

AGENDA
REGULAR MEETING DES MOINES CITY COUNCIL
September 25, 2003 - 7:30 p.m.

CALL TO ORDER - Mayor Steenrod

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

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

BOARD & COMMITTEE REPORTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

CONSENT CALENDAR*

1. Motion is to approve the minutes of September 4 and 11, 2003.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

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

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

Payroll fund transfers in the total amount of \$

3. Motion is to recognize Saturday, September 27, 2003, as "Mayors Day of Concern for the Hungry in Des Moines".
- 4.A Motion is to award the professional services contract for the Surface Water Management Utility Rate and Efficiency Study to Financial Consulting Solutions Group, Inc. in the amount of \$44,693.00 and further to authorize the City Manager to sign said contract substantially in the form as submitted, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the contract amount.
- 4.B Motion is to remand the ~~efficiency study~~ and rate study to the Environmental Committee for review and recommendations to the full Council.

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

*present - Shechler
Thomassen
Peterson
White
Steenrod*

*Sherman
excused
Benjamin
will be
late*

10/2
NO
AFH

*Paused
5-0
w/
modification
&
removed
efficiency
from
the
Environmental
committee*

PUBLIC HEARING

2004 Block Grant Allocations

passed as modified

SUMMARY: The purpose of this item is to allocate approximately \$252,533 in 2004 Community Development Block Grant funds. These funds must be used to support capital projects that meet one of three national objectives: 1. Elimination of slums and blight. 2. Assistance to low and moderate-income persons and communities. 3. Urgent needs.

OLD BUSINESS

NEW BUSINESS

1. Recreation Specialist Position

passed 50

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

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

rewards to municipal locations

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

3. Review of Water District #54 Draft Comprehensive Plan

SUMMARY: The purpose of this agenda item is to provide the Council with information regarding the Water District 54 Draft Small Water System Management Program, answer any Council questions related to the Plan, and for the District to receive Council input for inclusion in the final plan. No specific action is required by Council at this time.

4. Draft Resolution No. 03-236 Final Plat, Pacific Place - ³⁴32²¹⁰⁸ Lot Townhomes at 186th & Pacific Highway South

Passed Res # 962

SUMMARY: An application requesting review and approval of the final plat of Pacific Place has been submitted. This report provides information and analysis related to the application. Council is required to review and issue a decision. Approval of the final plat will allow Pacific Place to be recorded with the King County Records Office and permit the applicant to build on and/or sell individual lots.

NEXT MEETING DATE - Study Session October 2, 2003

ADJOURNMENT

passed but amended com mize

AGENDA ITEM

SUBJECT: Surface Water Management
Efficiency and Utility Rate Study

AGENDA OF: September 25, 2003

DEPT. OF ORIGIN: Public Works

ATTACHMENTS:

DATE SUBMITTED: April 2, 2003

1. Professional Services Agreement

CLEARANCES:

- [X] Finance
[X] Public Works
[X] Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *CTL for TP*

Purpose and Recommendation:

As part of last year's budget process, the City Council directed staff to include an efficiency study in 2003. The purpose of this agenda item is to seek City Council approval for proceeding with the Surface Water Management Utility Rate and Efficiency Studies. Staff recommends awarding the contract to Financial Solutions Consulting Group (FCSG), Inc. and remanding the studies to the Environmental Committee for review.

Suggested Motions:

The following motions will appear on the Consent Calendar:

- 1) "I move to award the professional services contract for the Surface Water Management Utility Rate and Efficiency Study to Financial Consulting Solutions Group, Inc. in the amount of \$44,693.00 and further to authorize the City Manager to sign said contract substantially in the form as submitted, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the contract amount."
- 2) "I move to remand the ~~efficiency study and~~ rate study to the Environmental Committee for review and recommendations to full Council."

Background:

As part of a 1998 SWM Comprehensive Plan Update, the Surface Water Management (SWM) program was evaluated for its effectiveness and utility rates were proposed based on varying levels of service in operation (this includes both maintenance and engineering staff) as well as setting accomplishment goals for the utility's Capital Improvement Program. Rates were adjusted in 1998 based on a financial forecast that met a minimum level of service in SWM operations and a modest \$400,000 per year for capital improvements over a 20-year period. Since 1998, the only utility rate adjustment has been a modest annual one to keep up with inflation. The current base rate is \$6.72 monthly (for a single-family dwelling).

However, several recent changes have been made to the operations side of the SWM program that was not accounted for in the 1998 financial analysis. As of 2003, a 0.40 FTE has been moved out of the City General Fund to the SWM engineering budget to provide Graphic Information System (GIS) support services and additional 0.25 FTE has been reallocated to SWM for the Public Works Superintendent. There are also other upcoming changes that need to be addressed such as added tasks and/or personnel for meeting the City's expected Federal NPDES (National Pollutant Discharge Elimination System) permit – the municipal storm water permit. Although, the part-time GIS staff person is considered a temporary (anticipated through 2004) to complete the city's storm drainage system inventory mapping, there has been a reduction in the funds being applied to Capital Improvement Program as a result of this temporary position. Although the State has not yet issued NPDES permits for Phase II cities (with populations between 1,000 and 100,000), staff anticipates additional costs associated with adopting a maintenance and operation ordinance for public and private facilities requiring inspection of these facilities and monitoring compliance with maintenance standards. Additional NPDES permit costs could include water quality monitoring and increased management of construction site runoff.

The 2003 budget includes \$346,000 being allocated to the SWM Capital Improvement Program, with the amount being reduced to \$306,000 for the year 2004. This is less than the target of \$400,000 being dedicated to the CIP.

In addition to evaluating the SWM program's future needs and evaluating the utility's rates, Council requested that the overall efficiency of the utility be examined to assess the ability of the utility to meet the minimum level of service standards and identify potential areas of improvement or cost savings.

Discussion:

The contract with Financial Consulting Solutions Group includes two phases – the Efficiency Study phase with the Rate Study phase building on the results of the efficiency study. Exhibit A of the draft professional services scope outlines the tasks with each study. The Efficiency study will include a review of operational needs, assess current performance, determine program changes or adjustments to improve performance, and determine future needs to maintain a minimum level of service and the added expected tasks to meet NPDES permit requirements. The Rate study will review the existing rate structure and the impact of a minimum level of service requirements, compare the city's rates against rates of other Puget Sound area jurisdictions, determine a proposed new rate structure based on the program needs and jurisdiction comparison, and reconfirm the program elements based on the new rates. A report will be prepared for both phases and the contract provides for a number of meetings with a Council Committee and the Full Council for its review and action.

Alternatives:

Staff could be directed to reject the professional services contract with FCSG and advertise for qualifications from other consulting firms for these services. Staff could also be directed to delay the studies until a later time – possibly following issuance of the NPDES permit, whereupon the actual requirements of the permit will be known. In addition, adjustments can be made in the scope of the contract.

Financial Impact:

\$45,000 was authorized by the City Council in the 2003 budget for doing the efficiency and utility rate studies (this is shown in the SWM Engineering Professional Services line item).

Recommendation/Conclusion:

Following solicitation of proposals from the City's professional services roster, Staff evaluated two firms and selected Financial Consulting Solutions Group, Inc. as the most qualified for completing both phases of the contract. Staff also recommends awarding the professional services contract to Financial Consulting Solutions Group, Inc. in the amount of \$44,693.00.

Concurrence:

The Legal Department has approved the professional services contract as to form, and the funds are available per the 2003 adopted SWM Operations budget.

Local Agency Standard Consultant Agreement	Consultant/Address/Telephone Financial Consulting Solutions Group, Inc. 8201 164th Ave NE Suite 300 Redmond WA 98052			
Agreement Number Not Applicable	Project Title And Work Description Surface Water Management Utility Rate and Efficiency Study			
Federal Aid Number Not Applicable	DBE Participation ☐ Yes ☒ No _____ % WBE Participation ☐ Yes ☒ No _____ %			
Agreement Type (Choose one) ☐ Lump Sum Lump Sum Amount \$ _____ ☐ Cost Plus Fixed Fee Overhead Progress Payment Rate _____ % Overhead Cost Method _____ ☐ Actual Cost ☐ Actual Cost Not To Exceed _____ % ☐ Fixed Rate _____ % Fixed Fee \$ _____ ☒ Specific Rates Of Pay ☒ Negotiated Hourly Rate ☐ Provisional Hourly Rate ☐ Cost Per Unit of Work	Federal ID Number or Social Security Number _____ <table border="1"> <tr> <td data-bbox="797 947 1170 1024"> Do you require a 1099 for IRS? ☐ Yes ☒ No </td> <td data-bbox="1170 947 1474 1024"> Completion Date June 30, 2004 </td> </tr> </table>		Do you require a 1099 for IRS? ☐ Yes ☒ No	Completion Date June 30, 2004
Do you require a 1099 for IRS? ☐ Yes ☒ No	Completion Date June 30, 2004			
	Total Amount Authorized \$ 44,693.00 Management Reserve Fund \$ _____ Maximum Amount Payable \$ 44,693.00			

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the Local Agency of _____, Washington, hereinafter called the "AGENCY", and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I GENERAL DESCRIPTION OF WORK

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II SCOPE OF WORK

The Scope of Work and project level of effort for this project is detailed in Exhibit "B" attached hereto, and by this reference made a part of this AGREEMENT.

III GENERAL REQUIREMENTS

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the AGENCY.

The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY or such Federal, Community, State, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum number of hours or days notice required shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "B" attached hereto and made part of this AGREEMENT. The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated. Goals for Disadvantaged Business Enterprises (DBE) and Women Owned Business Enterprises (WBE) if required shall be shown in the heading of this AGREEMENT.

All reports, PS&E materials, and other data, furnished to the CONSULTANT by the AGENCY shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT

and are property of the AGENCY. Reuse by the AGENCY or by others acting through or on behalf of the AGENCY of any such instruments of service, not occurring as part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV TIME FOR BEGINNING AND COMPLETION

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY, in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

V PAYMENT

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "C" attached hereto, and by this reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work". The CONSULTANT shall conform with all applicable portions of 48 CFR 31.

VI SUBCONTRACTING

The AGENCY permits subcontracts for those items of work as shown in Exhibit "G" to this AGREEMENT.

Compensation for this subconsultant work shall be based on the cost factors shown on Exhibit "G", attached hereto and by this reference made a part of this AGREEMENT.

The work of the subconsultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts exceeding \$10,000 in cost shall contain all applicable provisions of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and subcontractor, any contract or any other relationship.

VII EMPLOYMENT

The CONSULTANT warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability, or in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may or might arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full or part time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, the STATE, or the AGENCY,

except regularly retired employees, without written consent of the public employer of such person.

VIII NONDISCRIMINATION

The CONSULTANT agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, a layoff or terminations, rates of pay or other forms of compensation, selection for training, retention of services. The CONSULTANT understands and agrees that if it violates this provision, this AGREEMENT may be terminated by the AGENCY and further that the CONSULTANT shall be barred from performing any services for the AGENCY now or in the future unless a showing is made satisfactory to the AGENCY that discriminatory practices have terminated and that recurrence of such action is unlikely.

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

A. **COMPLIANCE WITH REGULATIONS:** The CONSULTANT shall comply with the Regulations relative to nondiscrimination in the same manner as in Federal-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this AGREEMENT. The CONSULTANT shall comply with the American Disabilities Act of 1992, as amended.

B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix II of the Regulations.

C. SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, creed, color, sex, age, marital status, national origin and handicap.

D. INFORMATION AND REPORTS: The CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the AGENCY, or the United States Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

E. SANCTIONS FOR NONCOMPLIANCE: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the AGENCY shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or
2. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

F. INCORPORATION OF PROVISIONS: The CONSULTANT shall include the provisions of paragraphs (A) through (G) in every subcontract, including

procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontractor or procurement as the AGENCY or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the AGENCY to enter into such litigation to protect the interests of the AGENCY, and in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

G. UNFAIR EMPLOYMENT PRACTICES: The CONSULTANT shall comply with RCW 49.60.180.

IX TERMINATION OF AGREEMENT

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "F" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to the Notice of Termination exceeds the total amount that would be due computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is

usable to the AGENCY at the time of termination; the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth in the previous paragraph.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without it or its employees' fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY in accordance with the provision of this AGREEMENT.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the project, or, dissolution of the partnership, termination of the corporation or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. The subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY's concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X CHANGES OF WORK

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable

for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI MEDIATION/ARBITRATION CLAUSE

If a dispute arises from or relates to the AGREEMENT or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under the American Arbitration Association's Commercial or Construction Rules before resorting to arbitration. The mediator may be selected by agreement of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this AGREEMENT or breach thereof shall be conducted under the American Arbitration Association's Commercial or Construction Arbitration Rules. The arbitrator may be selected by agreement of the parties or through the American Arbitration Association. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The CONSULTANT recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.

XII VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

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

and arbitration procedures required by the previous paragraph.

XIII

LEGAL RELATIONS AND INSURANCE

Indemnification / Hold Harmless

Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

**XIV
EXTRA WORK**

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit its "request for equitable adjustment" (hereafter referred to as claim) under this clause within 30 days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive an act upon a claim submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

**XV
ENDORSEMENT OF PLANS**

The CONSULTANT shall place his endorsement on all plans, estimates or any other engineering data furnished by him.

**XVI
FEDERAL AND STATE REVIEW**

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

**XVII
CERTIFICATION OF THE CONSULTANT AND
THE AGENCY**

Attached hereto as Exhibit "A-1", are the Certifications of the CONSULTANT and the AGENCY, Exhibit "A-2" Certification regarding debarment, suspension and other responsibility matters--primary covered transactions, Exhibit "A-3" Certification regarding the restrictions of the use of Federal funds for lobbying, and Exhibit "A-4" Certificate of Current Cost or Pricing Data. Exhibits "A-3" and "A-4" are only required in agreements over \$100,000.

**XVIII
COMPLETE AGREEMENT**

This document and referenced attachments contains all covenants, stipulations and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

**XIX
EXECUTION AND ACCEPTANCE**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting materials submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

By _____

By _____

Consultant _____

Agency _____
City Manager

APPROVED AS TO FORM:

By: _____
Title: City Attorney

Exhibit A

Surface Water Management Utility Rate and Efficiency Study Proposed Scope of Services

The City of Des Moines wishes to examine the efficiency of the surface water management program – assessing the ability of the program to meet minimum level of service standards and identifying potential areas of improvement. The product of this efficiency study will include a forecast of program elements (and associated costs) needed to meet minimum LOS standards and expected regulatory requirements (e.g., NPDES).

The rate study will build upon the results of the efficiency study, projecting rate levels needed to meet minimum LOS standards and regulatory requirements. The rate study will also include a review of the City's rate structure, currently made up of separate water quantity and water quality components. Technical findings will be supplemented with information about surface water rates and charges in comparable jurisdictions and other useful comparative information.

Task One: Review minimum level of service operation needs

1. Review background materials concerning the minimum level of service and programs identified in the 1998 Draft SWM Comprehensive Plan Update and Rate Study.
2. Identify the stormwater program's goals, objectives, performance measures, and activities that relate to the minimum level of service.

Task Two: Assess current operation performance

1. Review the City's organizational structure for implementing the stormwater operating and capital budgets.
2. Conduct interviews with City and Public Works staff to identify the activities, processes, and procedures for planning, providing, and monitoring the minimum level of service. Includes up to four (4) meetings.
3. Identify and analyze workload, performance, cost, and other data that relate to the stormwater services provided.
4. Compare actual performance and services to the minimum level of service anticipated in the 1998 Plan Update and Rate Study and determine if the minimum level of service has been provided and maintained.

Task Three: Determine program changes or adjustments to improve performance

1. Identify organizational strengths and weaknesses that affect the provision of efficient and effective stormwater services.
2. Determine the reasons why Public Works provided or did not provide the minimum level of service.
3. Identify through a literature search and past experience best practices that might be applicable to the City's services and operations.
4. Identify opportunities to operate more effectively and efficiently and make recommendations for improving performance.

Task Four: Determine future needs to maintain minimum level of service and added tasks to meet the NPDES requirements

1. Determine what resources are needed to make program changes or adjustments to improve the minimum level of service as identified in Task Three.
2. Identify NPDES requirements and determine if changes are necessary to the minimum level of service.
3. Determine what additional resources are necessary to meet NPDES requirements if the minimum level of service is not consistent with the requirements.

Task Five: Additional Meetings

1. Up to two (2) progress meetings with City staff.
2. Up to two (2) meetings with the City Council or a Council subcommittee.

Task Six: Documentation of Efficiency Study

1. Document efficiency study findings in a draft report.
2. Finalize and issue report.

PHASE 2: RATE DESIGN

Task One: Review existing rate structure and charges and impact of minimum level-of-service revenue requirements

1. Review with City staff key policy issues surrounding the City's existing rate and charge structures.
2. Based on the results of the efficiency study and the input of staff, develop baseline annual capital and operating cost projections.
3. Using a spreadsheet model, project revenue requirements for a ten-year study period, incorporating the results of the efficiency study to estimate the impacts of the minimum and up to three additional levels of service.
4. Calculate general facilities charges based on cost of existing infrastructure and future growth-related infrastructure.

Work Products: Level-of-service rate and GFC model.

Task Two: Compare with stormwater rates of other jurisdictions in the Puget Sound area

1. Survey and compile rate and program information from comparable jurisdictions.

Task Three: Determine recommended new rate structure based on projected needs and jurisdiction comparison

2. Rate design. Incorporate policy direction, comparative rate information, and availability of customer data into development of preferred rate structure option.
3. Cost-of-service allocation. Depending upon the rate structure chosen, an allocation of costs to functional categories such as water quantity and water quality may be required.
4. Level-of-service rate calculation. Calculate rates required to meet the minimum and subsequent (e.g., regulatory mandated) levels of service.

Work Products: Rate alternatives for varying levels of service.

Task Four: Reconfirm program elements based on new rate

1. Implementation guidance. Demonstrate the projected fiscal health of utility under the proposed rate structure and, to the extent possible, forecast the ability of the utility to meet individual program element requirements into the future.
2. Document study findings in a comprehensive draft report.
3. Finalize and issue report.

Work Products: Draft and final reports.

Task Five: Meetings

1. Up to three (3) meetings with City staff.
2. Up to four (4) meetings with the City Council or a Council subcommittee.

Work Products: Up to 3 meetings with City staff and up to 4 meetings with the Council or a Council subcommittee.

City of Des Moines
Surface Water Management Utility Rate & Efficiency Study
Proposed Project Budget

Task	Description	FCS Group					SPA		Hours	Cost
		Findlay	Ghilarducci	Moy	Kean		Pigott			
		QA / QC	Principal / TM	TM	Analyst	Support	PM			
		\$ 150	\$ 140	\$ 125	\$ 90	\$ 55	\$ 121			
Phase One										
Task One: Review minimum level of service operation needs										
1.1	Review background materials			4					4	\$ 500
1.2	ID goals, objectives, measures			4	6				10	\$ 1,040
		0	0	8	6	0	0		14	\$ 1,540
Task Two: Assess current operation performance										
2.1	Review organizational structure			1					1	\$ 125
2.2	Conduct interviews with staff (4)			8					8	\$ 1,000
2.3	ID & analyze work data			16	24				40	\$ 4,160
2.4	Compare performance & LOS			4	8				12	\$ 1,220
		0	0	29	32	0	0		61	\$ 6,505
Task Three: Determine program changes or adjustments to improve performance										
3.1	ID strengths & weaknesses			2					2	\$ 250
3.2	Determine why LOS met/unmet			6					6	\$ 750
3.3	ID best practices			2	16		8		26	\$ 2,658
3.4	ID efficiency improvements			8					8	\$ 1,000
		0	0	18	16	0	8		42	\$ 4,658
Task Four: Determine future needs to maintain minimum level of service and added tasks to meet the NPDES requirements										
4.1	Determine resources needed			8	8				16	\$ 1,720
4.2	ID NPDES requirements			8			8		16	\$ 1,968
4.3	Determine additional resources			8	8				16	\$ 1,720
		0	0	24	16	0	8		48	\$ 5,408
Task Five: Meetings										
5.1	Up to two (2) progress meetings w/ Staff			4					4	\$ 500
5.2	Up to two (2) meetings w/ Council			12	2	4			18	\$ 1,900
		0	0	16	2	4	0		22	\$ 2,400
Task Six: Documentation										
5.1	Draft report	1		20	2	2			25	\$ 2,940
5.2	Final report			2		2			4	\$ 360
		1	0	22	2	4	0		29	\$ 3,300
Phase Two										
Task One: Review existing rate structure and charges and impact of minimum level-of-service revenue requirements										
1.1	ID / discuss key policy issues		8		2				10	\$ 1,300
1.2	Develop baseline cost projections		2		12				14	\$ 1,360
1.3	Project 10-yr rev req - 3 LOS		4		16				20	\$ 2,000
1.4	Calculate general facilities charges		2		8				10	\$ 1,000
		0	16	0	38	0	0		54	\$ 5,660
Task Two: Compare with stormwater rates of other jurisdictions in the Puget Sound area										
2.1	Compile comparative information		2		16				18	\$ 1,720
		0	2	0	16	0	0		18	\$ 1,720
Task Three: Determine recommended new rate structure based on projected needs and jurisdiction comparison										
3.1	Rate design		4		8				12	\$ 1,280
3.2	Cost-of-service allocation		2		8				10	\$ 1,000
3.3	Level-of-service rate calculation		2		4				6	\$ 640
		0	8	0	20	0	0		28	\$ 2,920
Task Four: Reconfirm program elements based on new rate										
4.1	Implementation guidance		2		8				10	\$ 1,000
4.2	Draft report	2	12		4	2	2		22	\$ 2,692
4.3	Final report	1	2		4	2			9	\$ 900
		3	16	0	16	4	2		41	\$ 4,592
Task Five: Meetings										
5.1	Up to three (3) meetings w/ Staff		12		6				18	\$ 2,220
5.2	Up to four (4) meetings w/ Council	2	24			2			28	\$ 3,770
		2	36	0	6	2	0		46	\$ 5,990
Total										
Total Hours		6	78	117	170	14	18		403	
Total Labor Cost		\$ 900	\$ 10,920	\$ 14,625	\$ 15,300	\$ 770	\$ 2,178			\$ 44,693
Expenses										\$ -
Total Project Cost										\$ 44,693

A G E N D A I T E M

SUBJECT:

Pacific Place Final Plat
File Number: LUA2003-017

DATE SUBMITTED: Sept 15, 2003

AGENDA OF: September 25, 2003

DEPT OF ORIGIN: Community Dev.

ATTACHMENTS:

1. Prelim. Plat Approval (Resolution #PA2002-001 & SEPA)
2. Draft Resolution 03-236
3. Chapter 17.16.230 DMMC
4. Orthophotograph
5. Approved Preliminary Plat
6. Proposed Final Plat

CLEARANCES:

☒ COMM DEV

☒ LEGAL

☒ PUBLIC WORKS

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL

PURPOSE AND RECOMMENDATION:

This report provides information and analysis related to an application for a 34 lot final plat. The City Council is required to review and issue a decision on this application pursuant to Chapter 17.16.230 DMMC.

Administration has reviewed the applicant's request for final plat approval, and recommends approval of the Pacific Place Final Subdivision. A motion consistent with this staff recommendation is provided below:

Motion: "I move to adopt Draft Resolution 03-236 approving the final plat for Pacific Place, applicant Lancaster Associates, LLC."

BACKGROUND:

An application requesting review and approval of the final plat of "Pacific Place" has been submitted to administration by Lancaster Associates, LLC. Council approval of the final plat will allow Pacific Place to be recorded with the King County Records Office and permit the applicant to build on and/or sell individual lots.

Required City Council Findings The Council must make the following three findings in its review of the proposed final plat:

- The plat is consistent with the approved preliminary subdivision, except for minor deviations specified in Chapter 17.16.230 DMMC.
- The plat is consistent with Chapter 58.17 RCW.
- All required improvements are installed or securities to cover the cost of installation are submitted in accordance with Chapter 17.40.090 DMMC.

Administration has reviewed the proposed final plat map application (Attachment 6) against the above required findings. The application is consistent with the cited local and state statutes. The final plat is consistent with the approved preliminary plat design. All required improvements have been either installed or adequate security bonded. Currently, sanitary sewer, storm sewer, common trenching of power, gas, phone and cable, water, curb, gutter, catch basins, street lights, the retention pond and pond plants, the first lift of asphalt (ATB), and sidewalks are installed within the site. Frontage improvements along South 268th Street are complete, including curb, gutter, sidewalk and undergrounding of utilities. Items that have not been installed include streetlights, landscaping and the final lift of asphalt for the interior road system. These items typically are not installed at this phase of construction because of the risk of damaging improvements. In summary, the applicant is invested to approximately 85% of the cost of the subdivision development and security for remaining work is more than adequate with the retention of a bond in the amount of \$337,042.

Conditions of Approval The applicant is required to demonstrate fulfillment of conditions of approval imposed on the preliminary plat as part of the review process of the final plat. The conditions that were adopted by the Planning Agency for this subdivision are contained in Section 3 of Resolution PA2002-01 (Attachment 1). A total of 18 conditions were imposed upon the subdivision.

There has been some fine-tuning on certain lot lines and sizes as part of the final engineering and survey. These are considered normal as the plat moves away from a general preliminary design toward a specific surveyed and engineered design. Condition of Approval #5 in Resolution PA2002-001 states that "the required lot frontage specified in Section 17.36.020(4) shall not apply to lots 15, 16, 17 and 22". The lot lines have been shifted slightly so that the affected lots are now lots 8, 15, 16, and 17. Administration has determined that this is a minor deviation as defined in 17.16.30(2) (Attachment 5). Condition of Approval #12 states that "Lots 6/7, 9/10, 12/13, 15/16, 22/23, 24/25 and 30/31 shall have shared driveway curb cuts, and shall be no less than the 12' minimum driveway width and no wider than 24' in width". During the final plat process, the Public Works Department discovered that in order to create a safer environment for pedestrians it was necessary to move the location of some of the shared driveways to different locations than specified at the time of preliminary plat approval. The driveways within the plat are now located as far apart as possible while still adhering to the 12' minimum and the 24' maximum. This leaves "islands" of safety for pedestrians using the sidewalks. Administration has determined that this is also a minor deviation as defined by the DMMC (Attachment 5).

All other conditions of approval have either had a bond posted for the cost of improvements or they have been completed. Covenants, Conditions and Restrictions for the subdivision have been drafted and will be recorded along with the final plat document. The 6' perimeter fence and the pedestrian walkway have been installed. The total park fees paid by the applicant are \$66,288. This number was adjusted for

inflation from the original amount of \$64,925. The billboard has been removed from the property and in-lieu fees have been paid to the City of Kent for the improvements along Pacific Highway South. Items that were required as conditions of approval but have not been installed are the grass-crete driving surface and bollards for the drainage easement and the landscaping. These items cannot be installed because of risk of damage.

Administration has reviewed each final plat requirement and believes that the applicant has either fulfilled these requirements or paid the necessary in-lieu fees or bonds.

DISCUSSION:

The preliminary plat application for Pacific Place was the first application to be approved by the Planning Agency using the process that was approved by the City Council in September 2001 (Ordinance No. 1287) and gives the Planning Agency authority to approve, approve with conditions, or deny a resolution for a preliminary plat application. The Planning Agency approved Resolution No. PA2002-001, allowing the applicant to construct site improvements for a 34-lot townhome subdivision. As discussed earlier in this agenda item, most of these improvements have been completed, and now the applicant is requesting City Council approval of the final plat. City Council review is generally to determine if the final plat is substantially consistent with the approved preliminary plat.

The applicant has also requested that the City of Des Moines release two drainage covenants pertaining to property drainage that can create a "cloud" on the title of Pacific Place. Administration will work with the developer in drafting a new covenant that will replace the two unnecessary covenants that were recorded before the property was annexed from King County. The first covenant was created when the adjacent plat of Brightwood Park was recorded, at which time runoff from Brightwood Park was directly discharged onto the property now known as Pacific Place. Since that time, the runoff has been piped across the north side of Pacific Place and now discharges into the drainage system of Pacific Highway South. The second covenant was created for a retention/detention facility that was never built for a multi-family/commercial project that was never developed. Now that the City of Des Moines has created an easement within Pacific Place for conveying the runoff from Brightwood Park to public right-of-way and a detention/retention facility has been built and placed in a tract dedicated to the City of Des Moines, the covenants are no longer necessary. Administration will prepare an ordinance for City Council consideration that will direct staff to prepare a release of covenant which when recorded should supercede and eliminate the clouds on the title.

Another unique feature of Pacific Place is the current zoning for this site (RA3600), which requires additional design materials to be reviewed and approved during the preliminary plat process that typically are not reviewed until after final plat approval. The materials that were approved by the Planning Agency were:

- Site plan depicting site and lot boundaries, abutting streets, interior 19th Avenue South, off-street parking areas, sidewalks, drainage systems, and building locations and setbacks.
- Landscaping plan.
- Typical building elevations including the exterior architectural design features and materials.
- Topography indicated by contours at two-foot intervals.

These unique features are appropriate for preliminary plat review but the focus of the final plat is to ensure that the proposed skeleton (lot and street layout) is designed and recorded consistent with the preliminary plat.

The approved preliminary plat is also unique in that it was a modified preliminary subdivision. The modifications were:

- The length of the cul-de-sac exceeds the maximum length in the Street Standards. This design was determined to be the best suited for this site, due to its' proximity to the intersection with Pacific Highway South. Keeping the entrance as far from Pacific Highway as possible creates a safer neighborhood by utilizing crime prevention through design methods and separates intersections as much as possible to avoid traffic conflicts.
- The width of the lot frontage on 4 of the 34 lots is less than the minimum 20' width. The reduction of the street frontage requirement was necessary in this subdivision because it is a high density project located within a square parcel. The shape of the property created multiple radii at property corners, which in turn created 4 pie shaped lots that have a frontage of less than 20'.

Townhome developments provide a unique opportunity for higher density living while still maintaining ownership of the land. Despite the smaller size of the lots, each one will have usable private yard areas, including space for grass, trees, shrubs, and patios. The design of this project was discussed in many meetings with the Legal Department, the Public Works Department, the applicant and the City of Kent. The design approved by the Planning Agency was determined to be the best design for this distinctive site.

ALTERNATIVES:

The City Council may approve, approve with conditions or deny the project. If the City Council approves the project with their own conditions of approval, any changes must be supported by additions to the findings of fact. The information must be made clear for the public record.

If the City Council denies the project, findings of fact would have to be prepared to support this decision. Reasoning for such a decision would have to be made clear for the public record.

FINANCIAL IMPACT:

Not applicable.

RECOMMENDATION/CONCLUSION:

Staff recommends that the City Council approve Pacific Place preliminary plat because it meets the following criteria:

- The plat is consistent with the approved preliminary subdivision, except for minor deviations specified in Chapter 17.16.230 DMMC.
- The plat is consistent with Chapter 58.17 RCW.
- All required improvements are installed or securities to cover the cost of installation are submitted in accordance with Chapter 17.40.090 DMMC.

CONCURRENCE:

The following departments and agencies are directly involved in this application:

- Des Moines Community Development
- Des Moines Public Works
- Des Moines Parks
- King County Fire District #26
- Kent Public Works
- Midway Sewer
- Highline Water

All concur with this proposal.

DES MOINES PLANNING AGENCY
RESOLUTION NO. PA2002-01

A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON approving the Pacific Place modified preliminary subdivision, (hereinafter, Pacific Place project) subject to conditions specified herein.

WHEREAS, Lancaster LLC, an owner of the real property in the City of Des Moines, filed an application for a modified preliminary subdivision of property within an RA-3600 zone, to be known as Pacific Place, and

WHEREAS, an environmental checklist for the Pacific Place project was submitted to the City of Des Moines and was reviewed by the responsible SEPA official of the city of Des Moines, and a Determination of Non-Significance was issued under the State Environmental Policy Act, RCW 43.21C, (SEPA) and the Administrative Guideline and local ordinance adopted to implement SEPA, and

WHEREAS, the environmental review documents have been available for review with the Pacific Place project application during the review process, and

WHEREAS, the Planning Agency, in its public hearing on September 9, 2002, considered the Pacific Place project, the environmental documents, and recommendations from administration; now therefore,

THE PLANNING AGENCY OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Sec. 1. Findings of fact. The findings of fact set forth in Exhibit 1, attached hereto and incorporated by this reference, are adopted in full by the Planning Agency in support of its decision to approve the Pacific Place project subject to specific conditions.

Sec. 2. Decision criteria. The criteria used in making the decision are those required by DMMC 17.20.030. The Planning Agency finds that the Pacific Place project is in compliance with the required criteria, as set forth in the findings of fact in Exhibit 1, adopted above.

Sec 3. Approval subject to conditions. The Pacific Place project is approved subject to the following conditions and modifications:

(1) The Community Development Director shall have final approval authority concerning exterior design features, including, but not limited to, fenestration patterns, rooflines, building materials, landscaping, and proposed townhouse styles.

(2) Every townhouse dwelling shall have recorded with the county auditor a perpetually binding common party wall agreement as a covenant to each deed establishing the rights and obligations of each owner relative to the common party wall and foundation, and providing for the easements for purposes of maintenance and fire protection.

(3) A covenant shall be placed on the final plat that clearly requires the formation of the homeowners' association and states the joint responsibility of all property owners to maintain common areas, including the maintenance and use of shared driveways, landscaping along South 268th Street and Pacific Highway South, the pedestrian walkway between lot 21 and

ATTACHMENT 1

the detention pond, and all areas within the detention tract located outside of the fenced portion of the pond.

(4) The pedestrian walkway between lot 21 and the detention tract shall be gated for the safety of the residents of Pacific Place.

(5) The required lot frontage specified in Section 17.36.020(4) shall not apply to lots 15, 16, 17 and 22.

(6) The existing drainage pipe along the north property line shall be removed and replaced with a pipe that will be located within a 20' easement between lots 8 and 9.

(7) A 12' wide grass-crete driving surface with a compacted base sufficient to support a vector truck shall be placed within the center of the 20' wide easement.

(8) The curb cut for the 20' drainage easement shall be a mountable integral cement concrete curb. The Public Works Director shall approve the final design.

(9) There shall be a minimum building setback of 12 ½ feet from the drainage pipe.

(10) Bollards shall be placed at the entrance to the drainage easement to discourage vehicles.

(11) Columnar juniper, arbutus or other equivalent shrubbery shall be planted at the edge of the easement to mark its boundary and reduce the possibility of obstructing access to drainage structures.

(12) Lots 6/7, 9/10, 12/13, 15/16, 22/23, 24/25 and 30/31 shall have shared driveway curb cuts, and shall be no less than the 12' minimum driveway width and no wider than 24' in width.

(13) The applicant shall dedicate 3' of property along Pacific Highway South to the City of Kent for right-of-way use.

(14) The applicant shall pay in-lieu fees to the City of Kent for the improvements along Pacific Highway South prior to the recording of the final plat.

(15) The developer shall provide frontage improvements along South 268th Street consistent with City Standards.

(16) The existing billboard located at the northwest corner of South 268th Street and Pacific Highway South shall be removed prior to final plat recording.

(17) The applicant shall pay a park in-lieu fee of \$64,925.75 (base month/year is September 2002) to the City of Des Moines. The fee shall be paid prior to recording of the final plat. This fee shall be adjusted quarterly for inflation.

(18) The final plat shall reflect that Tract "B" shall not be shown as part of the approved subdivision design.

Sec. 3. Compliance with other law. Nothing in this resolution shall be construed as excusing the applicant from compliance with all federal, state, or local statutes,

ordinances, or regulations applicable to this subdivision other than as expressly set forth herein.

Sec. 4. Resolution attached to approval documents. A certified copy of this resolution, along with the herein referenced findings of fact, shall be attached to and become a part of the evidence of the preliminary approval of said subdivision to be delivered to the applicant.

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

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

(2) King County Fire District #26;

(3) City Clerk of the City of Des Moines; and

(4) Planning Agency Secretary.

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

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

ADOPTED BY the Planning Agency of the City of Des Moines, Washington this 9th day of September, 2002 and signed in authentication thereof this 9th day of September, 2002.



PLANNING AGENCY CHAIR

APPROVED AS TO FORM:


City Attorney

ATTEST:


Community Development Director

FINDINGS OF FACT

RESOLUTION NO. PA2002-01, EXHIBIT 1

SEPTEMBER 09, 2002

The Des Moines Planning Agency, upon review of an application requesting approval of a modified preliminary subdivision allowing for the construction of 34 townhome and duplex dwelling units hereby finds:

1. The Des Moines Community Development Department issued a threshold determination on June 27, 2002 that the proposed subdivision would not create significant adverse environmental impacts.
2. The subject property is currently divided into 3 parcels. The two parcels adjacent to Pacific Highway South; parcel no. 7682800005 and 7682800006 are zoned Community Commercial. The parcel proposed for subdivision, parcel no. 282204913, is zoned RA-3600.
3. Parcel number 7682800006 is proposed for use as stormwater detention and water quality control for the proposed subdivision.
4. Parcel number 7682800005 is proposed for future use as commercial property. This site will not be developed at this time.
5. Parcel number 282204913 is proposed for subdivision into 34 lots for townhome residential units.
6. Development Standards for the RA-3600 zone require that the minimum lot size shall be 7,200 square feet.
7. Within a townhome development, internal lots for the purpose of individual ownership of dwellings may be less than 7,200 square feet.
8. The Land Use Map for the Greater Des Moines Comprehensive Plan indicates the subject property as preferred for townhome development, with a maximum density of twelve (12) units per acre.
9. The maximum residential density within a RA-3600 zone may not exceed 12 dwelling units per acre. The proposed project has a density of 11 dwelling units per acre.
10. The proposed plat is consistent with the applicable provisions of Chapter 17.36 DMMC.
11. The applicant has submitted additional design review materials, including landscaping plans, sidewalk placement, building locations, topography, building elevations and architectural features as required by Chapter 18.10 DMMC.
12. Except where otherwise stated herein, the proposed plat is consistent with the applicable provisions of the comprehensive plan, zoning code, and other City policies and regulations.

13. The applicant is required to serve the subdivision with a 50-foot public right of way with cul-de-sac turn around, consistent with City requirements.
14. The applicant is required to construct curb, gutter, and sidewalk along the internal street and the adjacent South 268th Street to City Standards.
15. The applicant is required to pay the City of Kent fees in-lieu of street improvements for Pacific Highway South.
16. Based on comments by the City staff, the applicant has proposed a 670' dead end street that exceeds the maximum 400' length required by the City's Street Standards.
17. Administration determined that the proposed street design best serves the public interest.
18. The proximity to the intersection of Pacific Highway South and South 268th Street is a major concern for other street designs to serve the site.
19. Creating a subdivision with one access integrates the neighborhood for the project and is beneficial to planning objectives for pedestrian oriented design.
20. Information obtained from the City of Kent and the City of Des Moines Public Works Departments indicates that the proposed detention pond and water quality wetland are feasible and will be consistent with the standards.
21. There is an existing drainage pipe along the north property line that serves the existing Brightwood Park neighborhood. A portion of this pipe will be abandoned and relocated to a new pipe centered within a 20' wide tract between lots 8 and 9.
22. The transportation study prepared for this project indicates 33 morning peak hour trips and 41 afternoon peak hour trips. No adverse traffic conditions are projected as the result of this project alone.
23. Background traffic alone will cause the intersection of South 268th Street and Pacific Highway South to fall to a level "F" by 2003. The traffic study suggests a center two-way left turn lane on Pacific Highway South.
24. The City of Kent is in the final design phase for the adjacent portion of Pacific Highway South, and projects the beginning of construction to begin in the spring of 2003. A left turn lane is included in the design for northbound traffic turning onto South 268th Street.
25. The applicant is proposing payment in lieu of park dedication. The park fee is calculated by adding 5% of the market value of all lots plus an improvement cost of \$4.16 for 5% of the total lot area exclusive

of rights-of-way and tracts. The park fee was calculated to be \$64,929.75. The park fee must be paid prior to final plat approval.

26. There are adequate provisions for drainage ways, rights-of-way, sidewalks, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds and schools.
27. The proposed plat design will serve the public use and interest and is consistent with the public health, safety, and welfare. The 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.
28. The proposed subdivision provides for coordinated development with adjoining properties including but not limited to, provisions for streets, drainage, and sanitary sewer service which will be required to take into account existing developed conditions surrounding the subject property.
29. Though the proposal deviates from City Standards for maximum street length and minimum lot frontages, the design for the subdivision is superior to conventional subdivisions and therefore warrants approval of the requested deviations.
30. Tract "B" is only shown on the preliminary plat drawings as a study area. It is not part of the proposed subdivision for which approvals are sought.



**CITY OF DES MOINES
DETERMINATION OF NONSIGNIFICANCE**

Description of proposal: To subdivide 4.9 acres into 34 lots for subsequent single family, duplex and townhome residential uses including improvements for on and off site drainage, parking, and landscaping.

Proponent: Lancaster Associates, LLC

Location of proposal, including street address, if any: This property is currently vacant and is located at the northwest corner of South 268th Street and Pacific Highway South.

Lead Agency: City of Des Moines

The City of Des Moines has determined that the above-described proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-355. The lead agency will not act on this proposal for 15 days from the date below*. Comments must be submitted by **July 12, 2002**.

Responsible Official:

Judith Kilgore

Phone: (206) 870-7576

Position/Title:

Community Development Director
21630 11th Avenue South, Suite D
Des Moines, WA 98198

June 27, 2002*

Date*

(Judith Kilgore)

**For Additional
Information Contact:**

Celeste Carlson, Land Use Planner, Phone (206) 870-6595

AGENCY APPEAL

APPEAL: Any agency or person may appeal SEPA procedural compliance to the Des Moines Hearing Examiner by filing a written appeal with the Des Moines City Clerk. Such appeal must be filed within ten (10) days of the date this Determination of Nonsignificance is final. The last date for filing such an appeal as to this proposal will be 4:30 p.m. on **July 22, 2002**. Procedural determinations include the adequacy of the Determination of Nonsignificance, whether proper notice has been given, and whether the commenting period has been observed. The pendency of a procedural appeal shall stay any action on this proposal until final determination by the Hearing Examiner.

ATTACHMENT 1A

COMMUNITY DEVELOPMENT'S FIRST DRAFT

DRAFT RESOLUTION NO. 03-236

A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON approving the final plat of Pacific Place as shown and described in administration file number LUA2003-017.

WHEREAS, administration has received an application for a subdivision and final plat of property within a RA-3600 zone, known as Pacific Place, and said application having been made by Lancaster Associates, LLC, the owner of the real property described in said application, and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C, the Administrative Guideline and local ordinance adopted to implement it, the SEPA Official reviewed all relevant environmental documents and determined that the proposed subdivision would not result in probable significant adverse environmental impacts, and based on information within those environmental documents, a Determination of Non-significance was issued, and

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

WHEREAS, the City Council, in regular meeting on September 25, 2003, reviewed the preliminary plat approval for Pacific Place, and

WHEREAS, the City Council, in regular meeting on September 25, 2003, reviewed the proposed final plat for Pacific Place; now, therefore

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

Sec. 1. The following findings of fact are adopted by the Des Moines City Council:

(1) The final plat is consistent with the preliminary subdivision approved by the Planning Agency on September 9, 2002, under Resolution No. PA2002-01, except for minor deviations as defined and allowed under 17.16.230(2).

(2) Condition of Approval #5 in Resolution No. PA2002-001 states that "the required lot frontage specified in Section

ATTACHMENT 2

17.36.020(4) shall not apply to lots 15, 16, 17, and 22". During surveying for final plat, lines were slightly shifted so that the affected lots have been changed from 15, 16, 17, and 22 to 8, 15, 16, and 17. Lot number 8 is less than the 20' minimum and now measures 19.5', and lot 22 is greater than 20' minimum measuring at 27.8'. This is a minor deviation as defined in 17.16.230(2) DMMC.

(3) Condition of Approval #12 in Resolution No. PA2002-001 states that "Lots 6/7, 9/10, 12/13, 15/16, 22/23, 24/25 and 30/31 shall have shared driveway curb cuts, and shall be no less than the 12' minimum driveway width and no wider than 24' in width". In order to create a safe environment for pedestrians, it was necessary to move the shared driveways to different locations than specified at the time of preliminary plat approval. The driveways within the plat are now located as far apart as possible while still adhering to the 12' minimum and the 24' maximum. This leaves "islands" of safety for pedestrians using the sidewalks. This is also a minor deviation as defined in 17.16.230(2) DMMC.

(4) The applicant has appropriated an in-lieu fee of \$66,288 in park improvements to fulfill park fee requirements for the City of Des Moines, and

(5) All required improvements are installed or securities to cover the cost of installation are submitted in accordance with DMMC 17.40.090, and

(6) The final plat is consistent with the provisions of Title 17 DMMC, and chapter 58.17 RCW.

Sec. 2. Decision Criteria. The criteria used in making the decision are those required by DMMC 17.16.230.

Sec. 3. Approval. The subdivision and final plat of Pacific Place is hereby approved by the Des Moines City Council.

Sec. 4. Compliance with other law. Nothing in this resolution shall be construed as excusing the applicant from compliance with all federal, state, or local statutes, ordinances, or regulations applicable to this subdivision other than as expressly set forth herein.

Sec. 5. Resolution attached to approval documents. A certified copy of this resolution, along with the findings of

fact herein adopted, shall be attached to and become a part of the evidence of said subdivision and final plat and shall be delivered to the applicant.

Sec. 6. Distribution of resolution following City Council action. Certified or conformed copies of this resolution shall be delivered to the following:

(1) City of Des Moines Community Development and Public Works departments and Building Division;

(2) King County Fire District #26; and

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

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

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

17.16.230 City council action.

(1) General. The city council shall, at a public meeting, consider the final plat and by majority vote of a quorum of its entire membership, pass a resolution approving the final plat, and finding that:

(a) The plat is consistent with the approved preliminary subdivision, except for minor deviations under subsection (2) of this section.

(b) The plat is consistent with the provisions of this title and chapter 58.17 RCW, as presently constituted or as may be subsequently amended.

(c) All required improvements are installed or securities to cover the cost of installation are submitted in accordance with DMMC 17.40.090.

(2) Minor Deviations. The city council may approve a final plat that is different from the preliminary subdivision if any change:

(a) Is necessary because information provided in the survey for final plat was not available and reasonably could not have been provided during consideration of the preliminary subdivision; and

(b) Does not increase the number of lots; and

(c) Complies with the provisions of chapter 17.36 DMMC; and

(d) Does not substantially change the location or nature of any improvements or any other element of the subdivision; and

(e) In no way significantly alters the subdivision.

Final plats with changes that do not meet the criteria for minor deviations shall be processed as new preliminary subdivisions and shall require a new application fee. [Ord. 1174 § 50, 1996; Ord. 931 § 37, 1992.]

Pacific Place Final Plat LUA2003-017



2002 Orthophotography



VOL./PG.



COVENANT:

NO ACCESS TO OR FROM S. 289th ST. FOR PROPOSED LOTS 1, 21, 22, 23, 24 AND 34

NOTES ON DRIVEWAY LOCATIONS

1. SHARED CURB CUTS FOR LOTS 8/7, 8/9/10, 12/13, 15/16, 22/23, 24/25 AND 30/31.

LEGEND:

- BASIS OF BEARINGS:**
THE CALCULATED LINE BETWEEN THE WEST & SOUTH
QUARTER CORNERS OF SEC. 28-T22N-R4E, N.M.
BEARING N43°52'26"W

MERIDIAN
WASHINGTON STATE PLANE
NORTH ZONE, HPGN 85/91



DALEY-MORROW-POBLETE, INC.
728 AUBURN WAY NORTH
AUBURN, WASHINGTON 98002
PHONE: (253) 333-2200 FAX: (253) 333-2206

ATTACHMENT 5

8	25SEP02	REV. TRACT "A"	
7	23AUG02	REV. PER CITY COMMENTS	
6	08AUG02	REV. PER CITY COMMENTS	
5	17JUL02	REV. PER CITY COMMENTS	
4	8/13/02	REV. PER CITY COMMENTS	
3	16APR02	REV. PER CITY COMMENTS	
2	26MAR02	REV. STREETS PER CITY	
1	28NOV01	REV. PER CITY COMMENTS	
REV.	DATE	DESCRIPTION	APPROV.

find sent: Small Water District System
NEW BUSINESS Item #3

delegated to
Scott T
Tim

AGENDA ITEM

SUBJECT: Review of Water District #54's
Draft Small Water System
Management Program

AGENDA OF: September 25, 2003

DEPT. OF ORIGIN: Public Works

ATTACHMENTS:

1. Draft Plan Introduction
2. Draft Plan Table of Contents
3. District Service Area Map
4. Draft Plan Capital Improvement Program
5. Draft Plan Finance and Implementation

DATE SUBMITTED: September 15, 2003

CLEARANCES:

☐ Finance

☒ Public Works

☐ Legal

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this agenda item is to provide the Council with information regarding the Water District 54 Draft Small Water System Management Program, answer any Council questions related to the Plan and for the District to receive Council input for inclusion in the final plan. No specific action is required at this time.

Background:

Water Districts within the State of Washington are required to have Comprehensive System Plans that are updated on a regular basis. This Draft Plan is an update of Water District #54's 1994 Comprehensive Water System Plan. Because of the critical importance of water for the health and safety of the citizens, cities are included in the review and approval process of Water District Plans. After the District Commissioners have officially accepted the plan, an Ordinance will be brought before the City of Des Moines for official Council action on the document. The action can be anything from acceptance, to acceptance with conditions, to rejection. The Des Moines City Council has previously reviewed all water and sewer district plans in a similar process to this.

Discussion:

Water District #54 is the smallest Utility District serving the City of Des Moines. The District's system is relatively simple with one pressure zone served by a well field located just south of City Hall. The biggest capital project, which the District has undertaken over the last five years, is the construction of much needed additional reservoir capacity to supply water for fire flow and other water system emergencies. The existing blue tank is considerably under the required water storage volume. Phase I of the new reservoir project has been completed, but Phase II which includes the required pumping system, controls, and emergency power system has not yet been started, although a building permit has been issued by the City.

The following items are concerns of the Public Works Director:

1. Making sure that the fire flows are adequate in all portions of the District's system but particularly in the commercial areas, the high-density residential areas and the Marina. At the same time, acceptable pressures must be maintained in the upper portion of the pressure zone to minimize the possibility of contamination. These calculations were not included in the Plan.
2. Water mains and other water system components need to be replaced periodically due to age and lack of capacity. The district had a list of mains that needed to be upgraded in their 1994 Plan. A similar list of main replacements is included in the financial portion of this plan. District representation will attend the Council meeting to explain how this will take place.
3. In the past, the Council has voiced concern about the finances of the District and whether there is adequate funding for the capital needs of the water system.
4. The Water District #54 source water is high in manganese, which can settle out in the piping system. When stirred up, it can cause the water to turn brown or black. Yearly system flushing is called out in the plan under Operation and Maintenance Program. This is the usual method of controlling this problem given that the water is not treated. District representatives can explain the program that they are planning to put into operation.
5. Water Districts in this area can face a number of emergency situations including earthquakes, freezing temperatures, security problems and contamination of the water in the mains or the source water. These situations were not specifically called out in the "Emergency Response Plan". Along with this, and due to the small District staff, it would seem advisable to have interagency agreements for outside help in case of emergencies, especially with Highline Water District who provides a backup supply of water. Given the fact that Highline Water District provides emergency water to District #54, they should be high on the list of agencies to be notified in emergency.
6. Cross connection plans are very important since they are used to minimize the possibility of contamination being sucked into the water system. It is good that the District has assembled a plan for cross connection. The concern is that it relies almost totally on the customer to do the prevention where as many districts use a more balanced approach with district monitoring along with the customer responsibility for the equipment.
7. The address and phone numbers listed in Attachment C of the Element 10, Wellhead Protection Program, are not correct for the City of Des Moines so should be checked for all the agencies.
8. Well No. 6 does not yet have a water right for its use, even though it has been years since the application was made to the Department of Ecology. What is the status of the application, and is there any way to speed up the process?

The Water District has indicated that a Commissioner along with the Engineer will be at the Council meeting to make a presentation and to answer these and other questions that may come up regarding this plan.

Alternatives:

The Council could choose not to review the Water District #54 Plan Update. Lack of any action on the part of the City would result in plan approval for the District. Given the importance of domestic water to the existing and future citizens of the City, and the economic vitality of the community, it seems advisable that Council review and provide comment on this important document.

Financial Impact:

While Water District #54's Small Water System Management Program will not have a significant financial impact on City government in Des Moines, (other than for water utility charges), it does affect the water rates and hookup fees for a majority of the residents and businesses in the downtown area of the City. The District also needs to provide the drinking and fire flow water needed for the redevelopment of downtown Des Moines, which is a high Council objective.

Recommendation/Conclusion:

It is recommended that Council carefully consider the data contained in the Draft Water District #54 Small Water System Management Program. A copy of various sections of particular interest is attached. If one wishes to review the entire document, copies are available at the Water District #54 office, the City Manager Secretary's office, and the Public Works Director's office. Representatives from the District and from the District's consulting firm will attend the Council meeting in order to provide information and obtain comments from the City Council and staff.

Concurrence:

Water District #54 will be officially requesting City concurrence after the District Commissioners give their final approval to the Small Water System Management Program document.

Introduction

The 2003 Small Water System Plan has been developed so that the District can document and project water needs and its plan for meeting these needs for the planning period of the next 6 years and beyond.

This report compiles and summarizes information gathered by Water District personnel and Hedges Engineering and Consulting. This Small Water System Plan replaces the 1994 Comprehensive Water System Plan, designed by Hedges and Roth Engineering, Inc.

This Document outlines the characteristics of the service area and identifies needed improvements in the water system; it also presents a plan for these improvements.

Authorization

The Board of Commissioners for King County Water District 54 authorized the district staff as well as Hedges Engineering and Consulting Inc. to prepare this document.

This plan is intended to comply with the requirements of the Washington State Department of Health (DOH), and King County. The Department of Health requires all purveyors with systems serving less than 1,000 connections to have a Small Water System Management Program, pursuant to Washington Administrative Code (WAC) 246-290-105.

History

Water District No. 54 was formed in 1939, and has grown in population from approximately 300 people to its current size of approximately 5,390 people.

Historically, the District has always had groundwater sources. The District's elevated reservoir was constructed in 1968 and holds 250,000 gallons of water.

Location

King County Water District No. 54 is located within the Cities of Des Moines and Normandy Park, southwest King County Washington. The service area is approximately 455 acres, and includes portions of Section 8 and 17 in Township 22 North, Range 4 East, Willamette Meridian.

Description

Approximately 90% of the area served is in the city of Des Moines, with the city of Normandy Park covering the remaining area. There are no anticipated boundary expansions at this time.

Ground elevations range from near sea level to approximately 155 feet in the higher elevations.

The Districts Instrumentation and control system allows for the observation and control of supply and storage. Currently there are 6 different settings allowing each of the supply wells to start first, second or third depending on the operational conditions of the day. These sources of supply come on at various water levels in the storage tank.

The District is surrounded on three sides by Highline Water District and Puget Sound on the other. There is no service agreement with Highline Water District although there is an intertie agreement.

Purpose

The purpose of this plan is to show an orderly schedule for Maintenance and capitol improvements as well as budgeting requirements needed to carry out this plan. Other objective are:

- Verify Water Quality Monitoring Reports.
- Document Department of Health Sanitary Survey results.
- Summarize Cross Connection Program.
- Record Emergency Response Plan.
- Display Service Area and Boundaries.
- Identify Hydraulic Model.
- Summarize Operation and Maintenance schedule.
- Update Well Head Protection Program.
- Record Source Water Pumped and Water usage.
- Verify Water Conservation Goals.
- Describe Component Inventory and Assessment.
- Develop a Capitol Improvement Plan.
- Forecast a 6 year Budget Plan.
- Document System Management.

Table of Contents

List of Elements:

Introduction		Number of pages
Element 1	Water Facilities Inventory	3
	a) System Characteristics	
	b) Sources	
	c) Population	
	d) Coliform testing Schedule	
Element 2	Water Quality Monitoring Program	14
	a) Active Sources	
	b) Chemical Sampling	
	c) Monitoring Waivers	
	d) Coliform Monitoring Policy	
Element 3	Consumer Confidence Report	5
Element 4	Sanitary Survey	5
	a) Water Quality History	
	b) Storage	
	c) Recommendations	
Element 5	Annual Operating Permit	2
Element 6	Cross Connection Control	12
	a) Requirements	
	b) Objectives	
	c) Elements	
	d) Operations	
	e) Public Education	
	f) Program Schedule	
	g) Resolution	
Element 7	Emergency Response	4
	a) Response list	
	b) Emergency Notification	
	c) Power Outage	
	d) Well Pump Failure	
	e) Water Main Break	
	f) Electrical Problems	
	g) Coliform MCL Violations	

	Number of Pages
Element 8 Service Area and Facilities Map	3
a) District Map	
b) Hydraulic Schematic	
Element 9 Operations and Maintenance	3
a) Personnel	
b) Maintenance Schedule	
c) Reservoir Settings	
d) Contractors and Suppliers	
e) Work Order Form	
Element 10 Well Head Protection	16
a) Susceptibility Assessment	
b) Delineation	
c) Inventory	
d) Contingency and Emergency Response Plan	
Element 11 Water Rights Certificates	8
Element 12 Source Water Pumped	2
Element 13 Water Usage	2
Element 14 Water Conservation	3
Element 15 Component Inventory and Assessment	5
Element 16 System Improvements	3
Element 17 Budget	3
a) Budget Philosophy	
b) 6 Year Budget	
c) Rate Schedule	
Element 18 System Management	5

Element 16

List of System Improvements

The attached table lists system and equipment improvements planned for Water District No. 54. The improvements are briefly described here:

1. The North Hill Improvements would increase water pressures of individual residences for a small zone within the North Hill service area.
2. Both the interior and exterior of the elevated water tank are to be painted. Tank repairs and installation of a tank discharge flow meter will be done at the same time.
3. Replacement of the 1-ton truck that transports the District's meter replacement tools.
4. General upgrade of the District's office building.
5. Water main replacements are to improve fire flows within the District. Generally, either 4 or 6-inch asbestos cement pipelines will be replaced with 8-inch ductile iron pipe. Descriptions of the water main replacements are:

➤ **216th and Marine View Drive:**

The Water Main Crossing the fill area on Marine View Drive, where Des Moines Memorial Drive connect with Marine View Drive, would be replaced in the event that the City of Des Moines replaces the current bridge and road. This Main would be replaced with approximately 950' of 8" ductile iron along with at least one fire hydrant and appropriate valves.

➤ **6th Avenue from 220th Street to 227th Street:**

Project scheduled to replace 2400' of 6" AC main with 8" ductile iron, along with 3 fire hydrants and related meter services.

➤ **13th Avenue South from 216th Street North:**

This water Main replacement would improve fire flow down 13th Avenue South replacing a 4" water main and three fire hydrants, along with related residential water meter services.

➤ **226th Place South from 10th Avenue South to the end of cul de sac:**

Upgrade 4" AC to 8" ductile iron, approximately 350' and one fire hydrant.

➤ **Rainbow Lane from 12th Avenue South West:**

Replace 4" AC with 8" ductile iron along with one fire hydrant and related water meter services, approximately 350'.

➤ **229th Street from 12th Avenue South East:**

Project scheduled to replace approximately 400' of cast iron water main with 8" ductile iron, and two fire hydrants, along with meter services.

➤ **1st Place South across 1st Avenue South onto 216th Street to 4th Avenue South:**

Upgrade 6" AC water main with 8" ductile iron approximately 900', including two fire hydrant and meter services.

➤ **Water Mains Crossing Marine View Drive**

Four new 8" ductile iron water mains may be needed across Marine View Drive to increase fire flows by connecting existing 6' pipelines.

6. When the new surface reservoir-booster pump system is complete Wells 4, 5, and 6 will no longer need to pump to the elevated reservoir. The pumps will be removed and the impeller diameters reduced to make the pumps more efficient for pumping into the surface reservoir only.

List of System Improvements

Description	Priority Level	2003	2004	2005	2006	2007	2008+	Financing Method*
Capital Improvements to District ie:								
NorthHill Improvements (under analysis)	1	\$30,000						3
Main Upgrades Below:	5			\$90,000	\$115,000	\$125,000	\$125,000	3/1
216th St, MVD to 7th So 950'								
6th Ave, 220th to 227th 2400'								
13th So, 216th to end cul de sac 700'								
226th Pl, 10th So to end cul de sac 350'								
Rainbow Ln, 12th Ave to end cul de sac 350'								
229th St, 12th Ave to end cul de sac 400'								
216th Pl, 1st Pl So to 4th Ave So 900'								
230th St, 12th Ave to end cul de sac 400'								
11th Ave, 222nd to 223rd 450'								
Water Mains Crossing MVD 1480'								
Maintenance to Reservoir ie:								
Elevated Reservoir Rehabilitation	2		\$90,000					3
General Service Improvements ie:								
Meter Truck Replacement	3			\$20,000				3
Operating Improvements ie:								
Office Building Rehabilitation	4		\$25,000					3
Well Maintenance ie:								
Wells 4, 5 & 6 Impeller Replacement	6				\$8,000	\$8,000	\$8,000	3
Yearly Totals		\$30,000	\$115,000	\$110,000	\$123,000	\$133,000	\$133,000	

*WD54 has a \$5,000 yearly Capital allowance for miscellaneous capital improvements

*Well & Reservoir Project to be completed in 2003. This is funded by PWTF & DWSRF loans

*1 Loan PWTF & DWSRF

*2 Revenue Bonds

*3 Pay as you go

Element 17 Budget

Water District No. 54 annually prepares a budget and looks out into the future. The Board attempts to ensure the operating revenues pay for operating expenses and debt repayment, with additional funds available for capital and/or reserves. In addition, capital-related revenue (capital facilities charges) is programmed to go toward capital or held in reserves for the future. Because the outstanding debt has funded major capital improvements, the capital facilities charge revenue may also be scheduled for debt payments.

The District is currently working on a major capital improvement, the Well and Reservoir Project that is scheduled for completion in 2003. Two low-interest loans were taken for this project. The first is a 20-year Public Works Trust Fund loan in the amount of \$1,116,240 at two percent interest. The second is a 20-year Drinking Water State Revolving Fund loan for \$999,100 at 4.35 percent interest. The District has been concentrating its efforts on completing the project and raising rates to a level necessary to support the debt repayment.

Debt service payments have increased from \$18,000 in 1998 before this major project to \$193,000 in 2003. Due to the structure of the loan payments, this will be the highest year and as annual debt payments decline, more will be available for capital and reserves. It is anticipated that there may be a reduction in interest on the PWTF loan once the project is completed.

The District has planned rate increases every two years (1998, 2000 and 2002) to move rates up to the necessary level. Currently, the Board is evaluating when and how much to make the next step. They are also reviewing the Capital Facilities Charge to ensure that it represents the new connection's equitable share of facilities.

The District prefers to fund its capital program on a pay-as-you-go basis, yet borrowing is considered when necessary for major capital. Once the Well and Reservoir Project is complete, the District will be rebuilding its reserves.

The District tests for target minimum reserves, including a Cash Flow Reserve of three months of operating expense and an Emergency Reserve of \$100,000, the maximum deductible on its insurance policy.

**Elem 17
Budget**

WD 54 SIX-YEAR BUDGET Version: 03/26/03	Budget 2003	Projected 2004	Projected 2005	Projected 2006	Projected 2007	Projected 2008	Projected 2009
OPERATING REVENUE							
Water Sales	551,001	658,200	658,200	709,656	709,656	765,228	765,228
Other Operating	14,250	14,250	14,250	14,250	14,250	14,250	14,250
Total Operating Revenue	565,251	672,450	672,450	723,906	723,906	779,478	779,478
Operations & Maintenance	202,550	200,668	207,692	214,961	222,484	230,271	238,331
General & Administrative	184,050	183,040	191,803	201,620	205,464	210,042	226,244
Debt Service (P+I)	192,647	188,760	184,873	180,986	177,099	173,212	169,326
Total Operating and Debt	579,247	572,468	584,367	597,567	605,047	613,526	633,901
NET OPERATING INCOME	(13,996)	99,982	88,083	126,339	118,859	165,953	145,577
CAPITAL REVENUE							
Capital Facilities Charge (ERU)	30,000	17,500	17,500	17,500	17,500	17,500	17,500
Reimbursement + Interest	2,000	2,000	2,000	2,000	2,000	2,000	2,000
Loan Proceeds (PWTF+DWSRF)	456,878	-	-	-	-	-	-
Capital Revenue	488,878	19,500	19,500	19,500	19,500	19,500	19,500
NET AVAILABLE FOR CAPITAL	474,882	119,482	107,583	145,839	138,359	185,453	165,077
CAPITAL PROGRAM (The District prefers Pay-As-You-Go for the Capital Program except where possible loans are indicated.)							
Comprehensive Plan Update & Financial	24,164	-	-	-	-	-	-
Wellhead Protection Plan	13,710	-	-	-	-	-	-
Well & Reservoir Project (Loans)	1,058,533	-	-	-	-	-	-
North Hill Improvements	30,000	-	-	-	-	-	-
Main Replace/Upgrade Program (Loans Poss)	-	-	90,000	115,000	125,000	125,000	125,000
Elevated Reservoir Rehabilitation	-	90,000	-	-	-	-	-
Meter Truck Replacement	-	-	20,000	-	-	-	-
Office Building Rehabilitation	-	25,000	-	-	-	-	-
Wells 4,5,6 Impeller Replacement	-	-	-	8,000	8,000	8,000	-
Misc. Capital Outlay	\$5,000 is included annually within operations for misc. capital outlay.						
Subtotal Capital Program	1,126,407	115,000	110,000	123,000	133,000	133,000	125,000
ANNUAL INCR.(USE) OF RESERVES	(651,525)	4,482	(2,417)	22,839	5,359	52,453	40,077
TOTAL CASH - Beg. Of Yr.	849,702	198,177	202,659	200,242	223,080	228,439	280,892
TOTAL CASH - Estimated Yr. End	198,177	202,659	200,242	223,080	228,439	280,892	320,969
TEST: Minimum Cash Reserves?	YES	YES	YES	YES	YES	YES	YES
Target Minimum Cash Reserves:	196,650						
Includes Cash Flow Reserve of 3 months of Operating Expense + Emergency Reserve of \$100,000 maximum deductible							
Assumes no customer growth but includes rate adjustments as needed every two years.							

King County Water District #54

922 South 219th Street
Des Moines, WA 98198
Phone (206)878-7210 Fax (206)824-1909

Water Consumption Rates:

Summer Water Rates 5/1 through 10/31	\$1.75	per	100 Cubic Feet
Winter Water Rates 11/1 through 4/30	\$1.50	per	100 Cubic Feet

Monthly Base Rates:

***Residential			
Monthly Single Family Base Rate	5/8" or 3/4"	\$7.50	or \$15.00 Per Billing Cycle
	1"	\$8.00	or \$16.00 Per Billing Cycle
***Multi-Family			
Multi-Family Base Rate (per unit)		\$7.50	or \$15.00 Per Billing Cycle
***Non-Residential			
	5/8" or 3/4"	\$23.00	or \$46.00 Per Billing Cycle
	1"	\$29.00	or \$58.00 Per Billing Cycle
	1-1/2"	\$41.00	or \$82.00 Per Billing Cycle
	2"	\$75.00	or \$150.00 Per Billing Cycle
	3"	\$140.00	or \$280.00 Per Billing Cycle
	4"	\$280.00	or \$560.00 Per Billing Cycle
	6"	\$575.00	or \$1,150.00 Per Billing Cycle
	8"	\$975.00	or \$1,950.00 Per Billing Cycle
***Fire Sprinkler Lines			
	1"	\$12.00	or \$24.00 Per Billing Cycle
	2"	\$24.00	or \$48.00 Per Billing Cycle
	3"	\$36.00	or \$72.00 Per Billing Cycle
	4"	\$48.00	or \$96.00 Per Billing Cycle
	5"	\$60.00	or \$120.00 Per Billing Cycle
	6"	\$72.00	or \$144.00 Per Billing Cycle
	7"	\$84.00	or \$168.00 Per Billing Cycle
	8"	\$96.00	or \$192.00 Per Billing Cycle

Bulk Water:

Summer Rates 5/1 through 10/31	\$3.75	per	1000 gallons
Winter Rates 11/1 through 4/30	\$2.75	per	1000 gallons
\$25.00 Minimum Charge			
\$50.00 Minimum Deposit on Hand			

General Facility Charges:

***Water Availability			
Residential - Single Family	\$300.00		
Non-Residential & Multiple	\$375.00		
***Fire Flow Analysis	\$250.00	plus	Staff & Engineering Costs
***Equivalent Residential Unit (ERU)	\$3,000.00	per	Unit

Water Service Installation Charges:

5/8", 3/4" & 1" Meter, Long or Short Service	\$2,900.00		
3/4" or 1" Meter, Installed by Contractor	\$500.00*	plus	Labor & Equipment Rates
*(includes Meter & Inspection)			
Over 1" Meter Installation	Cost of Labor, Materials, Equipment plus 25%		
	\$2,500.00		Deposit Required

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

**Right of Way, Park & Recreation Area
Use Permit Ordinance**

ATTACHMENTS:

Draft Ordinance No. 03-075

*reworded as
municipal facilities*

FOR AGENDA OF: Sept. 25, 2003

DEPT. OF ORIGIN: Public Works/Parks

DATE SUBMITTED: Sept. 22, 2003

CLEARANCES:

[X]

Legal

[Signature]

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *C. L. [Signature]*

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, park and recreation area special use permits and amends DMMC chapters 12.04 and 19.08.

The City Attorney's 2nd Draft – dated 5/15/03 revises the ordinance by changing all of the relevant references to "Parks and Park Facilities" to "Parks & Recreation Areas."

- DMMC 19.20.010 designates "Parks & Recreation Areas" of Local Significance & specifically includes the Marina as one of the areas of significance. The Code (DMMC 19.20.010) doesn't refer to the Marina as either a "Park" or a "Recreation Area," however DMMC 19.12 designates the City Parks and the Marina is not included, so we can assume that the reference to the Marina in DMMC 19.20.010 is as a "recreation area," so by making this revision we have included the Marina property in the ordinance so that, if the ordinance is adopted, it will require permits for special uses on Marina property without having to designate it as a park.

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 recreation areas 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 and recreation area 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, park and recreation area 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, park and recreation area permit process?; and
- What specific events and/or uses of city right of way, park and recreation area 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 recreation areas, 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.

Direct
to City
to bring
written
policy

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
CITY ATTORNEY'S SECOND DRAFT 5/15/03

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 recreation areas ~~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 recreation areas ~~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:

*LAW TOWN ? Maggie Municipal Facility,
Scott T. be explicit that includes ~~recreation~~
"recreation area" was for Anti-airport noise ord.
Maggie City Property?"*

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 recreation areas ~~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 recreation areas ~~park facilities~~:

(a) _____

(b) _____

(c) _____

(d) _____

~~((+2))~~ (3) Persons or community groups desiring to use park and recreation area 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 and recreation area 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 and recreation area buildings and structures in a condition satisfactory to the City 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 City 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 not 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 and recreation area 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

Ordinance No. ____
Page 6 of ____

jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

NEW SECTION. **Sec. 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

passed 5-0

A G E N D A I T E M

SUBJECT:

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

AGENDA OF: September 25, 2003

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

DATE SUBMITTED: September 4, 2003

CLEARANCES:

☒ Park & Recreation Director
☒ Finance Director
☐ Personnel

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL

Purpose and Recommendation:

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

Recommended Motion:

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

Background:

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

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

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

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

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

Discussion:

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

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

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

Alternatives:

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

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

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

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

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

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

Financial Impact:

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

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

Position Cost Based on 2004 Projections:

Salary	\$32,755
Benefits	\$18,765
Total	\$51,520

Position Savings:

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

Increased Revenue Projections:

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

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

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

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

Recommendation/Conclusion:

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

Concurrence:

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

passed as amended

A G E N D A I T E M

SUBJECT:
Allocation of 2004 CDBG funds

AGENDA OF: September 25, 2003

DEPT. OF ORIGIN: Community Dev.

DATE SUBMITTED: 9/2

ATTACHMENTS:
None

CLEARANCES:
☐ LEGAL _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL *[Signature]*

Purpose and Recommendation:

The purpose of this agenda item is to allocate approximately \$252,533 in 2004 Community Development Block Grant funds.

It is recommended the Council allocate these funds as suggested by Administration below.

Background:

This federal program assists low and moderate-income communities and families. Except for the amounts listed which are available for public service and planning and administration, all CDBG funds must be used to support capital projects that meet one of three national objectives: 1. Elimination of slums and blight 2. Assistance to low and moderate-income persons and communities 3. Urgent needs.

Discussion:

This year we received 3 proposals two from Parks and Recreation and one from Intercommunity Mercy Housing. The total amount requested by these proposals was \$187,088. The total amount available for capital projects is \$180,636.

Alternatives:

1. Council may allocate 2004 CDBG funds to the same project and in the same amounts as recommended by Administration,
2. Council may allocate 2004 CDBG funds to different and/or in different amounts than recommended by Administration, provided that the total allocation does not exceed \$252,533.

Financial Impact:

Failure to allocate CDBG funds as recommended by Administration may have a General Fund proportional impact on those projects sponsored by the City.

Recommendation/Conclusion:

It is recommended the Des Moines 2004 CDBG funds be allocated as follows:

Senior Center Operations:	\$40,827
Planning and Administration	\$31,070
Housing Repair	\$20,000
Senior Center Land Acquisition	\$72,088
Midway Park improvements	\$65,000
Intercommunity Mercy Housing	<u>\$23,548</u>
TOTAL	<u>\$252,533</u>

Senior Center Operations

Amount requested: \$40,827

Amount recommended: \$40,827

This project provides support for a portion of the Senior Center program coordinator position.

Planning and Administration

Amount requested: \$31,070

Amount recommended: \$31,070

This project provides support for a portion of the Community Development Directors salary. The activities of this position include administration of the CDBG program, and planning activities associated with the Southwest King County Economic Development Initiative and Pacific Ridge redevelopment.

Housing Repair

Amount requested: \$0

Amount recommended: \$20,000

This program administered through King County provides direct assistance to low and moderate homeowners in Des Moines. The program also includes emergency repair services. Last year the Council allocated \$15,000 to this program. Due to the success of this program Administration is recommending a slight increase in 2004 although some doubts on the efficiency of King County administration remain.

Senior Center Land Acquisition

Amount requested: \$72,088

Amount recommended: \$72,088

This is the seventh and final year of this acquisition project. The goal of this project to acquire the land currently occupied by the Activity Center.

Midway Park Improvement Project

Amount requested: \$65,000

Amount recommended: \$65,000

These funds will be combined with funds from the City of Des Moines for Midway Park improvements which will include area lighting, pathway improvements, removal of old play equipment and installation of new equipment, installation of a drinking fountain and a pad for a seasonal Sani-can.

Don't you think we need to have a separate note with allocation?

\$23,548

Intercommunity Mercy Housing

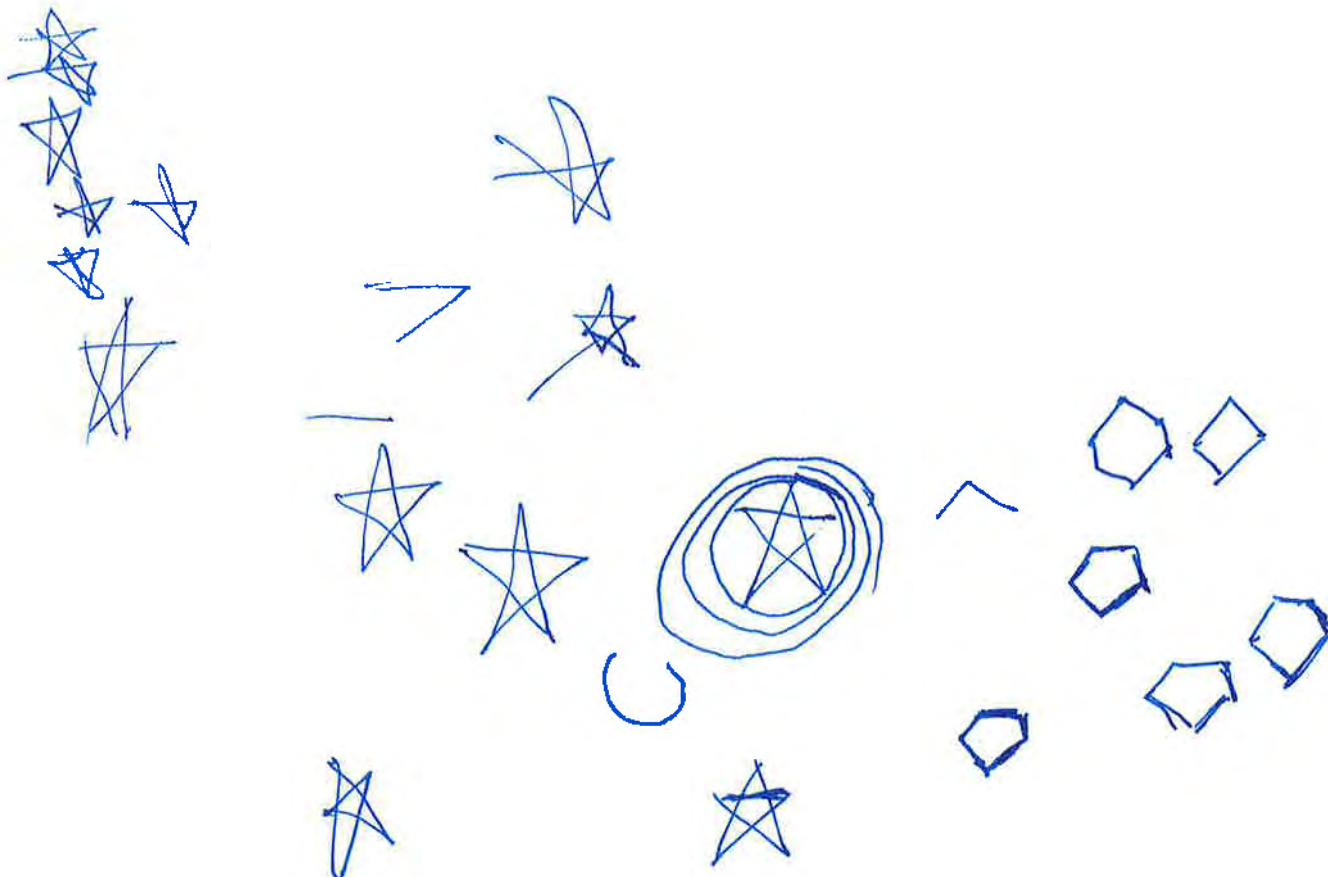
Amount requested: \$50,000

Amount recommended: \$23,548

These funds will be used to support costs associated with the design and construction of a new community center that will serve as a location for the provision of services for homeless and extremely low-income families living in the West Hill and Star Lake Areas of Southwest King County.

Concurrence:

None



perusal

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Recognition of "Mayor's Day of
Concern for the Hungry" on Sept. 27, 2003

ATTACHMENTS:

- Certificate of Recognition

FOR AGENDA OF: September 25, 2003

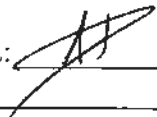
DEPT. OF ORIGIN:

DATE SUBMITTED: September 17, 2003

CLEARANCES:

[] _____
[] _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

RECOMMENDED ACTION

It is suggested that the City Council approve the following motion:

"MOTION is to recognize Saturday, September 27, 2003, as *Mayors Day of Concern for the Hungry* in Des Moines."

SUMMARY STATEMENT

The City of Des Moines has been requested to participate with other cities in King County to help support the efforts of the Emergency Feeding Program by recognizing Saturday, September 27, 2003, as "Mayors Day of Concern for the Hungry". This is the annual food drive to help the Program's efforts and area food banks in fighting hunger, which will be held at local grocery stores throughout King County.



City of Des Moines

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



RECOGNITION

WHEREAS, our King County cities recognize adequate nutrition as a basic goal for each citizen; and

WHEREAS, no parent should have to send a child to school hungry, no baby should be without the comfort of the feedings need for mental and physical growth, no elderly person's health should be jeopardized by lack of appropriate foods; and

WHEREAS, food banks, emergency and hot meal programs working with our cities, local churches, social service agencies, and hundreds of volunteers are striving day in and day out to stem the rising tide of hunger, but still need more help; and

WHEREAS, we believe that when the citizens who are not involved hear of the especially desperate needs of the hungry as winter approaches and their low incomes must stretch to cover increasing fuel, electricity and rental costs - leaving even less money for monthly food purchase, an outpouring of community assistance will follow; and

WHEREAS, the Emergency Feeding Program coordinates an annual food drive to help support the efforts of their program and the area's food banks in fighting hunger which will be held at grocery stores throughout King County on Saturday, September 27, 2003.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DES MOINES, hereby recognizes September 27, 2003 as

MAYOR'S DAY OF CONERN FOR THE HUNGRY

and strongly urge all the citizens of Des Moines to join the emergency Feeding Program and our food banks to nourish those who are hungry.

CITY SEAL

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

September 4, 2003

At 7:40 p.m. City Manager Piasecki announced that the start of the meeting will be delayed to allow time to setup the video equipment.

The regular meeting of the Des Moines City Council was called to order by Mayor Steenrod at 7:53 p.m. in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Benjamin.

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Bob Sheckler, Dan Sherman, Scott Thomasson and Susan White. Absent: Councilmember Gary Petersen (vacation). Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, Community Development Director Judith Kilgore, Development Services Manager Robert Rnith, Police Commander Kevin Tucker and City Clerk Denis Staab.

MOTION was made by Mayor Pro Tem Benjamin, and seconded by Councilmember Thomasson and passed unanimously, to excuse Councilmember Petersen.

Agenda Revision

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman, that due to the business in front of Council to table Board & Committee reports and the Presiding Officer's Report to the end of the meeting. Motion passed 4 to 2, with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

ADMINISTRATION REPORTS

Police Chief Search

City Manager Piasecki advised that the candidate list has been narrowed to six applicants. Interviews are schedule for September 17th and 18th.

Woodmont School Soccer Field

City Manager Piasecki invited everyone to the opening of the new soccer field scheduled for this Saturday at 9 a.m.

King County Solid Waste Interlocal Agreement - Request from Suburban Cities Association

City Manager Piasecki reminded Council that while King County cities are responsible for pick-up of solid waste, King County is responsible for disposal. He noted that the Cedar Hills site will be at capacity earlier than expected and will be closed early in 2012. He advised that the County has bought property for a transfer site for solid waste to be brought to, and then transported by train to an unknown site for disposal, without the affected cities consent. He stated that 17 cities have formally requested that the interlocal agreement be re-opened to negotiate various issues. He informed Council that Suburban Cities Association is requesting that Mayors of all cities that have interlocal agreements with the County come together and sign a formal letter to the County in support of re-negotiations. He noted that Deb Eddie, Executive

Director of Suburban Cities Association is present. A copy of the letter was distributed to Council

Ms. Eddie stressed the importance of unity among the cities and for joint plans and action for future solid waste transfer and disposal services that are in the best interest of the ratepayers. She requested Mayor Steenrod be authorized to sign the letter.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously, to authorize Mayor Steenrod to sign the letter on behalf of the City of Des Moines.

CONSENT CALENDAR was read by City Clerk Staab, who noted that since there are no bills or payroll to approve, Item #2 has been removed.

1. ~~Motion is to approve the minutes of August 14, 2003. [ED NOTE: Item removed by Mayor Pro Tem Benjamin.]~~

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

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

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

~~Payroll fund transfers in the total amount of \$~~

3. **Motion** is to enter into a joint trench construction agreement with Qwest for their participation in costs for the utility undergrounding improvements of the Pacific Highway South Redevelopment Project and to authorize the City Manager to sign the agreement substantially in the form as submitted.

4. **Motion** is to enter into a supplement agreement with the Washington State Department of Transportation for the construction of asphalt overlay on Pacific Highway South, reducing the total reimbursement amount by \$73,000 for a new revised total payment of \$762,853 and to authorize the City Manager to sign the supplement agreement substantially in the form as submitted.

5. **Motion** is to enter into the general maintenance agreement with WSDOT (GM 1385) for an annual estimated cost of \$69,506.88 for operation and maintenance of all traffic signals within the City limits and to authorize the City Manager to sign the agreement substantially in the form as submitted.

Mayor Pro Tem Benjamin requested Item #1, approval of the August 14, 2003 minutes.

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

Removed Consent Item #1 - Approval of Minutes of August 14, 2003

Mayor Pro Tem Benjamin noted that on page 3, under "Des Moines Activity Center parking Lot Paving Project Contract", that the first statement attributed to him was incorrect. He requested the paragraph be changed to reflect the following: "Mayor Pro Tem Benjamin expressed concern with the proposed 15% contingency for the project, as a few weeks earlier it had been

proposed at 10%. He stated that he feels that it is unreasonable for every contract to contain a contingency, and that for this contract a 5% contingency would be more reasonable.”

Also on page 8, 2nd to the last paragraph: The date of September 9, 2003, should read “September 11, 2003.

It was Council’s consensus that the corrected minutes will be placed on the Consent Calendar on the meeting of September 11, 2003, for approval.

AGENDA REVISION

Mayor Steenrod announced that the City Manager had informed her that the majority of Councilmembers will table all issues to get to particular items, so she will take New Business prior to the Continued Public Hearing.

Councilmember Sheckler stated his purpose in tabling the Board & Committee and Presiding Officer’s Reports was to expedite the process to get to the Continued Public Hearing due to the large number of interested citizens in the audience, not to take business items out of order.

NEW BUSINESS

Towing Services RFP

MOTION was made by Councilmember Thomasson, seconded by Councilmember White, to direct staff to issue an RFP for towing/impound services with the same requirements and time frames as contained in RFP 02-001.

FRIENDLY AMENDMENT was made by Councilmember Sherman, and accepted, to amend page 2 of the Specifications for Vehicle Towing under *Class “C” Tow Trucks* to add the words “or Sub Contractor” and page 3 under *Storage Lot* to change three miles to “four miles”.

Mayor Pro Tem Benjamin felt that this issue only came about after Councilmember Petersen’s election to Council concerning an alleged conflict of interest. He stated that there has been no ruling in a Court of law to date that has stated that there is one. He felt that by issuing this RFP it will create a conflict of interest. He stated the City has not had a contract for these services in over 40 years and there has been no problems until the last year when the City quit using Mr. Petersen’s towing company. He stated that as Chairman of the Public Safety and Transportation Committee, he is disappointed in this action by Council and will not support the issue. He feels it does not offer the best service or the interest of the community.

Councilmember Sherman stated that Councilmember Petersen has been found in violation of a conflict of interest regarding his towing company.

Councilmember Thomasson remarked that this item was introduced to Council a year ago. Part of the need is for liability protection to the City and to be able to clearly identify the services being provided. This is still the motive for requiring this type of contract.

Mayor Steenrod noted that although a contract can provide some protection, citizens are tied to one vendor. She stated that the City has not had a need to have such a contract in the past and felt this will force a Councilmember to resign or give up his business.

Councilmember Sherman remarked that having such a contract should lower rates of towing for Des Moines citizens.

VOTE ON MOTION: Motion passed 4 to 2 with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

RCAA 2002 Invoices

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to authorize payment of \$24,589.78 to the Regional Commission on Airport Affairs as full and final payment for services provided in 2002 out of the General Fund fund balance for the 2003 Budget.

Councilmember Sherman advised that the City had a contract with RCAA which the City terminated. As a part of the contract, the City owed money, which now includes interest. He felt that it is good business to pay your bills.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman, to amend the motion to change the dollar amount to \$22,065.22.

Councilmember Sheckler advised that this would reflect the amount due, less the interest. He replied to questioning, that RCAA had expressed a positive response in regards to waiving the interest.

Mayor Pro Tem Benjamin spoke in opposition to paying any amount to RCAA. It is his opinion that they provided no value to the City and had used funds to influence political campaign outcomes, including Des Moines City Council race.

Councilmember Sheckler advised that the contract also included four other cities and Highline School District and feels that RCAA provided an information service which was their sole purpose.

Mayor Steenrod announced that she will not support the motion. She noted that an RCAA newsletter that was mailed at the same time as absentee ballots in 2000, stated that she supported the 3rd runway. She advised that no one from RCAA had contacted her regarding this. She noted that she requested that RCAA re-cant their statement and to date she has not received any response. She stated that she does support the fight against the 3rd runway and has personally financially contributed to that effort. She expressed concern that taxpayer funds are being used for political purposes. While she totally supports honoring of contracts, she does not feel this money was an appropriate use of City funds.

VOTE ON AMENDING MOTION: Motion passed 4 to 2 with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

VOTE ON MAIN MOTION: Motion passed 4 to 2 with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

CONTINUED PUBLIC HEARING

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

Mayor Steenrod announced that the hearing is continued from the August 14, 2003 meeting and requested the City Attorney to summarize the requirements for the consolidated hearing.

City Attorney Marousek advised that the rules read into the record at the August 14th meeting are still in effect. She reiterated that the Council has three separate decisions to make; a SEPA Appeal, an Environmentally Sensitive Areas Development Exception and an Unclassified Use Permit, in a combined hearing process. She emphasized that a Council decision on the SEPA appeal must be made before action is taken on the other two issues. She advised that the hearing should begin by offering additional time for testimony related to the SEPA Appeal to the four appellants (Mr. & Mrs. Workman, Ms. Ham, Ms. Benson and Ms. Robertson) whom have already spoken before offering testimony to other opponents.

Mayor Steenrod inquired whether the four appellants are present and if they wished to provide additional testimony. Response was in the positive.

City Attorney Marousek requested all individuals in the audience who wished to offer testimony raise their hands and she then administered an oath to tell the truth.

Councilmember White announced that she will recuse herself from participation and left the Council Chambers.

APPELLANTS to SEPA Appeal
Mr. & Mrs. Workman, 23903 7th Avenue South

Mr. & Mrs. Workman reiterated their objection citing the following:

- Increased traffic in the neighborhood
- Not enough parking provided
- Surface water run-off not adequately addressed

Ms. Workman noted that another sub-division in the neighborhood was required to widen the street at their expense and felt that this will be used for parking by the new development. She felt it is unfair that a private property owner had to pay to widen a public street and said she cannot see where the developer of the project is being required to do anything.

Ms. Benson, 702 South 236th

Ms. Benson expressed concern regarding South 236th in that it will be terribly impacted by traffic. She noted it is a small windy road. She requested Council consider the impacts that this type of development will have on the existing residential neighborhood.

Ms. Robinson, 23660 7th Avenue South

Ms. Robinson referenced a letter to Council from Peter Skelly, and offered the following excerpts from that letter:

- DMCP Policy 2-03-04 "Preserve the integrity of existing single family neighborhoods."
- DMCP Policy 2-03-06(1) "Future multifamily development should be limited to areas where the pattern of existing multifamily development and zoning is predominant."
- DMCP Policy 2-03-06(3) "The proposed development lot size is 0.223 acres". What the developer has proposed has more dwellings that what would be allowed on this property.
- DMCP Policy 7-03-06 "Protect existing and planned residential areas from unmitigated adverse impacts that may be generated by nearby incompatible land uses . . ."

She informed Council that at the time she purchased her home she was told that the 50' vacant strip next to her could not be developed. She understands that the City Planning Department is going to allow the developer to use the square footage of S. 239th Street to satisfy the square footage that is needed for his development and noted that she is concerned about this.

McI Bogovich, 23635 Marine View Drive

Mr. Bogovich questioned Development Services Manager Ruth as to what is the City Council's interpretation of congestion and density. He noted his property abuts the proposed development and contains 46,000 square ft. He stated that he had been turned down to divide his property for 3 additional structures and was told there is a minimum of 15,000 square ft. required per dwelling unit. He expressed the opinion that the proposed change in density from this development will cause traffic congestion. He was informed by planning staff that emergency vehicle access to 7th Avenue would be drastically impaired. He further noted that 239th is very steep and was blocked off because of potential for cars to slide down onto 7th Avenue and into houses during inclement weather.

Alice McCabe, 23902 7th Avenue South

Ms. McCabe expressed opposition due to the increased traffic to 7th Avenue South as it can hardly contain the present traffic. She cited the transportation element policy 3-03-07 that provides for facilities to accommodate safe pedestrian and bicycle movement. She felt that with 8 living units and 2 office spaces there will be a lot more than 9 vehicles in and out of the development. As to South 239th, it was closed off because it was too steep for cars and now it can be used for development, she questioned whether this would not be disturbing the site. She felt that the City is vacating the street (239th) to Mr. White for his exclusive use and allowing him to use this to calculate lot coverage. She noted that she has filed a law suit for half of this 30 foot road that abuts her property. She further challenged that digging down 2 stories under the present building would be disturbing the soil. She noted that staff cited a variety of land use in the neighborhood by pointing out Judson Park and the Masonic Home. However, she noted that access to these developments are not to 7th Avenue South or 239th. She concluded by stating there are too many adverse impacts for the proposed development.

Ms. Harn, 23910 7th Avenue South

Ms. Harn reminded Council that Des Moines Municipal Code, in a number of different places, makes it clear that lot size cannot be calculated by using the right-of-way. She stated that this has been allowed in this case and that violates the law. She noted that when they do the grading to lower the steep slope on this property, they will be removing a significant amount of dirt and she questioned where they will put it. If it is hauled away it is not covered under the Environmental Checklist. She noted that if they dig down, it will limit the access to the two properties on the south side of the subject property, as there will be a retaining wall. She advised that there is a pending lawsuit against the City filed by herself and Ms. McCabe regarding South 239th Street. She is of the opinion that this property was zoned single family under King County and a rezone was not properly done to change this property to NC zoning. She noted that when the citizens of the Zenith area sued the City to get beach access, one of the parts of the settlement agreement includes language that none of the parking in that area will be by non-residents. She noted that under the Environmental Checklist, page 11, it states that there will 19 stalls on site. She also noted that the Checklist only speaks to 5 units, when she has seen as many as 8 or 9 units contained in the proposed plans. She reminded Council that the streets in this area are in some places one way, with blind curves. She noted her calculations would indicate more

vehicle trips, as many as 72 trips, and that is assuming everybody just comes and goes once. She questioned whether a proposed variance and the building permit will need to be addressed separately.

9:05 p.m. Mayor Steenrod called for a 5 minute break.

Nancy Rogers, Attorney Representing the Zenith Community Residents

For the record, Ms. Rogers entered an objection to the process for melding these hearings as a process violation. She cited the following as the due process violations she objects to:

- Limitation of SEPA appeal testimony to simply the named appellants. No other witnesses or experts can be called. Only narrative testimony is allowed with no opportunity to actually question people to ensure all pertinent facts are on the table.
- Lack of opportunity to cross examine City staff or the applicant to ensure that all of key facts are fully vetted.
- No opportunity to question our own witnesses to ensure all their points are covered.
- My full opportunity for rebuttal on factual issues will be simply to use one of the named appellants to give narrative testimony.

She noted that at the very least she would like the opportunity to cross examine the witnesses to the extent necessary and to question her witnesses in rebuttal.

City Attorney Marousek advised that City Council Rules 20 and 21 have been in effect for many years. This is the procedure that the Council has used for many years, for these types of hearings and they are well settled. The procedure is a quasi-judicial hearing before a legislative body, and to her knowledge, this procedure has not been challenged before, and there has not been a due process violation found. The Council is required to consider these matters as a body, and it is accustomed to sitting as a legislative body and she believes, is doing that appropriately. She expects that the Council will demonstrate its abilities in that respect when it gets a chance to ask questions and debate the issue later.

APPLICANT PRESENTATION

Alex White, Owner of Subject Property, 2030 7th Avenue South #204

Mr. White informed Council that he bought the Zenith Grocery store property for its beautiful view and the historic Masonic buildings nearby and the fact that the zoning was neighborhood commercial. He noted that he wants to redevelop the property to its best possible use. He stated that he has focused on mixed use, which is required by the zoning, and has worked on the project for two and half years, and has enjoyed working with City staff. He advised that he has met with the neighbors and has been above board with them on his plans.

CITY STAFF RESPONSE

Community Development Director Kilgore noted that there has been a lot of comments and statements made that are not really germane to the SEPA appeal. She reminded Council that the intent and purpose of SEPA is to assess and mitigate significant adverse environmental impacts. Not assess and mitigate any and all impacts, but significant and adverse. That is the standard by which Council must work. She also reminded Council that upholding the Appellants request will not stop the project, it will only require the production of an EIS. She noted that the Appellants have had a consistent theme in testimony and in documents which mainly include traffic, surface water and parking. She stated that there already exists a traffic study, using established transportation monitoring procedures, stating that there will be 9 pm peak trips, which is

approximately one every seven minutes. She advised that at this point the project has been essentially cut in half, from 11 units to 6, and that would equate to 1 car every ten minutes. She noted that RCW states that if a county, city or town's comprehensive plans, sub-area plans and development regulations adequately address the projects probable specific adverse environmental impacts, the city or town shall not impose additional mitigation, under this Chapter, during review. She stated that Des Moines has adopted the King County Surface Water Manual, and through the existing mitigation agreement, have required that the sub-standard systems adjacent to this site also be upgraded. She noted in addition, the City has a process in place to address the steep slope issue, one that will be conducted by Council as part of the review of this project. In regards to the parking issue, she noted that this is addressed by the City's development regulations. Currently the concept plans as drawn, meet Code. Moreover, she advised should the units be reduced from 8 to 6, that would provide an additional four parking spaces for the project. She also advised that height, bulk, etc. are all addressed in the Design Review Process, which has not started because we are still determining the use of property, not the design of the project. She stated that the City has plans, rules, standards and regulations in place that adequately address 95% of the issues. She noted the size of the Masonic Retirement Home project which only required about an 8 page EIS. She felt to require an EIS on a project of this size, that the project would have to have some very unique environmental issues and she stated that it does not. She noted that should the Council require an EIS to be done, then they will be required as judges to tell staff in detail what issues staff 1) failed to study, and 2) failed to reasonably mitigate. In conclusion, she stated that staff has adequately studied, and have reasonably mitigated impacts such as traffic, parking and surface water. She noted that the City has processes in place in rules and regulations to address the appellant's other issues. As SEPA Official, Ms. Kilgore stated that she believes the Appellant's have not adequately made their case, as their claims lack sufficient detail for challenge, and in no case show that the size and scope of the project will create probable significant adverse environmental impacts which would require an EIS. It is her opinion as SEPA Official that this project has been adequately reviewed under the State's Environmental Policy Act and requested that her procedural determination be given substantial weight as afforded in DMMC 16.04, and that the appeal be denied.

APPELLANT REBUTALL

Ms. Haru stated that this project concept does not meet the Des Moines Municipal Code under any circumstances. In particular is the fact that the applicant is including the street right-of-way in determining the lot size, which effects numerous aspects of the project. She also pointed out that the Masonic Retirement Home has no significant slope, and no access to the Home has any public street with less than 2 lanes, so she did not feel it is fair to compare the 2 projects impacts. She concluded by stating that the appellant's have not had an opportunity to provide the Council with expert testimony, or questioning or cross examination, to provide the Council with sufficient detail to support their arguments. She stated that they have received very little notice that this hearing would take place and it has been made clear that their ability to present information to the Council is limited.

APPELLANT'S ATTORNEY

Nancy Rogers, Cairncross & Hemplemann, Attorney for Zenith Neighborhood

Ms. Rogers spoke on behalf of the Zenith Community. She requested that Council grant the appeal and require that an EIS be prepared, or at the very least, impose additional mitigating conditions. She reminded Council that the purpose of the SEPA is to review detailed information regarding the impacts of the project. She feels this is a difficult project on which to conduct detailed SEPA review because all that is before Council is a very general unclassified

use permit. There is no binding site plan, no determination of where the storm water ponds are going to be, no engineering has been done, therefore, there is no way for the City or the Appellants to know at this time, that the Codes that will be relied on are actually going to be sufficient to reduce the impacts of the project to a non-significant level. She noted that the Appellants are asking that additional review be conducted in an EIS on a more detailed level, and that is what SEPA requires. She stated that to date, that detail is simply not available. She noted that this does not serve the citizens of Des Moines, especially the Zenith Community, well to have a SEPA process which simply relies on "don't worry about it, we will get to that later, you will be taken care of, our Codes are good" attitude. She cited some of the following issues of concern:

- Application is for 8 units & staff is recommending 6 units, with about 1,600 to 2,000 square feet of office space.
- Even with 6 units, projects height, width and scale impose significant impacts
- Area is surrounded by RS 15,000 zoning.
- The area west of Marine View Drive is cut-off from the area, such as the Masonic Home, due to the location of Marine View Drive and steep slopes in the area. It is a unique portion of the neighborhood and it should not be compared to the area east of Marine View Drive.
- The height, bulk and scale of the project, especially abutting Marine View Drive, should be further mitigated if a more detailed review is not going to be done, which should have been done with an EIS.

She suggested the following for mitigation conditions:

- Increasing the set-backs along the northern property line.
- Condition the project to allow citizen review and input during the Administrative Design Review and future construction document review.
- Lowering the dimension of the buildings across the site, beyond what is currently required in the mitigation agreement.
- Impose additional parking at least 3 per living unit, and 1 per every 250' of office space.
- Soil excavation has not been studied enough, impact to neighborhood on dump trucks hauling dirt away.
- Storm water needs a more detailed review.

In conclusion, Ms. Rogers stated that there is insufficient information in front of the City staff in order to issue a SEPA determination. She felt staff should have required a more detailed review, and detailed plans, in order to determine what the true impacts of this project will be. She asked that Council grant the SEPA appeal and require additional SEPA review, or impose additional conditions as noted earlier.

APPLICANT'S ATTORNEY

Howard Jensen, Attorney for Applicant, of Hillis, Clark, Martin & Petersen

Mr. Jensen stated that there is a fundamental misunderstanding of both SEPA and the project, which seems to be driving a lot of the comments and testimony. He advised that preparing detailed building type project and engineering plans, is not the way SEPA works. SEPA works on an Environmental Check List and you prepare and submit information about your project. Staff will ask questions on what the project involves and makes determinations on what the significant impacts of the project are going to be based on that preliminary review. At that point mitigation can be imposed for impacts that are significant. An EIS would be required only if you have not mitigated the adverse impacts. He felt that City staff has done a tremendous job of

explaining what the impacts of this project are. He noted that the land use step has not been addressed yet, and a lot of the comments made tonight need to be reserved for later. Concerns about proper interpretation of City codes is not a SEPA issue and are not proper for consideration. He noted that the focus should be on what are the impacts, have they been looked at, and to the extent you have an impact, has it been mitigated. He noted that the staff's SEPA review was based on a project that had nine units. The traffic study that was prepared by the applicant was actually based on a plan with 11 units. The traffic engineer determined that the traffic generated by this bigger size plan, would not have an impact on the neighborhood based on the number of trips that would be generated. He noted that the SEPA review was based on 9 units, and now staff is recommending no more than 6 units. He noted that traffic will be negligible compared to what would have already been determined by a licensed and experienced traffic engineer to not present a problem. He advised that a SEPA review is not an opportunity to create a wish list of project changes or conditions. Conditions imposed through SEPA have to relate to an impact that has not been evaluated or already mitigated, or that will be mitigated by an existing Code provision. He stated that Council must rely on the City codes, those codes cannot be changed through the SEPA process. At this point, Mr. Jensen distributed a copy of the Traffic Report that was prepared for the project to be entered into the record.

Mr. Jensen noted that the Appellants have raised some due process concerns about the opportunity to present information or experts. He advised that their appeal was filed over a year ago and during that time no expert reports such as a traffic, engineering or surface water studies have been submitted. He felt the Appellants had ample time to file supplemental information with the City.

Mr. Jensen advised that should the project proceed surface water management will be vastly improved over the existing conditions on the site. He noted that all of this is regulated by City Code. He noted that the project site has been partially developed, that it is not a native environmental area or wild life habitat that needs to be protected. In respect to height, bulk and scale he advised that the City's Code addresses these issues in many ways. He noted that the height limit is 35 feet which is only 5 feet higher than is allowed in the residential zones. In respect to bulk and scale, there are greater setbacks that will be required, which includes a 10 foot landscaped setback area.

Mr. Jensen stated that SEPA impacts, must be impacts that are probable and significant. He felt that a lot of what the Appellants have brought up is based on conjecture, not evidence and SEPA states that you cannot consider that. He noted that this zone actually allows out-right certain uses that could be way worse for the neighborhood than what is being proposed, such as a Church which would really create traffic problems. He concluded by noting that his client has tried to balance the needs of the neighborhood by trying to bring a residential component to this site, when current zoning would allow a more commercial development. He also noted that there is a mitigation point with respect to the business component, which will not allow a retail type business and his client has agreed that the business will be office oriented. He requested Council keep an open mind and remember City standards that will govern Council's decision.

City Attorney Marousek noted that the Traffic Study offered by Mr. Jensen is officially entered into the record.

APPELLANT'S ATTORNEY REBUTTAL

Ms. Rogers stated it is her opinion, that the SEPA process does allow the City to go beyond its Code. She noted that common sense evidence is not speculation. She stated that it is common sense that if there was an 11 unit project, plus office use, that you will generate more than 9 p.m. trips. In regards to Mr. Jensen's assertion that the Appellants have had over a year to submit expert reports, she noted that for most of that year they had no idea who was going to hear the SEPA appeal, as it was entirely unclear over who to give any reports or studies to. It also appeared that the City wanted everything to occur during the SEPA appeal hearing. She stated there never was any invitation or opportunity to provide supplemental information to the City staff.

In regards to the steep slope issue, she felt this should be discussed during the development exception portion of the hearing. She noted that while the existing site is partially disturbed, it is not entirely disturbed. She felt that the level of excavation that is necessary for this project is substantial.

In regards to the height issue, she agreed with the 35' limit on the project and 30' height on surrounding homes. However, she pointed that most of the neighbors do not have homes that tall, therefore the project will have an impact with its height.

Ms. Rogers commented that even with a 2,000 square foot business that is not customer service oriented business, there still will be visitors from time to time and there will be traffic generated by this use.

In conclusion, Ms. Rogers remarked that the point of SEPA is to reduce or eliminate significant environmental impacts, and that it is important to actually conduct a detailed review. She felt that this project has not had that review and that the Environmental Checklist is very sketchy. She advised that she has not seen any information on storm water. She stated that the SEPA review is wholly inadequate under the law and asked Council grant the appeal and require additional SEPA review.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to continue the Hearing until September 11, 2003.

Mayor Pro Tem Benjamin noted that Councilmember Petersen who is not present, has announced that he wishes to be part of these proceedings. He felt it is important to have all Councilmembers present and he would prefer the hearing be moved to a later date.

Councilmember Thomasson noted that he can foresee that deliberations on this will take several more meetings and that Councilmember Petersen can review the video tapes to get up to speed and still be able to participate.

VOTE ON MOTION: Motion passed 4 to 1 with Mayor Pro Tem Benjamin opposed.

Mayor Steenrod reminded those in the audience who spoke this evening, that Council will have the opportunity next week to ask questions. She encouraged everyone to be at the September 11th meeting.

It was noted that Development Services Manager Ruth will provide a written response, next week, to Mr. Bogovich's question as to what is the City Council's interpretation of congestion and density.

OLD BUSINESS

Draft Resolution No. 03-109 /ASSIGNED RESOLUTION NO. 961/ Amend Council Rules 5, 9, 10 & 20 - 2nd Reading

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to adopt Draft Resolution No. 03-109, amending the Des Moines City Council Rules of Procedure by amending Council Rule 5 to limit the power of the Mayor Pro Tempore when acting as Mayor in preparing a meeting agenda or presiding over a meeting; amending Council Rule 9 to change the way a regular meeting agenda is prepared and used at a Council meeting; amending Council Rule 10 to permit a meeting to be designated as a study session only when there are no more than four items of business; and amending Council Rule 20 relating to control of the order of business.

Mayor Steenrod pointed out that shortly after becoming a Councilmember, she took issue with the way that some of Council rules seemed very arbitrary and capricious and simply not designed to effect the rapid flow or smooth transition of business. She noted that several Councilmembers pointed out that the rules were structured to protect the minority. Those members urged not to change the rules. She questioned why, now that there is a new majority, the rules must be changed.

Councilmember Sheckler spoke in favor of the rule changes because the Rules were set up so that everyone would be protected. However, he noted that last year and this year, on many occasions the Rules were abused to such an extent that the minority pretty much had no say in what was going on. He feels that if a privilege is being abused, then it should be taken away and that is what this Rule change will do.

Mayor Pro Tem Benjamin stated that the Councilmembers are privileged to serve the citizens of the community and the City of Des Moines. He noted that he follows the rules and continues to support the Rules as they have been laid out for many years. He felt that the Rules have served the community well. He felt the changes are a control mechanism by the new majority.

Councilmember Thomasson noted that the debate held last year was about whether any Rule should be suspendable at any time. This issue is to fine tune the Rules to make sure items don't disappear from the Agenda. He called for the question.

VOTE ON QUESTION: Motion passed 4 to 2 with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

VOTE ON MAIN MOTION: Motion passed 4 to 2 with Mayor Steenrod and Mayor Pro Tem Benjamin opposed.

NEXT MEETING DATE

Next regular meeting is September 11, 2003.

ADJOURNMENT

At 10:25 p.m. **MOTION** was made by Mayor Steenrod, seconded by Councilmember Sheckler to adjourn. Motion passed 5 to 1 with Mayor Pro Tem Benjamin opposed.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM 9/4/03 MEETING

- Development Services Manager Ruth to provide a written response, next week, to Mr. Bogovich's question as to what is the City Council's interpretation of congestion and density.

PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

September 11, 2003

The regular meeting of the Des Moines City Council was called to order at 7:35 p.m. by Mayor Steenrod in the City Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Boy Scout Troop #955.

MOMENT OF SILENCE

In memory of the 2nd anniversary of the 9-11 attacks, Mayor Steenrod called for a moment of silence.

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Dan Sherman, Scott Thomasson and Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Public Works Director Tim Heydon, Community Development Director Judith Kilgore, Development Services Manager Robert Ruth, and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Marc Gottshall, 22003 10th Avenue South

Mr. Gottshall spoke in opposition to a Declaration of Non-significance that has been issued for installation of a wireless transmitter to be installed at the Field House. He advised that two doctors from the University of Washington have issued statements on the harmful exposure to microwave radiation from these types of towers. He cited it to be especially harmful to children and seniors. He advised Council that this is not an item that has been addressed by the FCC. He noted that to file an appeal it appeared to be only on environmental issues, not health issues. He pleaded with Council to place the topic of microwave radiation exposure from these types of towers on an upcoming agenda which will allow him to present evidence of the health hazards.

Jack Kniskern, 22602 13th Avenue South

Mr. Kniskern announced that September 27th is "Mayor's Day of Concern for The Hungry". He noted that food items will be collected at local supermarkets for distribution to local food banks. He encouraged everyone to participate.

As International Chairman of Des Moines Rotary, Mr. Kniskern announced that Rotary will be exploring the idea of having an international Sister City. He noted that citizen input into the idea is being explored and he will bring back a full report for Council to look at around January, to possibly consider joining in on this effort.

Denny Burnham, 26826 15th Avenue South

Mr. Burnham questioned what the Council's position is on levity and general laughter during meetings. He stated that he has noted numerous times that Councilmembers laugh at one another, there is general bantering back and forth and laughing with the audience. He noted that at the last meeting he was verbally accosted by Councilmember Sheckler for a reason that he does not understand. He found it boorish and immature. He voiced concern that other citizens

who have something to say may receive the same treatment. He felt that if a Councilmember asked something, they should be prepared for an answer.

Jeanette Burrage, 905 South 209th Street

Ms. Burrage addressed Council on the harmful effects of cellular towers. She voiced concern for a proposed tower that will be installed so near Des Moines Elementary School and the unknown health problems this may pose for the children. She requested that Council research and gather information on the potential dangers. She voiced the opinion that health hazards are an item that can be addressed in filing an appeal on the City's Declaration of Non-significance regarding the proposed cell tower.

Mayor Pro Tem Benjamin commented that he has received comments from concerned citizens in the last couple of days concerning dangers of cell towers. He requested this issue be placed on the next Council agenda.

City Attorney Marousek advised that there is a Determination of Non-significance currently issued for the project and the appeal should be made to the Des Moines Hearing Examiner. She further noted that the project will require an Conditional Use Permit Hearing before the Hearing Examiner and that all the issues can be addressed during this process.

Councilmember Sherman stated that he would be interested in seeing a report on the issues of cell towers from a non-biased expert, perhaps from King County Health Department. He advised that staff has e-mailed to Councilmembers a web site concerning issues involved with cell base facilities

Assistant City Manager Loch advised that he has just begun to research the health issues connected to cell towers and noted that it is a very complicated scientific issue. He requested that Mr. Gottshall supply him with the University of Washington doctors reports that he referenced.

Councilmember Thomasson noted that any appeal of the Determination of Non-Significance lays with the Hearing Examiner. He advised that the City Council has already granted a lease to use City land for the cell tower and felt the Council should not get involved in the process at this point.

Mayor Pro Tem Benjamin requested Council direction to the Assistant City Manager to continue to research concerns of health risks to children, or anyone else.

City Manager Piasecki advised that Councilmember Sherman had already requested that staff research these health issues of concern and he assured Council that staff will continue studying the issue and provide Council with a full report.

Response to Mr. Burnham

Mayor Steenrod stated that under Council's Rules of Procedure, it is not appropriate for Council to respond to questions that are posed under comments from the public.

BOARD & COMMITTEE REPORTS

Sister City

Councilmember Sheckler stated that he likes the idea of having a sister city and would like to explore the idea with the City Manager.

City Manager Piasecki advised that Rotary will be doing a thorough study of the issue and will provide detailed information in the future for Council discussion.

Mt. Rainier Pool

Mayor Pro Tem Benjamin announced that negotiations between Highline School District and King County are going well on the agreement regarding transfer of the lease the County has with the School District for the land the Pool sits on. He also advised that the cities of Des Moines Normandy Park and SeaTac, along with the Northwest Center and King Aquatics are in the process of putting together draft agreements for everyone's consideration that would allow the pool to stay open. Written proposals for operating the pool from the Northwest Center and King Aquatics are expected next Tuesday, September 16th.

Appearance of Fairness Challenge

Mayor Pro Tem Benjamin made the following statement for the record: "This evening we are having a continued Public Hearing on the Unclassified Use Permit and SEPA Appcal regards to the Zenith neighborhood and the project with Mr. Alex White and Company. I think it is important that I raise a challenge at this point. Last week I read about the "Stripper-Gate Scandal" in Seattle. It seems some City Councilmembers received campaign contributions from a strip club owner. This in itself is legal and within ethical guidelines. The problem arose when the same Councilmembers participated in and voted on a quasi-judicial matter before the City Council affecting the strip club's property. They violated the Appearance of Fairness Doctrine. Many of you may have read about them having to attend a special school on ethical government. It seems we had a similar, but not so colorful, event happening here in our City and it is happening right here before your very eyes tonight. Upon reading some PDC reports last evening, I discovered that several neighbors in the Zenith neighborhood, Mr. & Mrs. Smith and Mr. and Mrs. Pina who live in the Zenith neighborhood, have made campaign contributions to one of our City Councilmembers. That same Councilmember will be acting in a quasi-judicial capacity when we take action on this matter tonight. Whether or not that Councilmember believes in abiding by the Appearance of Fairness Doctrine or not, remains to be seen. In any event, I am hereby challenging Mr. Sheckler's qualifications to sit in a quasi-judicial capacity upon the Zenith Viewpointe development issue. He obviously has a conflict of interest. I request that the full text of this statement be included in the official minutes of the meeting."

Human Services Advisory Board

Councilmember White reported that the Board is reviewing applications to provide recommendations to the Council, for funding for human services for the 2004 budget process.

She noted that there are upcoming vacancies on the Board and directed interested citizens to contact Senior Services Supervisor Padden at the Activity Center

Senior Services Advisory Committee

Councilmember White noted that the divider wall at the Activity Center should be installed soon. She stated that the parking lot has been paved and the seniors are grateful. She advised that the Committee is currently working on an out-reach program.

She concluded by stating that this Committee is also accepting applications and to contact Senior Services Supervisor Padden for information and applications.

Legal Aspects of Challenge to Appearance of Fairness Issue

Councilmember Sherman requested that the City Attorney address the legal aspects of the issue raised by Mayor Pro Tem Benjamin.

City Attorney Marousek noted that she has researched this issue and can supply the material to Councilmembers if they wish. She noted that the Appearance of Fairness Statute specifically states that acceptance of campaign contributions is not a violation of the Appearance of Fairness.

Mayor Pro Tem Benjamin referenced Council's Rules of Procedure, page 7 which states: "Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of the violation of Appearance of Fairness Doctrine, must raise the challenge as soon as the basis for disqualification is made know, or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest, let me repeat that, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on . . . shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion."

Mayor Steenrod stated that she would like to continue with the Board and Committee reports to allow the City Attorney to get her material together.

PRESIDING OFFICER'S REPORT

Economic Development

Mayor Steenrod advised that the first Thursday in October Study Session will be devoted to economic conditions for our area prior to engaging in budget discussions. She advised there will be a speaker from the Economic Development Council.

Sister City Status

Mayor Steenrod announced that she attended a meeting about 2 weeks ago, where an organization from Ireland called Enterprise Ireland, spoke. She advised that they provide seed funds for businesses. She noted that they do have sister city status with some of the cities in Ireland and they are very interested in establishing more.

Press Release - Secure Community Transition Facility

Mayor Steenrod noted that the Department of Social and Health Services has announced that it has selected the Spokane Street property for the secure community transition facility.

ADMINISTRATION REPORTS

Police Chief Interviews

City Manager Piasecki reported that there are six finalist candidates for the position of Chief of Police. The candidates will be interviewed on September 17th and 18th. He advised that a "Meet the Candidates Open House" will be held at the Activity Center from 5 to 6:30 p.m. on Wednesday, September 17th. He announced the names of the six candidates and the positions they currently hold. They are:

Roger Baker	Alex Perez
John O'Leary	Annette Spicuzza
Alan Pepin	Kevin Tucker

He noted that the interview process will be extensive, with four interview panels. He encouraged everyone to attend the Open House and if anyone has any comments on the candidates he will be glad to hear them.

Truck Accident

City Manager Piasecki advised that last Tuesday, Kent-Des Moines Road was closed most of the day due to an accident. He stated that a fully loaded unattended dump truck parked on the east side of the road starting rolling on its own, crossed the road from north to south, and went down a 30 foot ravine taking out a power pole. Power was restored and the road was re-opened, and no one was injured.

Activity Center

City Manager Piasecki reported that the parking lot at the Activity Center has been paved and will be stripped next week.

He noted that wall is on order and hopefully will be installed within the next two weeks.

Steven J. Underwood Memorial Park

City Manager Piasecki reported that the parking lot at the Park has been paved and is fully stripped.

7-Eleven Store Shooting

Upon inquiry by Councilmember Petersen regarding a shooting at the Store, City Manager Piasecki acknowledged that there was a shooting early Sunday morning at the Store on Kent-Des Moines Road between 24th Avenue South and Pacific Highway South. He advised that the investigation is still on going and therefore it is not appropriate for him to comment on the incident.

CONSENT CALENDAR was read by City Clerk Staab.

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

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

Claim checks #90674 through #91030 & electronic fund transfers in the total amount of \$858,176.47

Payroll fund transfers in the total amount of \$698,147.56

2. Motion is that the City Manager be authorized to sign the revised Interlocal Agreement with King County and the Cities of Normandy Park, SeaTac, and Burien for the Des Moines Memorial Drive Advisory Committee. The revised Interlocal Agreement shall be substantially in the form as submitted.
3. Motion is that the City Manager's authority to approve change orders on the construction contract for the Field House Site Improvement Project be increased from 10% to 30%.
4. Motion is to approve the minutes of August 14, 2003.

Councilmember Sherman announced, in the interest of full disclosure, that he is on the Board of Directors of the Des Moines Historical Society. He noted that consent item #2 will allow the Historical Society to have a member serve on the Advisory Committee, which is a non-paying position, and he noted that he receives no compensation for serving on the Board of Directors of the Historical Society. He stated that he has consulted with the City Attorney and may participate in this decision, and will do so.

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

At 8:25 p.m. Mayor Steenrod called for a 5 minute break.

CONTINUED PUBLIC HEARING

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

Mayor Steenrod introduced the subject and read the rules for conducting the public hearing from Council's Rules of Procedure.

Recuse - Councilmember Sherman announced that he is recusing himself from participation on this issue and left the Council Chambers.

Public Works Director Heydon advised that the vacation is for a portion of South 208th Street between 11th and 12th Avenues South and showed the location on a view foil. He noted that due to the steep terrain as the land falls off to the east from Des Moines Memorial Drive down to 12th Avenue South, it is not expected that this right-of-way will ever be used for City transportation purposes. Also there is no indication that this has ever been used for transportation. However, he pointed out that this subject property is an important utility corridor for Highline Water District with three existing water mains of 10", 12" and 20", and it is critical to keep these utility easements. He noted that Qwest may also need a utility easement. In conclusion, he recommends that the vacation be granted, while retaining the necessary utility easements.

PUBLIC SPEAKERS

Eric Stahlfeld, 145 SW 155th, #101, Burien, Attorney Representing the Applicant, Scott Sanborn
Mr. Stahlfeld felt that the issue is how to deal with Qwest. He advised that his client has tried for several weeks to get them to tell him where their utility line is. He noted that Mr. Sanborn is quite familiar with the property and feels that Qwest does not have any utility lines there. He stated that Mr. Sanborn is very willing to allow utility easements, the problem is Qwest has not responded appropriately for requests to locate the easement. He noted that the draft ordinance states that the City will give an easement to the utilities, but he felt it would be more appropriate for Mr. Sanborn to grant the easements. He distributed a draft ordinance that he prepared that has language that within 90 days, Mr. Sanborn must give easements to the Water District and to

Qwest that are mutually agreeable. He noted that Section 3, paragraph 4 contains language that if the Water District and Qwest locate the facilities, and Mr. Sanborn fails to satisfy conditions as set forth above, then the ordinance is of no effect. Mr. Stahlfeld noted that this will accomplish two things; one Mr. Sanborn gets the vacation and two, if Qwest identifies where its lines are, then Mr. Sanborn will give an easement to Qwest.

Mr. Stahlfeld noted that a question was raised about the legal description. He noted that if it is a question of what area is to be vacated, he noted that there are two property owners, but he only represents Mr. Sanborn, the property owner on the north. That was what the original request was for, only the north half. He noted that his client has been at this process for close to 9 months and does not feel it would be fair to ask his client to wait any significant additional time to determine a new legal description if the south half is to be vacated also.

As there were no additional speakers, Mayor Steenrod inquired if there any statements that need rebuttal.

City Attorney Marousek informed Council that State Statute specially gives the City the right to retain the power to grant easements. Her advice to Council is that the City retain the power and the hammer to grant the easements to the utilities, rather than Mr. Stahlfeld and his client.

Mayor Steenrod requested whether Administration wishes to introduce any further material as to the subjects raised by the speaker.

City Manager Piasecki replied that staff has provided all the information to Council and recommends that Council adopt the ordinance as the City Attorney drafted it.

Mayor Steenrod inquired whether Council had questions of the speaker or Administration.

Councilmember Thomasson expressed concern that the City be very explicit about what it is vacating so that title companies and land owners really know what the Council did. He noticed that the information in Council's packets is between 11th and 12th, and on Qwest maps they refer to a 12th Street South, which is what the applicant referred to as 11th. The Assessor's map talks about 12th Avenue South, which is the alley, and the Qwest maps refer to a 12th Place South. Should Council approve this vacation, he wants a very explicit legal description based on the original plat and the original plat names, perhaps using the common name usage. He questioned whether what is identified in Council's packets as 11th, really is 11th.

Public Works Director Heydon agreed that the original plat names are different. He advised that he had hoped that the attorney for the requestor of this vacation would provide that information, but he has not.

Councilmember Thomasson noted that the request is for just the north half of South 208th, which creates a very confusing right-of-way situation. He noted that the map that Qwest provided, show that conduits come to the north/south street and then turn south. So if the vacation was actually to the east line of the north/south right-of-way, Qwest would not be involved, only Highline Water District.

Public Works Director Heydon concurred with Councilmember Thomasson's interpretation of the Qwest map.

Upon questioning by Councilmember Thomasson, Public Works Director Heydon stated that he has not gotten any indication from Highline Water District exactly where their 3 pipes are located.

Upon questioning by Councilmember Thomasson as to what is the applicant's intention is if the 30 foot vacation is granted and added on to the 25 foot lot that Mr. Sanborn already owns, Mr. Stahlfeld stated that he plans to build, but is not sure that he has any specific plans at this time.

Councilmember Thomasson noted that the requested Street Vacation is within the City of Des Moines, but it will attach to property that is in the City of SeaTac. He questioned, if the applicant builds on the property, how would the two cities interact.

Community Development Director Kilgore advised it would depend upon the address. This would depend upon where the front yard is located.

City Attorney Marousek advised that this issue has been discussed. She informed Council that, if the land is developed, it would be a decision of the municipalities. She noted that the practice of the cities is to consult, but the decision would be of the municipality with the appropriate jurisdiction.

Upon questioning by Councilmember Thomasson, Community Development Director noted that for SeaTac to annex the area in question, it would have to go through a formal annexation process.

Councilmember Thomasson stated that cities can exchange right-of-way without going through the BRB. He felt it might be better to do this before the right-of-way is vacated and then let SeaTac do the vacation.

As there were no further questions, Mayor Steenrod closed the public hearing.

MOTION was made by Councilmember White, seconded by Councilmember Sheckler, to suspend Council Rule 26(b) in order to enact Draft Ordinance No. 03-172 on first reading.

Councilmember Thomasson proposed that the draft ordinance be passed on to a second reading so the easement issues, the legal description and other things of that nature, can be resolved.

MOTION WITHDRAWN: The maker and the seconder of the motion withdrew the motion.

MOTION was made by Councilmember Thomasson, seconded by Mayor Pro Tem Benjamin, to pass Draft Ordinance No. 03-172 on to a second reading on a date to be selected by staff based on getting the information on water main and telecommunication locations. Motion passed unanimously.

9:10 p.m. Mayor Steenrod called for a 10 minute break.

CONTINUED PUBLIC HEARING

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

Mayor Steenrod advised that Councilmember White is recusing herself. She introduced the subject and noted the public hearing is at the point where staff will address any misstatements of fact. She requested that City Attorney Marousek render an opinion on the potential Appearance of Fairness violation issue raised earlier in the meeting, prior to staff's presentation.

City Attorney Marousek advised that she talked with Councilmember Sheckler during the first recess. She noted that there are three sources of law on whether campaign contributions disqualify a Councilmember from participating in a quasi-judicial hearing that is subject to the Appearance of Fairness. They are:

- RCW 42.36.050 - Campaign Contributions: A candidate for public office who complies with all provisions of applicable public disclosure and ethic laws shall not be limited from accepting campaign contributions to finance a campaign, including outstanding debts. Nor shall it be a violation of the Appearance of Fairness Doctrine to accept such campaign contributions.

She noted that the statute is embodied in the Des Moines Municipal Code, Council Rule 15(d)(2), which says exactly the thing.

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

City Attorney Marousek stated that she asked councilmember Sheckler whether he is in compliance with his Public Disclosure Commission obligations with campaign finance reporting, and since Mayor Pro Tem Benjamin has announced that these contributions were listed on the PDC web site, it would appear that he is, and Mr. Sheckler's answer to her was that, yes, he is in compliance with his reporting requirements. She advised that her legal opinion is that a Superior Court challenge, based on the Appearance of Fairness in this situation, would not be sustained.

Mayor Steenrod stated, based on the City Attorney's opinion, that she does not see an Appearance of Fairness issue.

Upon questioning, Councilmember Sheckler reported that it is not uncommon during an election year to send out notices requesting monetary contributions, or contributions in kind. He stated that he sent notices out in July long before this issue came before Council. He reported that the total contributions from these individuals amounted to \$125.00. He commented that under no circumstances can people influence his vote through any amount of financial contributions. He concluded by stating that his ability to act as a prudent Councilmember in judging this particular issue has not been influenced in any way, shape, or form by a contribution from people in the Zenith area.

Mayor Steenrod reminded everyone that Council is still dealing with the SEPA Appeal, and those individuals who have signed up to speak regarding the Unclassified Use Permit, will eventually have an opportunity to do so. She asked staff to address any misstatements of fact.

Misstatements of Fact

Community Development Director Kilgore proceeded to review the following statements made by individuals and the appropriate facts regarding each statement:

Statement: The neighborhood did not know in a timely manner that this subject was going before the City Council

FACT: On December 9, 2002 the City Attorney sent certified letters to both councils informing them of the process. To date, the appellants never made any requests to any city office on the procedures to introduce additional studies or provide additional information.

Statement: SEPA allows you to go beyond your codes when there is a potential probable adverse environmental impact.

FACT: Since the adoption of the Growth Management Act and the Local Project Review Act, that statement is not only wrong, it is dangerous. The State Environmental Policy Act Handbook dated September 1998 states on pg 89 the following:

"If the project is found to be consistent with the type of land use, the density of residential development in urban growth areas, and the availability and adequacy of public facilities, the GMA county or city cannot reexamine alternatives to or hear appeals on these decisions.....Once these planning decisions have been made, they cannot be reconsidered during project review. They can only be reconsidered in an amendment to the comprehensive plan and/or development regulations."

Statement: Comments on how this project will cause a probable adverse environmental impact to the community.

FACT: Although these statements have been made, there has been no proof presented to support any of these statements.

Statement: Introduction of issues not related to SEPA such as, beach access, existing claims against the city, decisions made in the past on other projects in this area, etc. And questions and comments on the site specific project.

FACT: This is a SEPA hearing on an Unclassified Use Permit, not a site specific project.

FACT: We are here to ascertain whether a mixed use project at this location will cause a probable significant adverse environmental impact.

FACT: All the environmental documents before you are based on that, not the site specific project.

FACT: The drawings are simply a volumetric study of space, not a design proposal.

BUBBLE AND A BOX. The bubble is the use, the analysis of the impact at it's most intense, it's highest macro level. The site specifics and the conditions associated with the use....the box. We are still at the bubble stage. Once the Council makes it's decision on the UUP- then a site specific proposal can be developed. If the Council has concerns on these DESIGN issues such as #of units, setbacks, grading, parking, etc. they can detail these conditions in the UUP process. If the Council is concerned with whether there may be additional environmental impacts not addressed in the existing checklist, the Council may deny the current SEPA appeal contingent upon preparation of a SEPA checklist at the time of project submittal.

Statement: This project should require an EIS.

FACT: First, if an EIS is required the resulting document would STILL just be on the USE, not the details of the project. We have shown at it's most intense, this project will not have a probable, adverse, environmental impact. Second, you have three independent, decisions to make: SEPA appeal, development exception and the UUP. Each of these decisions have different criteria. SEPA is the most narrow. To reach the level of substantive authority under SEPA is tough. Page 89 of the SEPA guidebook states it well:

"The primary role of SEPA in GMA project review is to focus on those environmental impacts that have not been addressed by the GMA's, county's or city's development regulations and/or comprehensive plan, or other local, state and federal laws and regulations. SEPA substantive authority should only be used when a project's environmental impacts cannot be adequately addressed by existing laws."

In conclusion, Community Development Director Kilgore reminded everyone that you do not use the SEPA process to make decisions or to require conditions that are better addressed in the development exception and UUP process.

City Attorney Marousek questioned Councilmember Petersen as to whether he has reviewed the video tape of the September 4, 2003 meeting on this matter, and whether he has reviewed the packet material. Councilmember Petersen replied that yes he has and that he is adequately prepared to sit as a member of the body deciding this matter. It was noted that Mr. Petersen was in attendance at the first hearing, August 14, 2003.

City Attorney Marousek addressed a challenge made to the process used by the City of Des Moines on hearing this SEPA Appeal. She stated that the public hearing process for a quasi-judicial matter in the City of Des Moines is covered by Council Rule 21. This process has been followed step by step. She noted that case law specifically does not require a judicial type model for this type of hearing. She cited a case where the court specially replied upon the local rules and said "We do not decide here whether cross examination is required under SEPA". She noted that the courts have not required a judicial model of a hearing and we can use our local rules under case law.

Development Services Manager Ruth continued with public statements by subject matter and facts regarding those statements as follows:

PARKING

- Statements:*
- a) Only 1 car garages are provided, not 2 per unit.
 - b) There is not enough parking.
 - c) 3 parking spaces per dwelling unit and 1 space for every 250 square feet of office space is/should be required for this project.
- FACTS:*
- a) The applicant has provided and the code requires 2 parking stalls per dwelling unit.
 - b) The applicant has provided and the code requires 1 parking space for each 800 square foot office space that does generate customer trips.
 - c) City parking code is restrictive by comparison to surrounding cities. Many cities require 1.5 parking spaces per unit. The cities PR zone parking requirement has been updated to reflect a lower parking ratio in certain applications.
 - d) The 8 unit proposal by the applicant provides 20 parking stalls.

- e) 2 parking spaces are provided within South 239th Street
- f) 2-4 extra parking spaces are existing and available for public use immediately adjacent to the site on Marine View Drive.
- g) As recommended by staff, the proposal would have 6 units and require a total of 14 parking stalls.
- h) Council could require retaining some of the 4 parking stalls that would be eliminated with the 2 units that are eliminated from the project which would give the project even more parking for guests etc.
- i) The commercial and residential components of mixed use do not have overlapping peak parking use. City code allows a 20% reduction for joint parking if there is no overlap in peak parking use. The applicant has not requested and staff has not allowed this to be factored into the parking calculations for this proposal. The reality, however, is that residential uses would have at least 2 additional parking spaces to use in the evening and on weekends.

FACT SUMMARY: Proposed Parking Exceeds City Code Requirements

DRAINAGE

- Statements:*
- a) There is an existing drainage problem at Mr. and Mrs. Workman's property and they are concerned about it getting worse.
 - b) Sheets of water run down Ms. Robertson's driveway.
 - c) Sheets of water come off the site now and there is concern that development will make that worse.
 - d) City codes and standards related to drainage may not be adequate to mitigate project impacts and drainage problems.

- FACTS:
- a) The drainage problems that currently exist are not created by the proposed project which has not yet been built.
 - b) The site as it currently is developed (1950's era) has unmanaged runoff issues. The store is not tight lined and any existing impervious gravel roads and buildings simply runoff in an uncontrolled manner downhill to neighboring properties.
 - c) City codes for drainage control are based on best available science for this region. These codes are an extensive series of requirements formed by some of the most respected drainage engineers and scientists in the area.
 - d) Compliance with city drainage standards will not only fix the substandard state of the existing site by replacing it with a well managed drainage system that is design and sized properly, it should also substantially reduce impacts that are already experienced by neighbors by intercepting existing drainage before it sheet flows onto the neighbors yards.

FACT SUMMARY: Proposed Drainage Exceeds City Code Requirements

TRAFFIC

- Statements:*
- a) Traffic is a major concern
 - b) The neighborhood can't handle "that much traffic".
 - c) That mathematically based on earlier designs and other information submitted by the applicant, peak hour traffic projections would be closer to or above 50 trips, not 9.

d) The traffic study is deficient because it lacks common sense because the project “just has to create more traffic” than what the traffic study says.

FACTS:

- a) A traffic analysis was performed by Transportation Planning and Engineering, Inc—an independent consultant experienced in preparing traffic studies.
- b) The analysis was based on a worst case 11 unit mixed use build-out scenario.
- c) The analysis revealed only 9 pm peak hour trips would be generated using the Institute of Traffic Engineers methodology for trip generation for that worst case scenario (a scenario that is roughly twice the size of what is proposed and recommended by staff).
- d) Projections of 50 trips or greater were based on data submitted by the applicant which had no restrictions or mitigation on the office space use. The applicant has since agreed not to use this space for high trip generating retail type uses.
- e) Staff has recommended a reduction in project density to 6 units; this would further reduce the 9 trips identified in the study.

FACT SUMMARY: Less than 9 pm peak hour trips is not a significant impact created by the proposal.

SOUTH 239TH STREET

Statements: a) The road is too steep to use

- b) You can't get to the road because of the sewer pump station.
- c) The road will block access to 2 neighboring properties to the south.
- d) Grading impacts will be enormous to build the road.

FACTS:

- a) The road grade will meet city standards of 14% or less.
- b) The existing sewer pump station is located in the ROW for 7th Ave. South and does not encumber use of South 239th Street.
- c) The 2 properties on the south side of South 239th Street are currently served by a gravel road. The proposal will be required to provide these same properties with a paved access to their properties, not eliminate their access.
- d) The amount of grading needed to build the new road has been distorted. While the average site grade from Marine View Drive to 7th Avenue South is 22%, the road is not required nor will it be connected to Marine View Drive. There is a severe drop off on the west side of Marine View Drive that carries into the site (approximately a 15-20 foot drop). The new road is proposed to be set at that lower level. This means that the new road will not be graded down from 22% to 14%. Rather, it will be graded down slightly (1-3% estimated) from the lower grade elevation level.

FACT SUMMARY: The applicant proposes to improve access to all properties abutting S. 239th Street and meet city standards.

APPEAL PROCESS

Statements: a) There was very little notice for this proposal.

- b) The neighborhood was surprised or taken off guard by the Council meeting.

FACTS:

- c) Due process rights are being violated by the structure of the meeting.
- d) The neighborhood had no involvement or influence on the proposal.
- a) This application was submitted on June 14, 2001.
- b) The application and submittal materials were revised before being deemed complete on February 27, 2002.
- c) The applicant notified neighbors and held an open house on March 13, 2002.
- d) The SEPA decision was mailed to the immediate Zenith community on June 20, 2002.
- e) The City Attorney on December 9, 2002 mailed a letter to Ms. Rogers (appellant counsel) explaining the city process for this application.
- f) Ms. Rogers confirmed receipt of this letter in a December 11, 2002 letter to the City Attorney.
- g) There were 2 public meetings before the Planning Agency on May 12, 2003 and June 2, 2003 in which the Zenith community participated.
- h) This Council meeting is the 3rd meeting on this matter. The Zenith community was provided notice of public hearing on July 30, 2003.
- i) The City Council has graciously afforded the Zenith neighborhood to speak freely without limitation to topics confined to the appeal of record. This amount of latitude given to the appellants would normally be narrowed considerably by a Hearing Examiner. .

FACT SUMMARY: The process is predictable, fair and consistent with requirements for a consolidated hearing and the Des Moines City Council Rules.

At this point, Mayor Steenrod inquired of Councilmembers as to whether they had questions of any of the speakers that have been heard in the last three meetings.

Councilmember Thomasson requested that staff prepare written documentation of the presentation they just made regarding statements and facts to be distributed to Councilmembers.

Councilmember Thomasson questioned when the original application had been applied for. Development Services Manager Ruth replied that the original application was received June 14, 2001, but the Determination of Completeness was not made until February 27, 2002.

Councilmember Thomasson noted that the original application calls for five residential units. Development Services Manager Ruth replied that the original application did have a five unit design, however, there have been a number of alterations that have been submitted since that time. Upon further questioning, Development Services Manager Ruth advised that the original master application has not been amended, but the plans and supporting documentation have.

Councilmember Thomasson requested a copy of any letter that would have been submitted by the applicant to support the revisions.

Councilmember Sherman commented on the 25% slope on the property. He noted that there does not appear to be a report on soils or whether the property is in an earthquake prone area, or zone. Community Development Director Kilgore advised that staff has that information available. Councilmember Sherman stated he would like that information and what difficulties that might present in terms of construction.

Development Services Manager Ruth displayed a view foil showing 7th Avenue South, noting that two private homes property lines do spill over into the right-of-way. Upon further questioning by Council, City Attorney Marousek advised that this area is subject to a pending claim and stated it would not be appropriate to address this issue.

In response to questioning by Councilmember Sherman, Development Services Manager Ruth noted that the assumptions in the traffic study are that the roads that are in place are assessable and usable.

Councilmember Sherman commented that the current structure takes up approximately 1/3 of the proposed site. He noted that the project will essentially cover the whole site and he expressed concern about paving an entire steep slope and felt this is a significant change in the environmental use of the property.

Councilmember Petersen, commenting on parking, noted that he has concerns over the business aspect as he feels any office will generate some kind of visitors that will require additional parking. He noted that there are only 4 parallel parking spaces on Marine View Drive. Development Services Manager Ruth advised that the parking that will be serving the commercial portion of the building is in an underground parking garage beneath the building. He noted that vehicles will access the underground parking by using 7th Avenue South, to S. 239th street and there enter the parking area.

Councilmember Sheckler noted that the Applicant's Attorney, Nancy Rogers, brought up the issue of dump trucks and questioned whether these impacts are addressed in SEPA. Development Services Manager Ruth responded that there has not been a grading plan for the project and that will be handled in an engineering level of detail.

Councilmember Sheckler stated that he is use to having detailed plans to review. He advised that he understands that this is a SEPA issue, but it is difficult to address the issues not knowing exactly what the project will be.

Councilmember Thomasson questioned whether the SEPA checklist and the Mitigation Agreement are just dealing with the issues of the Unclassified Use Permit and/or the sensitive slope exemptions, and/or the building permit. Community Development Director Kilgore noted that the Environmental Checklist at this point is dealing with the use permit. If there are additional conditions that Council places on the UUP that in Council's opinion requires the creation of a new checklist, based on whatever the conditions and decisions that are made later on, then that can be included.

Upon questioning by Council, Community Development Director Kilgore advised that if Council approves the UUP, the next step will be the building permit. She stated that she would look again at the existing SEPA document and if she felt as SEPA Official that all the items were addressed adequately, it would move forward. However, if there were significant changes that goes beyond what are currently in the Environmental Checklist, then she would require a new checklist. She further noted that any decision that she makes can always be appealed.

Councilmember Thomasson commented that if he has to sit as a judge on the SEPA for a building, he feels he needs a lot more data relative to the building permit, which Council does not have. He stated he feels troubled having to make judgment on an application that has not yet

been made to the City. Community Development Director Kilgore stated that until staff knows what are the issues and the conditions of the UUP, no building permit can be applied for.

Community Development Director Kilgore reminded Council that because they are sitting as judge they can place whatever conditions on SEPA that may be required. She noted Council can deny the appeal contingent upon whatever the Council so directs.

10:23 p.m. **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously, to extend the meeting until 10:45 p.m.

Community Development Director Kilgore advised that SEPA standards say that if the City has other laws, regulations, standards, etc. then Council cannot submit them under the project review.

Upon questioning by Council, Community Development Director Kilgore advised that there are strict limits on the office use and that the developer shall record a covenant that restricts and limits the use of any designated commercial space on the subject property to office use only. Also the office shall be limited to those uses that do not provide direct person to person services to customers on site.

Mayor Steenrod expressed a problem with ruling on the SEPA appeal without knowing what the actual building plans are. She questioned whether Council could review both at the same time as they are interrelated.

City Attorney Marousck replied that Council must finish the SEPA review before you can decide on the building of the project.

Mayor Steenrod commented that the environmental impacts on the site totally depends upon the configuration of the project. Community Development Director Kilgore replied that these issues can be handled during the UUP process. However, she reminded Council that they cannot get to the UUP until the SEPA appeal issue is settled.

Community Development Director Kilgore informed Council that she would like to have some time to talk about this issue with Municipal Research and the City Attorney in more detail to see if there is a way that we can bridge dilemma in such a way that gives Council the comfort needed to address the SEPA and yet gives her, as the SEPA Official, enough guidance to implement effective SEPA.

Councilmember Sherman noted that it seems to him that Council must assume that the most intense use of the property that is compatible with the zoning in determining SEPA, and then has to place restrictions. He questioned whether the opponents have an opportunity to speak to any new information Council may receive from staff. Community Development Kilgore reminded Council that they have the right to ask questions of any of the Appellants that have spoken.

Councilmember Thomasson noted that he has several questions regarding the Mitigation Agreement.

Community Development Director Kilgore requested that Councilmembers submit written questions to staff. The questions and responses will then be submitted to the Council as a whole to be entered into the record at the next meeting regarding this SEPA Appeal.

In regards to Mitigation #3 dealing with S 239th Street Construction, Councilmember Thomasson advised that he will need to hear from the Public Works Director on why an alley cross section is being used instead of a street cross section; why there is only curb and gutter only on one side. He stated he needs to know more about the issue of 14% as a mitigation as opposed to building a street that follows the natural grade and what are the impacts of doing it one way or another. He also said he needs to know whether retention/detention is proposed for the project, or whether it will be direct conveyance to Puget Sound. Also, whether the detention/retention, if there is any, is separate for the private property versus public right-of-way. He requested to know whether a down stream conveyance plan was done to see if there is any down stream conveyance issues. Regarding the stairs from Marine View Drive to S 239th, he questioned whether the stairs in items 8 and 11 will be ADA or are they ramps, which need to meet wheel chair codes. He questioned whether the Public Works Director wants to be included on condition 11 seeing that all of these improvements are in the right-of-way. He questioned why number 14 is there and what proposed protrusions would be allowed in the right-of-way if they have to meet 10 foot landscaping buffer on all three sides. He questioned why the SEPA Checklist is for 12,000 square feet of building when the lot is 9,700 square feet and the Code only allows one foot per square foot of property.

Mayor Pro Tem Benjamin stated this a frustrating issue as Council is only getting half the picture. He noted that the neighborhood is a very desirable place to live, however he has a problem in that as good as the project looks on paper, it just does not fit in aesthetically. He questioned where is the common sense in this issue to protect the neighborhood.

City Attorney Marousek noted that while Mayor Pro Tem Benjamin's issues are legitimate, they are appropriate for the Unclassified Use Permit process and fit the criteria that Council will need to apply when they get to that part of the process.

Councilmember Sheckler noted that the only issue before Council right now is the SEPA. There are 2 other issues after that which is a Development Exception Appeal and the UUP. Issues such as incompatibility should be addressed under the second two issues. He advised that there are a lot of questions that keep popping up that are not addressed in SEPA, but will be addressed later and agreed that the SEPA Appeal is a very difficult issue. He noted that denying the SEPA Appeal does not give a green light for the project and that granting the SEPA Appeal does not kill the project.

Councilmembers were urged to submit written questions for staff to respond to.

MOTION was made by Councilmember Sherman, seconded by Councilmember Thomasson and passed unanimously, to continue the Public Hearing at the October 9, 2003, Council meeting.

NEW BUSINESS

Mayor Steenrod noted that the 2 items of new business that Council did not get to will automatically be placed on the September 25th Agenda.

NEXT MEETING DATE

Mayor Steenrod announced that the next regular meeting will be September 25, 2003.

ADJOURNMENT

At 10:44 p.m. **MOTION** was made by Councilmember Thomasson, seconded by Councilmember Sherman and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Right of Way and Park Use Permit Ordinance

ATTACHMENTS:

Draft Ordinance No. 03-075

FOR AGENDA OF: September 25, 2003

DEPT. OF ORIGIN: Public Works/Parks

DATE SUBMITTED: March 24, 2003

CLEARANCES:

☒ [X]

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, ((S))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