~ (9) City council approval, conditional approval, or denial of a project based upon chapter 16.04 DMMC (SEPA Rules).

~~((18))~~ (10) Actions not specifically listed in this or any other section of this chapter and that are quasi-judicial land use actions made by the city council following a legally required opportunity for public comment.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.56 DMMC to read as follows:

Type VII land use action - General.

A Type VII land use action includes quasi-judicial land use decisions and other nonlegislative land use decisions made by the planning agency. Public notice of application is required for a Type VII land use action. The following actions are designated as Type VII land use actions:

- (1) Subdivision - preliminary plat.
- (2) Preliminary modified subdivision.
- (3) Preliminary alteration or vacation of subdivision.
- (4) Preliminary alteration or vacation of short subdivision with public dedication.
- (5) Preliminary alteration or vacation of binding site plan with public dedication.

(6) Preliminary alteration or vacation of binding site plan with more than four lots and not involving public dedication.

(7) Preliminary binding site plan with more than four lots.

(8) Preliminary townhouse development with more than four lots.

(9) Planning agency approval, conditional approval, or denial of a project based upon chapter 16.04 DMMC (SEPA Rules).

(10) Actions not specifically listed in this or any other section of this chapter and that are quasi-judicial land use actions made by the planning agency following a legally required opportunity for public comment.

Sec. 4. DMMC 18.56.100 and section 10 of Ordinance No. 1174 are each amended to read as follows:

18.56.100 Pre-application meetings.

(1) Informal Pre-Application Meetings. Applicants for a land use action may participate in an informal meeting prior to submittal of the application for land use action or the formal pre-application meeting. The purpose of the meeting is to discuss, in general terms, the proposed land use action, alternatives, required approvals, and the land use action process.

(2) Formal Pre-Application Meetings. Unless waived by the community development director, potential applicants or their designees are required to attend a formal pre-application meeting for all Type III, Type IV, ~~((and))~~ Type VI, and Type VII land use actions. The purpose of the meeting is to discuss the nature of the proposed development, application and approval requirements, fees, review process and schedule, and applicable policies and regulations. As appropriate, the community development director shall invite representatives of affected agencies, such as other city departments and special purpose districts, to attend any formal pre-application meeting. This meeting requirement should be deemed waived in the

event the community development director or the community development director's designee is unavailable to meet within 10 days of a request for such meeting.

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.56 DMMC to read as follows:

18.56.180 Review process for Type VII land use action.

(1) Upon conclusion of the 15-day comment period and any applicable SEPA appeal period, the planning agency may approve, approve with conditions, or deny a Type VII land use action upon compliance with the procedural requirements of chapter 18.94 DMMC (Hearing examiner code).

(3) The planning agency's decision regarding a Type VII land use action is appealable to the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the city council).

Sec. 6. DMMC 18.56.220 and section 22 of Ordinance 1174 as amended by section 6 of Ordinance 1193 are each amended to read as follows:

18.56.220 Procedures for open record public hearings.

(1) Open record public hearings shall be conducted as required by chapter 4.12 DMMC (City Council - Rules of Procedure), chapter 18.94 DMMC (Hearing Examiner), RCW 36.70B.020, 36.70B.060, 36.70B.110, 36.70B.120, 43.21C.075, and other applicable law as presently constituted or as may be subsequently amended. Open record public hearings conducted by the planning agency shall adhere to the City Council Rules of Procedure as well as other applicable provisions.

(2) Written information received from the public or other agencies shall be admitted to the record during the time between the publication of the applicable public notice, and the closing of the open record public hearing by the presiding officer of the ~~((city council))~~ hearing.

(3) Oral testimony from the public or other agencies shall be admitted to the record during the time between the opening and closing of the open record public hearing by the presiding officer of the ((~~city council~~)) hearing.

(4) Upon the closing of the open record public hearing by the presiding officer of the ((~~city council~~)) hearing, no additional written information or oral testimony from the public or other agencies will be accepted or considered.

Sec. 7. DMMC 18.56.240 and section 24 of Ordinance 1174 are each amended to read as follows:

18.56.240 Reconsideration.

A party to a public hearing or closed record appeal ((~~conducted by the hearing examiner or city council~~)) may seek reconsideration of a final decision. Requests for reconsideration shall be submitted and considered as specified by DMMC 18.94.250 (Decision - Reconsideration).

Sec. 8. DMMC 18.56.270 and section 27 of Ordinance 1174 are each amended to read as follows:

18.56.270 Appeals.

(1) Appeals shall conform to the requirements specified by RCW 36.70B.030, 36.70B.060, 43.21C.075, 90.58.180, chapter 36.70C RCW, and other applicable law as presently constituted or as may be subsequently amended.

(2) Appeal of an administrative land use action shall be filed as specified by DMMC 14.04.130 (Appeals), 16.04.210 (Agency SEPA appeals), 17.12.170 (Appeals), chapter 18.60 DMMC (Amendments, unclassified use permits, planned unit developments, and appeals), DMMC 18.86.150 (Appeals), and chapter 18.94 DMMC (Hearing examiner). Appeal of an administrative decision relating to a proposed Type III, Type IV, or Type VI land use action shall be resolved during the required open record public hearing.

(3) Except for appeal of shoreline substantial development and other shoreline decisions, appeal of a hearing examiner land use decision shall be filed as specified by chapter 18.94 DMMC (Hearing examiner). Appeal of shoreline substantial development and other shoreline decisions shall be filed with the shoreline hearings board as specified by chapter 90.58 RCW as presently constituted or as may be subsequently amended.

(4) Except for appeal of shoreline substantial development and other shoreline decisions, appeal of a planning agency or city council decision and other land use actions for which available remedies have been exhausted shall require the filing of a land use petition in Superior Court of Washington for King County as specified by DMMC 18.94.300 and chapter 36.70C RCW as presently constituted or as may be subsequently amended. Appeal of shoreline substantial development and other shoreline decisions shall be filed with the shoreline hearings board as specified by chapter 90.58 RCW, as presently constituted or as may be subsequently amended.

Sec. 9. DMMC 17.16.080 and section 22 of Ordinance 931 as amended by section 40 of Ordinance 1174 are each amended to read as follows:

17.16.080 Planning agency review.

(1) General. At a public meeting as defined in RCW 36.70B.020(5), the planning agency shall review ~~((each preliminary subdivision application))~~ Type IV land use actions processed in accordance with this chapter after the planning official issues a notice of complete application.

(2) Electronic Sound Recording. The planning agency shall make a complete electronic sound recording of each meeting. ~~((involving the review of a preliminary subdivision.))~~

(3) Recommendation. Upon consideration of the information presented at the public meeting, the planning agency shall, by a majority vote of a

quorum of its membership, make a recommendation to the city council.

(4) Recommendation Criteria. The planning agency may recommend approval of the proposed preliminary subdivision only if it finds that it meets the applicable decisional criteria.

(5) Transmittal of Recommendation. The planning official shall inform the city council of the planning agency's recommendation not later than 15 days following the adoption of the planning agency recommendation.

Sec. 10. DMMC 17.16.090 and section 23 of Ordinance 931 as amended by section 41 of Ordinance 1174 are each repealed.

Sec. 11. DMMC 17.16.100 and section 24 of Ordinance 931 are each amended to read as follows:

17.16.100 Planning Agency or City council review.

(1) General. As specified by chapter 18.56 DMMC, the ((The)) planning agency or city council shall hold a public hearing on each proposed ((preliminary subdivision)) Type IV or VII Land Use Action. No later than the first regular public meeting after receiving the recommendation of the planning agency on the preliminary subdivision, the city council shall set by motion the date of the hearing.

(2) Notice. The planning official shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.070.

(3) Electronic Sound Recording. The planning agency or city council shall make a complete electronic sound recording of each public meeting involving the review of a preliminary subdivision application.

Sec. 12. DMMC 17.16.110 and section 25 of Ordinance 931 as amended by section 42 of Ordinance 1174 are each amended to read as follows:

17.16.110 Public testimony and participation at public hearings.

Any person may participate in the ((city council)) public hearing in either or both of the following ways:

(1) By submitting written testimony either by delivering this testimony to the community development department prior to the hearing or by giving it directly to the planning agency or city council at the hearing.

(2) By appearing in person, or through a representative, at the hearing and making oral testimony directly to the planning agency or city council. The presiding officer may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.

Sec. 13. DMMC 17.16.120 and section 26 of Ordinance 931 as amended by section 43 of Ordinance 1174 are each amended to read as follows:

17.16.120 Continuation of hearing.

The planning agency or city council may continue the hearing if, for any reason:

(1) It is unable to hear all of the public testimony on the matter;

(2) It determines that it needs more information on the matter; or

(3) It directs that the proposed preliminary subdivision be modified.

If, during the hearing, the planning agency or city council announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

Sec. 14. DMMC 17.16.130 and section 27 of Ordinance 931 as amended by section 44 of Ordinance 1174 are each amended to read as follows:

**17.16.130 Planning Agency or City
council's decision.**

(1) General. Following its consideration of the matter, the planning agency or city council shall by motion direct administration to return the proposed preliminary subdivision to the applicant for modification or draft a resolution to either:

(a) Approve the preliminary subdivision; or

(b) Approve the preliminary subdivision subject to certain conditions; or

(c) Disapprove the preliminary subdivision.

(2) Decisional Criteria. The planning agency or city council may approve the proposed preliminary subdivision only if it finds that:

(a) It is consistent with the applicable provisions of the comprehensive plan, zoning code, shoreline master program, and other city policies and regulations; and

(b) It is consistent with the applicable provisions of chapter 17.36 DMMC (Layout and design of subdivisions); and

(c) There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

(d) It will serve the public use and interest and is consistent with the public health, safety, and welfare. The city council shall be guided by the policy and standards and may exercise

the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended;

(e) The proposed preliminary subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate.

(3) Conditions, Restrictions, and Modifications. The planning agency or city council shall include in its decision any conditions, restrictions, and modifications that are determined as necessary to eliminate or minimize any undesirable effects or impacts that would result from approving the proposed subdivision. Any conditions, restrictions, and modifications that are imposed shall become part of the decision.

(4) Dedication. The planning agency or city council may require dedication of tracts, easements, or rights-of-way for utility or other public purposes. Such dedications shall be clearly shown and described on all documents required by this chapter.

(5) Contents of Decision. The planning agency or city council shall adopt by ~~((resolution))~~ regular motion:

(a) A statement approving, approving with conditions, or denying the preliminary subdivision; and

(b) Any conditions, restrictions, and modifications that are imposed; and

(c) Findings of fact that support the decision, including any conditions, restrictions, and modifications that are imposed; and

(d) A statement of the criteria used in making the decision; and

(e) A summary of the rights, as established in this chapter, of the applicant and others to request reconsideration of the decision of the city council.

(6) Distribution of ~~((Resolution))~~ Decision. Within five days following ~~((adoption of))~~ the planning agency or city council's ~~((resolution))~~ decision, the planning official shall distribute the resolution as follows:

(a) To the applicant; and

(b) To each person who submitted timely written or oral testimony to the planning agency or city council for inclusion in the record.

(7) Failure to Resubmit. Preliminary subdivision applications returned to the applicant for modification that are not resubmitted to the planning official within 45 days of the date of the planning agency or city council public hearing will be, for the purposes of this chapter, considered withdrawn; except that the community development director may extend the period to resubmit the application for an additional 45 days upon written request by the applicant submitted within the initial 45-day resubmittal period. Time spent by the applicant to make modifications as directed by the planning agency or city council shall not be counted toward application time limits specified in DMMC 17.16.170 (Processing preliminary subdivisions - Time limits).

Sec. 15. DMMC 17.16.140 and section 28 of Ordinance 931 as amended by section 45 of Ordinance 1174 are each amended to read as follows:

17.16.140 Reconsideration period - Final decision unless reconsidered.

The applicant shall not engage in any activity based on the decision approving the preliminary subdivision until the time to request reconsideration has expired. If the request for reconsideration is granted, the applicant shall not engage in any activity based on the decision

approving the application until the city issues a final decision on the matter. If the decision of the planning agency or city council is not timely reconsidered, that decision shall be the final decision of the city. Distribution of the decision in resolution form under DMMC 17.16.130(6) (Planning agency or ((E))city council's decision) and as required by chapter 18.56 DMMC (Development review procedures) shall constitute notice of final decision.

Sec. 16. DMMC 17.16.150 and section 29 of Ordinance 931 as amended by section 46 of Ordinance 1174 are each amended to read as follows:

17.16.150 Reconsideration.

(1) Who May Request Reconsideration. A request to reconsider the decision or action of the planning agency or city council connected with the subdivision application, other than a motion to reconsider brought under city council rules of procedure, may be made by:

(a) The applicant; or

(b) Any person who submitted timely written or oral testimony to the planning agency or city council for inclusion in the record.

(2) How to Request Reconsideration. The request for reconsideration, in the form of a letter, shall be delivered to the community development department within 10 days following the day of ~~((adoption of))~~ the planning agency or city council's ~~((resolution))~~ decision. The request shall contain:

(a) A clear reference to the preliminary subdivision to be reconsidered; and

(b) A statement of the specific factual findings or conclusions of the planning agency or city council disputed by the person filing the request for reconsideration.

(3) Criteria. The planning agency or city council shall reconsider a decision if ~~((the council finds))~~ it is determined that:

(a) An error of fact, law, or procedure that is more likely than not to affect the outcome of the decision has been made; or

(b) The person requesting reconsideration is seeking to enter previously unavailable information that is more likely than not to affect the outcome of the decision.

(4) Rules. Except as provided in this chapter, requests for reconsideration shall otherwise be processed in conformance with chapter 4.12 DMMC (City council - Rules of procedure).

(5) Notice of Decision. If the planning agency or city council, under the rules of reconsideration specified in this section, reconsiders an application for a preliminary subdivision and ~~((adopts a resolution))~~ passes a motion which results in a change in the original ~~((city council))~~ decision specified in DMMC 17.16.130 (Planning agency or ~~((C))~~ city council's decision), the planning official shall within five days of the ~~((adoption date of the city council resolution))~~ decision prepare a notice of decision and distribute it to:

(a) The applicant;

(b) Each person who submitted timely written or oral testimony for inclusion in the record.

Sec. 17. DMMC 17.16.180 and section 32 of Ordinance 931 as amended by section 48 of Ordinance 1174 are each amended to read as follows:

17.16.180 Judicial review - Preliminary subdivision.

General. The action of the planning agency or city council in approving, approving with conditions, disapproving, or returning to the

applicant for modifications a preliminary subdivision may be reviewed for unlawful, arbitrary, or capricious action by filing a land use petition with the Superior Court of Washington for King County as specified by chapter 36.70C RCW, as presently constituted or as may be subsequently amended.

Sec. 18. DMMC 17.16.190 and section 33 of Ordinance 931 are each amended to read as follows:

17.16.190 Effect of preliminary subdivision approval.

(1) General. The approval of a preliminary subdivision by the city constitutes approval of the general concept and layout of the plat as approved. Preliminary subdivision approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the public works director.

(2) Construction of Certain Improvements. The applicant shall submit detailed design documents for all required right-of-way, easement, utility, or other improvements to the community development department. These documents shall be reviewed and approved by the public works director and planning official. Following such approval, the city may issue the necessary permits to construct the improvements.

(3) Deviations from the Preliminary Plat. The city shall not authorize improvements to be constructed, unless the improvements are consistent with the plat concept and layout of the preliminary subdivision approved by the planning agency or city council. In making such a determination, the public works director and planning official shall utilize the criteria for minor deviations set forth in DMMC 17.16.230(2). If consistency with the criteria is not clear, the public works director or planning official shall request a determination from the planning agency or city council.

Sec. 19. DMMC 17.20.020 and section 41(B) of Ordinance 931 as amended by section 53 of Ordinance 1174 are each amended to read as follows:

17.20.020 Procedure.

Requests for modified subdivisions and short subdivisions shall be processed and decided upon as specified in chapters 17.16 and 17.12 (Subdivisions and Short subdivisions), respectively; except that the following additional requirements shall apply:

(1) Public notice shall be expanded to include a description of which aspects of the proposed modified subdivision/short subdivision are requested to deviate from city standards.

(2) The applicant shall submit as part of the required application materials a written narrative entitled "Modified Subdivision/Short Subdivision Design Justification" which states why proposed deviations from city standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions/short subdivision, are incorporated into the proposal to offset the need for such standards.

(3) Within 21 days of the date of the decision to approve, approve with conditions, or disapprove a short subdivision, the planning official shall provide notice of the decision, written findings, and other relevant materials to the ((city council)) planning agency at a regularly scheduled public meeting. The ((city council)) planning agency shall by motion decide whether to concur with the community development director's decision or review the matter further at a future meeting. The decision to approve, approve with conditions, or disapprove an application for modified short subdivision shall not be considered final until ((city council)) planning agency action on the matter is complete.

Sec. 20. DMMC 17.20.030 and section 41(C) of Ordinance 931 as amended by section 1 of Ordinance 1081 are each amended to read as follows:

17.20.030 Approval criteria.

The city may approve a proposed modified subdivision or short subdivision under this chapter only if it finds that all of the following criteria are met:

(1) It is consistent with the intent of the comprehensive plan, zoning code, and shoreline master program; and

(2) All lots within a subdivision meet the lot area and lot width requirements for the zone classification assigned to the property proposed to be subdivided; and

(3) Except for those requirements specifically requested by the applicant to be modified, it is consistent with the applicable provisions of chapter 17.36 DMMC; and

(4) There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

(5) It serves the public use and interest and is consistent with the public health, safety, and welfare. The ((city council)) planning agency shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended; and

(6) The proposed modified subdivision short subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate; and

(7) The applicant has demonstrated that the proposal includes design features or improvements which are beneficial to the public, typically not found in traditional subdivision proposals, and equivalent in scale or value to the improvements or requirements from which the proposal deviates; and

(8) In subdivisions containing tracts for wetlands, streams, or required buffers, as required by DMMC 17.36.160, the minimum lot size established by Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided may be reduced, provided:

(a) The number of lots within the subdivision shall be no more than allowed by Title 18 DMMC under the provisions for limited density transfer for environmentally sensitive areas; and

(b) Adequate recreation area shall be provided on each lot or by establishing a separate recreation tract in addition to that required by DMMC 17.36.150.

Sec. 21. DMMC 17.40.080 and section 79 of Ordinance 931 as amended by section 58 of Ordinance 1174 are each amended to read as follows:

17.40.080 Official file.

(1) Contents. The planning official shall compile an official file for each application containing the following:

(a) All application materials submitted by the applicant;

(b) Any staff report(s) prepared for the proposal;

(c) All written comments received about the proposal;

(d) All documents prepared or submitted pursuant to State Environmental Policy Act compliance;

(e) If available, the electronic recording of any public meeting on the matter;

(f) The decision or recommendation of the community development director, planning agency, and city council, as applicable;

(g) If the decision of the community development director on a short subdivision is appealed, or the decision of the planning agency or city council on a preliminary subdivision plat alteration or plat vacation is reconsidered, the following shall be added to the file:

(i) The letter of reconsideration or appeal;

(ii) All written comments submitted regarding the reconsideration or appeal;

(iii) The staff report on the appeal;

(iv) The electronic sound recording and minutes of the hearing on the appeal;

(v) The decision of the planning agency or city council on the reconsideration;

(vi) The decision of the hearing examiner on the appeal;

(h) Any other relevant information.

(2) Availability. The official file shall be available for inspection and copying during regular city business hours.

Sec. 22. DMMC 4.28.025 and section 1 of Ordinance 930 as amended by section 19 of Ordinance 983 as amended by section 1 of Ordinance 1168 are each amended to read as follows:

4.28.025 Interim eighth and ninth positions.

There ~~((is))~~ are created ~~((an))~~ interim eighth and ninth positions on the planning agency ~~((as an ex officio nonvoting))~~. Two members of the city council shall be appointed by the mayor and confirmed by the city council to serve in the interim eighth and ninth positions. The mayor is eligible for appointment to one of the interim positions. Persons appointed to the interim eighth and ninth positions shall serve as voting members for a term effective upon appointment through December 31, ((1996)) 2003, at which time the eighth and ninth positions shall lapse.

Sec. 23. DMMC 4.28.040 and section 4 of Ordinance 611 as amended by section 1 of Ordinance 689 are each amended to read as follows:

4.28.040 Powers - Duties - Parks. In addition to the powers and duties specified in DMMC 4.28.030, the planning agency ~~((shall))~~ may provide comprehensive planning recommendations to the city council for the acquisition of sites or lands for use as park and recreational facilities, consistent with long-range comprehensive planning of the city. Detailed development planning of each specific park or recreation site shall be according to procedures specifically directed by the city council as deemed appropriate for the particular project. Prior to approval of any detailed development park plan, such plan ~~((shall))~~ may be presented to the planning agency for its comments as to the consistency of the development plan with the long-range comprehensive park and recreation plan of the city.

Sec. 24. Repealer. DMMC 4.28.060 and section 6 of Ordinance 611 are each repealed.

Sec. 25. Severability - Construction.

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

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

Sec. 26. Effective Date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the city council of the city of Des Moines this ____ day of _____, 2001 and signed in authentication thereof this ____ day of _____, 2001.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

EXCERPT DES MOINES CITY COUNCIL MINUTES February 1, 2001

DUTIES OF THE PLANNING AGENCY

Community Development Director Kilgore noted that, at Council's request, she has prepared alternatives to the status quo that would enlarge the Planning Agency's responsibilities for Council's consideration. She requested Council's direction on the following proposed changes:

Quasi-judicial Land Use Decisions	Current Decisionmaker	Alternative Decisionmaker
Unclassified use permit	City Council	Planning Agency ¹
Preliminary planned unit development	City Council	Planning Agency ¹
Preliminary plat	City Council	Planning Agency
Preliminary modified subdivision	City Council	Planning Agency
Preliminary binding site plan	City Council	Planning Agency
Preliminary townhouse development	City Council	Planning Agency
Business park Master Plan	City Council	No Change
Right-of-way dedication and vacation	City Council	No Change
Final Plat, planned unit development, etc.	City Council ²	No Change

¹ This change would not be enacted until the Zoning Code is amended to clarify decision criteria.

² Decision on final plat, plan, etc. would be based upon the record of information created during the Planning Agency's public hearing on the preliminary plat, plan, etc.

Legislative Actions	Current Decisionmaker	Alternative Decisionmaker
Textual code amendments	City Council. When appropriate, draft amendments are first forwarded to the Planning Agency for review and comment.	No change
Comprehensive Plan Amendments	City Council. The Planning Agency conducts a public hearing and forwards it recommendations to the City Council.	No change

Other provisions and provisos include:

- For the next 3-5 years, Planning Agency membership would be expanded from seven to nine members. The two additional seats would be filled by Councilmembers, who would serve as voting members. This is intended to promote continuity between goals and values of the City Council and the Planning Agency.
- Two times per year, a joint meeting of the City Council and the Planning Agency would be held to foster direct communication between the two boards.

Council noted that two members of the Planning Agency were in attendance and requested their comments on the proposal.

Planning Agency Member Mark Proulx spoke in support of the proposed changes stating that they strike a balance between duties and a partnership with City Councilmembers.

Mayor Thomasson questioned whether a conflict would exist if Councilmembers voted on matters that would have an appeal of Agency decisions directly to the Council.

City Attorney McLean responded that he would have to research which matters are appealable to the Council. It was noted that Code changes could be instituted to make certain items appealable to the Hearing Examiner or Superior Court, rather than the City Council.

Dave Peterson, Chairman of the Planning Agency, informed Council that he supports the proposed changes and if it is legally permitted, would prefer that the two Councilmembers have the right to vote on issues before the Agency.

Upon questioning by Council, Community Development Director Kilgore reminded Council that in regards to Unclassified Use Permits and Preliminary Planned Unit Developments, the Des Moines Municipal Zoning Code would first have to be amended to clarify decision criteria. Until that process is complete the decisions on these matters would remain with City Council.

MOTION was made by Councilmember Towe, seconded by Mayor Pro Tem Sheckler, to direct staff to prepare a draft ordinance for Council consideration at a future meeting, to change the duties of the Planning Agency as outlined by staff, with two Councilmembers to serve as non-voting members.

Councilmember Sherman spoke in opposition to the motion. He stated that he personally wants to be directly responsible to citizens and that as small city feels the elected officials should make the tough decisions. He noted that he does appreciate the input from the Agency members on issues, but felt there may be other ways to make the Planning Agency a more effective group, without giving up Council's authority.

Mayor Pro Tem Sheckler stated there are two options - do away with the Agency, or not. He felt strongly that if the Planning Agency is to remain then they need to have proper authority to make decisions under guidelines established by the Council. He felt they have much to offer as an individual body, especially with two Councilmembers as members. He noted if this does not work, it can always be changed.

Councilmember Kaplan remarked that the Planning Agency is made up of City residents that obviously want the best for the City and community. He noted members of the Agency represent a good balance of interests and felt with two Councilmembers on the Agency, the group would better serve the Council as a whole and the citizens of the City. He did express concern over any conflicts regarding appeals to Council.

Councilmember Wasson questioned whether the Agency had seen this proposal.

Community Development Director Kilgore informed Council that the City Clerk had mailed Council's study packet to all of the Agency members and that the Agency had an informal discussion regarding the changes at a meeting on Monday, January 29, 2001.

Planning Agency Member Proulx felt that with Councilmembers having a voting status, that it would promote a more active partnership. Upon questioning, he assured Councilmembers that the Agency would not be intimidated by the Councilmembers participation on the Agency.

Councilmember Towe voiced the opinion that delegating more authority to the Agency is not necessarily a bad idea and it would free up Council to work on other issues. He noted there are several large policy issues Council needs to address. Some examples would be how to help promote development of the Pacific Ridge Area, the Marina Master Plan, budget and financial impacts of I-695. He concluded by stating, in his opinion, the proposed changes would strengthen the link between the Council and the Planning Agency.

Councilmember Brazil stated he supports the motion, but would prefer the Councilmembers have a voting status.

Mayor Thomasson voiced agreement with Councilmember Brazil, but stated first the various appeal processes will need to be defined to avoid any conflict.

City Manager Olander stated staff will check all avenues for appeal process that are available. he noted that there are a number of items that Council has not had the time to work on such as updating the City's Zoning Code. He further advised there are major items that will be coming before Council that will require a lot of work, such as updating the Shoreline Master Plan and detailed environmental issues.

Councilmember Sherman advised that the City's codes are not a "cook-book" and that there is a lot of discretion left. He further felt that delegating Council authority in this manner would cut Council off from direct community interaction.

MOTION was made by Mayor Thomasson, seconded by Councilmember Wasson, to amend the original motion to make the Councilmembers voting members.

Councilmember Sherman stated that it would be a mistaken notion to feel that two members of the Council could possibly represent the views of the Council as a whole.

VOTE ON AMENDMENT TO MAIN MOTION: Motion passed 5 to 2 with Councilmembers Kaplan and Sherman voting NO.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Councilmember Sherman voting NO.

EXCERPT
DES MOINES CITY COUNCIL MINUTES
October 19, 2000

Planning Agency

Community Development Director Kilgore informed Council that the role of the Planning Agency had decreased in the last few years due to regulatory reform, the completion of the Comprehensive Plan and the lack of subdivisions submitted to the City. In light of these changes, Ms. Kilgore said that the Planning Agency felt that their role required discussion. She outlined the following options for Council to discuss:

1. Dissolve the Planning Agency.
2. Expand the duties of the Planning Agency.
3. Suspend Planning Agency activities for six months to develop a work program for the agency.
4. Do nothing.

Community Development Director Kilgore said that several subdivisions were expected to be reviewed in 2001. She also noted that the Planning Agency had indicated that they felt their recommendation carried little weight with the Council. If Council chooses to continue the agency, Community Development Director Kilgore recommended that Council communicate the Planning Agency's expected roles and duties.

At 7:42 p.m., Councilmember Wasson arrived.

Community Development Director Kilgore explained that the Planning Agency was not receiving as much public input now as Council was conducting all of the public hearings.

Councilmember Sherman said that the Council and the Planning Agency had conducted joint public meetings in the past to solicit public comment. The Planning Agency then discussed the issue and formed a recommendation after the public meeting.

Councilmember Towe spoke in support of Option #2. He said that he preferred to strengthen the dialog with the Planning Agency regarding land use public policy issues. He felt that the role of the Planning Agency could also be expanded for development proposals.

Councilmember Brazil also spoke in favor of Option #2. He said that he favored allowing the Planning Agency to conduct the public hearing for development proposals.

Councilmember Sheckler said that Council had established proper guidelines for the Planning Agency. Therefore, he supported Option #2.

Mayor Thomasson voiced support for either Option #1 or #4. He said that council committees were currently studying several issues such as the Marina Master Plan and the Transportation Plan that could have been delegated to the Planning Agency. He felt that Council held the final responsibility for City issues, as they were the elected officials. If Council no longer wished to review preliminary plats, Mayor Thomasson suggested that a Hearing Examiner be delegated this task rather than the Planning Agency.

City Attorney McLean clarified that the Planning Agency had access to legal counsel.

Councilmember Wasson voiced support for Option #1 as it would eliminate a layer of bureaucracy and would be easier for the customers.

As liaison to the Planning Agency, Councilmember Kaplan informed Council that he had discussed the issue with five of the seven Planning Agency members. He said the lack of regard for Planning Agency recommendations and the lack of communication between Council and themselves frustrated them. Councilmember Kaplan said he personally supported Option #2 as it allowed more individuals to study the issue and provide input. He felt that Council could still retain their authority.

Council asked if any members of the Planning Agency wished to address them.

As Chairman of the Planning Agency, David Peterson said that the agency often feels left out. He stated his preference for Option #2. He noted that, at times, the Planning Agency has needed more time to form their recommendations. He felt that the Planning Agency had enough experience to conduct the public hearings.

Planning Agency member Steve Swank spoke in support of Option #2. He felt that the Planning Agency could be a valuable asset to the City. He suggested that Council and Planning Agency members meet to discuss specific guidelines for the agency.

As a two-year member of the Planning Agency, Mark Proulx voiced support for Option #2. He felt that the Planning Agency could relieve some of the workload of Council and provide additional review of difficult issues. As a citizen, he wished to contribute to the community in this capacity.

Planning Agency member Bruce Young stated his belief that improved communication between the Planning Agency and Council was needed. He voiced support for Option #2.

Noting that Council had been very deliberate in reviewing regulatory reform issues, Mayor Thomasson questioned the process that would be used to expand the duties of the Planning Agency.

Community Development Director Kilgore explained that Council would need to determine which tasks were relinquished to the Planning Agency. She said that if the Planning Agency were given authority to approve preliminary plats then the Planning Agency would also conduct the public hearing associated with the development.

Councilmember Sherman said that he wished to increase public participation but did not want to give up Council's authority. He suggested that joint meetings be conducted between the two boards.

Councilmember Towe felt that Option #2 could include land use and zoning planning and public involvement and outreach.

City Manager Olander confirmed that there was a general consensus to proceed with Option #2. He said that staff would present a list of possible issues to be given to the Planning Agency for Council and Planning Agency review and discussion.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL CITY OF DES MOINES, WA

SUBJECT: Duties of the Planning Agency

ATTACHMENTS:

1. Alternative for Planning Agency duties.
2. Meeting minutes.

FOR AGENDA OF: February 1, 2001
DEPT. OF ORIGIN Community Dev.
DATE SUBMITTED January 24, 2001

CLEARANCES:

☒ COMMUNITY DEV. SK

☐ ENGINEER _____

☐ LEGAL _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL [Signature]

RECOMMENDED ACTION

Alternatives:

1. Change the duties of the Planning Agency as outlined by Attachment 1.
2. Change the duties of the Planning Agency as determined by the City Council.

SUMMARY STATEMENT

This agenda item provides for continued discussion regarding the duties of the Planning Agency. This matter was last discussed on October 19, 2000 (meeting minutes provided as Attachment 2) and a majority of the Councilmembers favored expanding the number and type of land use decisions made the Planning Agency. Staff was directed to prepare an alternative to the status quo that would enlarge the Planning Agency's responsibilities. That proposal is provided as Attachment 1.

If the Council chooses to expand the types of land use decisions made by the Planning Agency, staff will prepare the appropriate ordinances for the Council's consideration at a future meeting.

Planning Agency Duties - Alternative to Status Quo

For Discussion Only – 1/24/01

Quasi-judicial Land Use Decisions	Current Decisionmaker	Alternative Decisionmaker
Unclassified use permit	City Council	Planning Agency ¹
Preliminary planned unit development	City Council	Planning Agency ¹
Preliminary plat	City Council	Planning Agency
Preliminary modified subdivision	City Council	Planning Agency
Preliminary binding site plan	City Council	Planning Agency
Preliminary townhouse development	City Council	Planning Agency
Business Park Master Plan	City Council	No change
Right-of-way dedication and vacation	City Council	No change
Final plat, planned unit development, etc.	City Council ²	No change

¹ This change would not be enacted until the Zoning Code is amended to clarify decision criteria.

² Decision on final plat, plan, etc. would be based upon the record of information created during the Planning Agency's public hearing on the preliminary plat, plan, etc.

Legislative Actions	Current Decisionmaker	Alternative Decisionmaker
Textual code amendments	City Council. When appropriate, draft amendments are first forwarded to the Planning Agency for review and comment.	No change.
Comprehensive Plan amendments	City Council. The Planning Agency conducts a public hearing and forwards its recommendations to the City Council.	No change.

Other provisions and provisos include:

- ❖ For the next 3-5 years, Planning Agency membership would be expanded from seven to nine members. The two additional seats would be filled by Councilmembers, who would serve as voting members. This is intended to promote continuity between goals and values of the City Council and the Planning Agency.
- ❖ Two times per year, a joint meeting of the City Council and the Planning Agency would be held to foster direct communication between the two boards.

■ ■ ■ ■ ■

EXCERPT
DES MOINES CITY COUNCIL MINUTES
October 19, 2000

Planning Agency

Community Development Director Kilgore informed Council that the role of the Planning Agency had decreased in the last few years due to regulatory reform, the completion of the Comprehensive Plan and the lack of subdivisions submitted to the City. In light of these changes, Ms. Kilgore said that the Planning Agency felt that their role required discussion. She outlined the following options for Council to discuss:

1. Dissolve the Planning Agency.
2. Expand the duties of the Planning Agency.
3. Suspend Planning Agency activities for six months to develop a work program for the agency.
4. Do nothing.

Community Development Director Kilgore said that several subdivisions were expected to be reviewed in 2001. She also noted that the Planning Agency had indicated that they felt their recommendation carried little weight with the Council. If Council chooses to continue the agency, Community Development Director Kilgore recommended that Council communicate the Planning Agency's expected roles and duties.

At 7:42 p.m., Councilmember Wasson arrived.

Community Development Director Kilgore explained that the Planning Agency was not receiving as much public input now as Council was conducting all of the public hearings.

Councilmember Sherman said that the Council and the Planning Agency had conducted joint public meetings in the past to solicit public comment. The Planning Agency then discussed the issue and formed a recommendation after the public meeting.

Councilmember Towe spoke in support of Option #2. He said that he preferred to strengthen the dialog with the Planning Agency regarding land use public policy issues. He felt that the role of the Planning Agency could also be expanded for development proposals.

Councilmember Brazil also spoke in favor of Option #2. He said that he favored allowing the Planning Agency to conduct the public hearing for development proposals.

Councilmember Sheckler said that Council had established proper guidelines for the Planning Agency. Therefore, he supported Option #2.

Mayor Thomasson voiced support for either Option #1 or #4. He said that council committees were currently studying several issues such as the Marina Master Plan and the Transportation Plan that could have been delegated to the Planning Agency. He felt that Council held the final responsibility for City issues, as they were the elected officials. If Council no longer wished to review preliminary plats, Mayor Thomasson suggested that a Hearing Examiner be delegated this task rather than the Planning Agency.

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Councilmember Towe felt that Option #2 could include land use and zoning planning and public involvement and outreach.

City Manager Olander confirmed that there was a general consensus to proceed with Option #2. He said that staff would present a list of possible issues to be given to the Planning Agency for Council and Planning Agency review and discussion.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Utility Tax Rate Discussion

FOR AGENDA OF: April 3, 2003

ATTACHMENTS:

DEPT. OF ORIGIN: Finance

Schedule of 2003 Budget Balance Strategies

DATE SUBMITTED: March 11, 2003

CLEARANCES:

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APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The Mayor has requested that the City utility tax rate be placed on the agenda for discussion.

Background

Ordinance No. 916 adopted November 21, 1991 provided for a 2% utility tax rate to fund the increased cost of law enforcement for the 1992 budget.

Ordinance No. 1004 adopted January 28, 1993 raised the utility tax rate to 4% providing for a 2% utility tax to fund airport defense expenses.

Ordinance No. 1005 adopted January 28, 1993 raised the utility tax rate to 6% providing for an additional 2% utility tax to fund the operations and maintenance of three parks previously owned by the county.

Ordinance No. 1023 adopted March 25, 1993 reduced the utility tax rate from 6% to 5%.

Ordinance No. 1249 adopted November 29, 1999 raised the utility tax rate from 5% to 6% in response to the budget shortfall for 2000 as a result of Initiative 695.

For the 2003 budget, a total of \$2,284,000 was estimated for utility tax revenues.

A 1% reduction in utility taxes equates to approximately \$380,667.

Discussion

If utility taxes were reduced, the General Fund would need to utilize additional fund balance to maintain a balanced budget or, alternatively Council could decide to reduce service levels. The 2003 budget was balanced utilizing reserves, fund balance, and one-time revenues. The further use of fund balance and reserves greatly impacts our ability to fund current services and programs for the year 2004 budget.

If Council so chooses to reduce the utility tax rate and amend the 2003 budget, two Ordinances will be brought forward for their approval and adoption. The first Ordinance would amend the utility tax rate. The second Ordinance would amend the budget. The process to amend the budget requires a Council majority plus one.

Alternatives

None.

Recommendation

Staff does not recommend Council take action to reduce the utility tax rate without identifying another funding source, reducing service levels, or authorizing use of fund balance to equal the reduction in utility tax revenues.

Concurrence

None.

Schedule of 2003 Budget Balancing Strategies

Deferred Expenditures:

Replacement of Patrol Cars	\$120,000
Computer Replacements	62,875
Equipment Replacements	312,000
Total	<u>\$494,875</u>

Expenditure Reductions:

Salary/Benefits	\$346,362
Overtime	20,450
Travel/Training	24,922
Communications	10,775
Office Supplies	12,110
Off-Site Storage	10,000
Janitorial	18,470
Cable Consultant	10,000
City Currents	13,100
Total	<u>\$466,189</u>

Staff Position Changes/Cuts:

Eliminate Receptionist	\$42,652
Eliminate File Clerk	36,655
Reclass CSO Position to PT Jail Transport	29,993
Eliminate Dare Officer	78,000
Reclass Planning Mgr to Land Use Planner	22,907
Tsf 40% Assistant Planner/GIS to SWM	28,773
Share .5 Parks Mtc Worker with Marina	26,395
Eliminate Senior Maintenance Worker	61,000
Tsf 25% of PW Superintendent to SWM	19,987
	<u>\$346,362</u>

New Revenue Options:

Business License Fee on External Businesses	\$11,700
Animal License Increase of \$5	7,000
Admissions Tax at 5%	1,300
Metropolitan Park District Levy/\$0.75 per \$1,000 AV	1,371,245
Metropolitan Park District Levy/\$0.50 per \$1,000 AV	914,000
City B & O Tax	350,000
Property Tax Lid Lift to \$1.60 per \$1,000 AV	548,553
Total	<u>\$3,203,798</u>

Other Proposed Cuts (Not Adopted):

Fuel Change to Regular	\$2,125
Municipal Court Advertising, Supplies	3,003
Municipal Court Court Clerk Reduced to 75%	18,637
Municipal Court Court Clerk Reduced to 35%	18,260
Executive Travel	4,125
Finance Armored Car Services	3,300
Finance Sales Tax Audit Services	5,000
Finance Staff Accountant #1	46,026
Finance Staff Accountant #2	22,226
Finance Overtime	1,430
Record Services Overtime	1,200
Record Services Archive Services	4,500
Legal Prosecutor Supplies	300
Legal Professional Services	9,000
Legal Travel	2,500
Legal Dues & Registrations	1,533
All City Buildings – Add'l Reduction in Custodial Services	8,900
Police Community Services Officer #2	57,445
Police Narcotics Officer #1	47,395
Police Evidence Room Staff	24,406
Police Uniforms, Laundry	10,940
Police Training Overtime, Holiday Cash-Out, Overtime	16,489
Police Narcotics Officer #2	50,855
Police Internet Task Force Detective	56,550

Police S. County Enforcement Unit Position	63,179
Police Patrol Officer	56,469
Police Patrol Officer	58,571
Police Patrol Officer	64,058
Police Traffic Unit Net Reduction	208,312
Community Info Svs Reduce Remaining Cable Consultant	10,000
Comm Dev Miscellaneous Travel, Training, Dues, etc	18,378
Comm Dev Reduce Sierra Support	5,000
Human Services	12,025
Parks & Recreation Brochures, Postage, Advertising	11,300
Parks & Recreation Armored Car Services	3,300
Parks & Recreation Americorp Funded Workers	2,000
Parks & Recreation Reduce Rec Attendant Hours	43,084
Parks & Recreation Cut Special Events	27,000
Parks & Recreation Cut Capital Outlay & Small Tools	8,000
Parks & Recreation Reduce Customer Service Position to .5	19,948
Parks & Recreation Operating Rentals	6,000
Parks & Recreation Park Maintenance Position	52,810
Parks & Recreation Downtown Banner Program	4,500
Parks & Recreation Park Annuals Program	3,000
Parks & Recreation Part-Time Maintenance Workers	26,709
Parks & Maintenance Maintenance Supplies	5,000
Parks & Maintenance Utilities	12,349
Senior Services Program Attendant	11,707
Street Fund Maintenance Worker	49,906
Street Fund Add'l Street Lights Utility Costs	65,000
Total	<u>\$1,263,750</u>

AGENDA ITEM

SUBJECT: Full Council Participation In
Final Appointment of the Vacant
Council Position

ATTACHMENTS:
Draft Resolution No. 03-098

AGENDA OF: April 3, 2003

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: March 28, 2003

CLEARANCES:

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APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to review and discuss Draft Resolution No. 03-098 with was contained in Councils Agenda Packet regarding the appointment process to be followed for the vacant City Council position.

Suggested Motion:

"I move to approve Draft Resolution No. 03-098 requiring full Council participation in the final appointment for the vacant Council position".

Background:

The draft resolution was contained in Council's packet at the March 27, 2003 meeting. No discussion was held at that time. This draft resolution was introduced at the request of Councilmembers Sheckler, Thomasson and White to ensure that all Councilmembers be given the opportunity to vote on the final appointment of a new Councilmember.

CITY ATTORNEY'S FIRST DRAFT 03/19/03

DRAFT RESOLUTION NO. 03-098

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON,

WHEREAS, Councilmember Don Wasson resigned from the Des Moines City Council, effective March 13, 2003, and

WHEREAS, the Des Moines City Council must appoint a new Councilmember pursuant to the procedures set forth in Des Moines Council Rule 33 and controlling state statute, and

WHEREAS, these required procedures will take some time to implement, and there is the possibility that not all Councilmembers may be able to be in attendance for all steps of these required procedures, and

WHEREAS, the Des Moines City Council has ninety days from March 13, 2002, that is, until June 11, 2003, to appoint a new Councilmember, and

WHEREAS, fairness to all applicants, the public, and incumbent Councilmembers requires that all eligible incumbent Councilmembers be given the opportunity to vote on the final appointment of the new Councilmember; now therefore,

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

The Des Moines City Council shall not vote to appoint a new Councilmember unless all incumbent Councilmembers who are eligible to participate in the vote are present at the meeting at which the vote is taken.

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

M A Y O R

Resolution No. _____
Page 2 of _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

DRAFTRES:03-098

3/19/03 5:00 PM