

AGENDA

REGULAR MEETING DES MOINES CITY COUNCIL 21630 11th Avenue South, Des Moines, City Council Chambers

December 13, 2012 - 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

CORRESPONDENCE

COMMENTS FROM THE PUBLIC:

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

King County Alliance of Human Service – Kathleen Southwick

CONSENT CALENDAR

Page 1 Item 1: APPROVAL OF MINUTES
Motion is to approve the minutes of November 29, 2012 City Council meeting

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

 Claim checks \$
 Payroll fund transfers in the total amount of \$
 Total certified Wire Transfers, Voids, A/P & Payroll vouchers are \$

Page 5 Item 3. SURPLUS 1974 BAYLINER SAILBOAT
Motion is to declare the 1978 Bayliner Sailboat, HIN number BLBE19B4117 surplus property and direct staff to dispose of it in the most cost effective way.

Page 11 Item 4. MOUS WITH EMPLOYEE GROUPS
Motion is to approve the memorandum of understanding with the Des Moines Police Guild, the Des Moines Police Management Association, Teamsters Local 763, General Employees, Court Employees, and Exempt Employees regarding changes to 2013 Cost of Living Adjustments and Benefits.

PUBLIC HEARING

Page 27 1. DRAFT ORDINANCE NO. 12-178, PACIFIC RIDGE RESIDENTIAL BUILDING HEIGHTS

Staff Presentation: Acting Director of Community Development Denise Lathrop

NEW BUSINESS

Page 41 1. UPDATING APPEAL PROCEDURES AND LICENSING REQUIREMENTS FOR DANGEROUS DOGS
Staff Presentation: Master Animal Control Officer Jan Magnuson

Page 55 2. DRAFT ORDINANCE NO. 12-215, DEFINING ONE-TIME REVENUE/CREATING A PHASED IN EXPENDITURE REQUIREMENT
Staff Presentation: City Manager Tony Piasecki

NEXT MEETING DATE January 5, 2013 City Council Retreat
January 10, 2012, City Council Regular Meeting

ADJOURNMENT

Consent Agenda Item #1

AGENDA

REGULAR MEETING DES MOINES CITY COUNCIL 21630 11th Avenue South, Des Moines, City Council Chambers

November 29, 2012 - 7:00 p.m.

CALL TO ORDER - Mayor Kaplan called the meeting to order at 7:01

PLEDGE OF ALLEGIANCE – The flag salute was led by Mayor Pro-Tem Pina.

ROLL CALL

Present were Mayor Dave Kaplan; Mayor Pro-Tem Matt Pina; Councilmembers Dan Caldwell, Melissa Musser, Jeanette Burrage, Bob Sheckler and Carmen Scott.

Staff present were City Manager Tony Piasecki; Assistant City Manager Lorri Ericson; Assistant City Attorney Tim George; Police Chief George Delgado; Finance Operations Manager Cecilia Pollock; Harbormaster Joe Dusenbury; Parks Recreation and Senior Services Director Patrice Thorell; Acting Director of Transportation and Engineering Dan Brewer; Planning Manager Denise Lathrop; Associate Transportation Engineer Brandon Carver; CIP Project Manager Scott Romano; Senior Services Manager Sue Padden; City Clerk Sandy Paul; Contract Engineer Len Madsen

CORRESPONDENCE

City Manager Piasecki reported that City Clerk Sandy Paul had received her MMC Certification, which requires education credits, service to government and service to community for completion.

COMMENTS FROM THE PUBLIC:

Nadine Byers, 26241 13th Place South, Chair of the Human Services Advisory Committee, reported that 37 grant requests were received this past year totaling \$190,000. Twenty applicants were selected for funding.

Nancy Steppan, Arts Commission Chair, presented pictures of some of the events the Arts Commission has sponsored in the past 6 years and mentioned the rotating sculpture project to come. She thanked the City Council, *4Culture* and the Rotary Club for their ongoing financial support, as well as Shannon Kirchberg and Patrice Thorell for staff support.

Susan Corey, 22218 5th Avenue South, who serves in the Human Services Advisory Committee, commented on the number of grant requests that required review. She asked for support for funding to continue the work done by the Human Services Advisory Committee.

John Carroll, 24832 11th Avenue South, Huntington Park, who also serves on the Human Services Advisory Committee said that between 10% and 15% of the population need a hand up to get their lives back on track.

Jean Serrill, address not noted, talked about hungry and otherwise needy children and keeping them off the streets by taking care of them. She added that seniors are equally needy. She asked for continued Human Services funding support from the City Council.

Barb Shimizu, of the Des Moines Food Bank, shared the continued need in the community. Her colleague, Kris Van Gasken pointed out the need for food at the food bank for families and seniors. She stated her appreciation for continued support from the City Council.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Burrage

- Attended the SKCTBd meeting and passed out printed information she had gathered. She highlighted changes proposed by the Board.
- Reported on visiting Freedom Popcorn where she sampled blueberry popcorn

Councilmember Musser

- Reported on the November 29 Municipal Facilities Committee meeting and parking at the Marina

Councilmember Caldwell

- Commented on the parking survey done at the Marina
- Commented on acoustics and the decibels of locations where activities are held

ADMINISTRATION REPORTS

- City Manager Piasecki attended the Highline Forum November 28 and he reported on the 216th Street Improvement Project at that meeting. The Port of Seattle would continue financial support of the project even though the PSE relocation was not going to happen.

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes of November 1, 2012 City Council meeting

ACTION/DIRECTION

Councilmember Caldwell moved to adopt the Consent agenda; Mayor Pro-Tem Pina, second. The motion passed 7-0.

EXECUTIVE SESSION

Mayor Kaplan recessed the meeting at 7:35 p.m. for an Executive Session that would last for 10 minutes to discuss pending litigation per title Title 42.30.110(1)(i) RCW. In attendance were Mayor Dave Kaplan; Mayor Pro-Tem Matt Pina; Councilmembers Dan Caldwell, Melissa Musser, Jeanette Burrage, Bob Sheckler and Carmen Scott. Staff in attendance were City Manager Tony Piasecki; Assistant City Manager Lorri Ericson; Assistant City Attorney Tim George. The Executive Session was adjourned at 7:45 p.m. and the Council meeting resumed.

PUBLIC HEARING

1. DRAFT ORDINANCE NO. 12-198, AMENDMENT TO DMMC 12.56.040(6) - TRAFFIC IMPACT FEE PHASE-IN SCHEDULE

Mayor Kaplan opened the public hearing at 7:50 p.m.

Brandon Carver provided a PowerPoint presentation and explained some quick facts about traffic impact fees, the Comprehensive Traffic Plan, and a new phase-in schedule.

Mayor Kaplan read the rules of the Public Hearing into the record.

Mayor Kaplan asked that those wishing to speak please do so at this time. David Litowitz, 602 South 242nd Street, spoke in favor of the changes being proposed.

Mayor Kaplan asked that those wishing to speak please do so at this time. David Litowitz, 602 South 242nd Street, spoke in favor of the changes being proposed.

Mayor Kaplan called three times for anyone else wishing to speak. He then called for questions from the Council.

Mayor Kaplan closed the Public Hearing 7:55 p.m.

ACTION/DIRECTION

Councilmember Musser moved to suspend City Council Rule 26a, allowing adoption of Draft Ordinance No. 12-198 on first reading; Mayor Pro-Tem Pina, second. The motion passed, 7-0

Councilmember Musser moved to adopt Draft Ordinance No. 12-198 modifying Chapter 12.56.040(6) DMMC relating to the Phase in schedule of the City's Transportation Impact Fee program; Mayor Pro-Tem Pina, second. The motion passed, 7-0.

Mayor Kaplan read the Draft Ordinance into the record as approved.

OLD BUSINESS

1. TRANSPORTATION GATEWAY PROJECT: CONSTRUCTION CONTRACT AWARD AND APPROVAL OF CONSULTANT AGREEMENT SUPPLEMENT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE SOUTH 216TH STREET PROJECT (SEGMENT 2: 18TH AVENUE SOUTH TO 24TH AVENUE SOUTH)

Acting Public Works Director Dan Brewer provided background information, bid information, and the proposed project schedule.

ACTION/DIRECTION

Councilmember Sheckler moved to award the construction contact for the South 216th Street project – Segment 2 (18th Avenue South 24th Avenue South) to SCI Infrastructure LLC in the amount of \$5,156,507.06, which includes all Bid Schedules (A through E), and authorize the City Manager to sign said contract substantially in the form as submitted. I further move to authorize a contingency for the construction project of up to \$515,650 (10%) to cover unforeseen conditions and change orders as determined necessary by the Public Works Director; Mayor Pro-Tem Pina, second. The motion passed, 7-0.

Councilmember Sheckler moved to approve Supplement #9 with KPG Consulting Engineers, Inc for Construction Management and Inspection Services necessary for the South 216th Street project - Segment 2 (18th Avenue South 24th Avenue South) in the amount of \$559,953.60, bringing the total Agreement amount to \$2,869,859.00, and further to authorize the City Manager to sign the contract supplement substantially in the form as submitted; Mayor Pro-Tem Pina, second. The motion passed, 6-1. Councilmember Burrage voted *no*.

Councilmember Sheckler moved to authorize the City Manager to sign the contract amendment with Leonard D. Madsen to continue professional special project management services for the Transportation Gateway Project through December 31, 2013 at a value not to exceed \$33,000 substantially in the form as submitted; Mayor Pro-Tem Pina, second. The motion passed, 7-0.

NEW BUSINESS

1. BUDGET AMENDMENT

City Manager Tony Piasecki served as the presenting staff on the Budget Amendment.

Councilmember Musser moved to pass Draft Ordinance No. 12-207 relating to municipal finance amending the 2012 budget adopted in Ordinance No. 1529 as amended by Ordinance No. 1547 to a second reading on December 6, 2012; Mayor Pro-Tem Pina, second. The motion passed, 7-0

2. VALLEY COMMUNICATIONS TIBURON TO SPILLMAN DATA INTERFACE
INTERLOCAL AGREEMENT

Police Chief George Delgado explained how the Spillman records management data system works and benefits the City of Des Moines in solving crime and catching criminals. It is real time and accurate, and allows more proactivity in solving crimes and filling public records requests without referring requestors to other agencies.

Councilmember Sheckler moved to approve the Interlocal Agreement between the Cities of Federal Way, Auburn, Black Diamond and the City of Des Moines regarding the joint funding of a police records system data interface project, and further to authorize the City Manager to sign said agreement substantially in the form as submitted; Mayor Pro-Tem Pina, second. The motion passed, 7-0.

OLD BUSINESS

2. ADOPTION OF 2013 BUDGET

City Manager Tony Piasecki presented an updated budget ordinance, including a summary of various budget balancing strategies that were distributed to Councilmembers prior to the meeting.

ACTION/DIRECTION

Discussion followed regarding funding the 2013 HS Advisory Committee recommendation of \$76,700 - \$800 less than last year. Councilmember Musser moved to accept funding the Human Services program for \$76,700; Mayor Pro-Tem Pina, second. The motion passed, 6-0.

There was no motion to adopt the 2013 City Budget.

Councilmember Sheckler left the meeting at 9:20 p.m. during that discussion.

NEXT MEETING DATE December 6, 2012, City Council Regular Meeting

ADJOURNMENT

There being no further business to come before the City Council, Motion Councilmember Caldwell moved to adjourn; Councilmember Burrage, second. The motion passed, 6-0

The meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Sandy Paul MMC
City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Request to Declare a 1978 24 ft.
Bayliner Sailboat, HIN # BLBE19B4117 Surplus
Property.

FOR AGENDA OF: December 13, 2012

DEPT. OF ORIGIN: MARINA

ATTACHMENTS:

DATE SUBMITTED: December 4, 2012

- 1. Draft Resolution 12-202

CLEARANCES:

- Legal
- Finance NA
- Marina
- Parks, Recreation & Senior Services NA
- Planning, Building & Public Works NA
- Police NA
- Courts NA

APPROVED BY CITY MANAGER

FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to request the Council's authorization to surplus a 1978 24 foot Bayliner sailboat. The staff estimates that the value of the sailboat is approximately \$500.

Suggested Motion

Motion: "I move that the Council declare the 1978 Bayliner Sailboat, HIN number BLBE19B4117 surplus property and direct the staff to dispose of it in the most cost effective way."

Background

A long-time tenant on D Dock who was having serious health problems that left him physically and financially unable to maintain his small sailboat moored in the Marina paid the balance on his moorage account, thanked the City for the many years of boating he and his family enjoyed, and gave the staff the signed-off title for the boat.

Discussion

Des Moines Municipal Code 3.80 allows the City to accept donations of property. Department directors can accept nonmonetary donations valued at less than \$5,000. The approximate value of the boat is \$500. The Harbormaster has accepted the donation. No terms or desired uses were attached to the donation by the previous owner.

The Harbormaster has determined that there is no valid City use for the boat and that the boat should be surplus and sold.

Alternatives

Alternative No. 1 The Council can overrule the Harbormaster's decision to accept the donation and refuse to accept the vessel. In this case it is the staff's opinion that the tenant does not have the resources to either keep paying the moorage or remove the boat, so it is likely that the City will end up with it anyway through the costlier forfeiture method.

Alternative No. 2 The Marina staff can put the boat up for sale on the Public Surplus website. This is the normal method of disposing of abandoned vessels and even though this boat does not have much value, there is a good chance it will sell. This is the least expensive alternative with essentially no further cost to the Marina.

Alternative No. 3 If the boat does not sell, the staff can dismantle it and recycle any valuable metal and take the rest to the landfill. This alternative would cost about \$500.

Financial Impact

In the worst case, disposing of the boat would cost about \$500.

Recommendation or Conclusion

The staff recommends that the Council declare the boat surplus property and direct the staff to dispose of it in the most cost effective manner.

Concurrence

The City Attorney's office concurs with this recommendation.

CITY ATTORNEY'S FIRST DRAFT 11/8/2012

DRAFT RESOLUTION NO. 12-202

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, declaring certain property surplus and authorizing disposal of surplus property by auction, sale, or recycling.

WHEREAS, during regular business the City accumulates equipment and property, and

WHEREAS, the City intends to dispose of unneeded equipment and property as allowed by law as surplus, and

WHEREAS, the City of Des Moines typically sells surplus property and equipment at public auction to the highest bidder or disposes of such property and equipment through the State Surplus Program, and

WHEREAS, the City desires to surplus the item identified in Exhibit "A" attached to this Resolution; now therefore,

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

Sec. 1. The property identified by Exhibit "A" is hereby declared by this Resolution to be surplus property.

Sec. 2. The City Manager is authorized to dispose of the items identified by Exhibit "A" by auction, sale, or recycling.

Sec. 3. The City Manager is authorized to establish a minimum bid/sale amount for the property identified in Exhibit "A" as deemed to protect the City's interests. Furthermore, the City Manager is authorized to dispose of the item of virtually no value by reasonable means including disposal as recycling.

Sec. 4. The City Manager is authorized to contract for professional auction services where the cost of such services does not exceed twenty-five percent (25%) of the amount bid, plus reasonable advertising fees.

Resolution No. _____
Page 2 of 2

Sec. 5. All net proceeds from the disposal of the surplus property identified in Exhibit "A" shall be deposited into the Miscellaneous Revenues Fund.

ADOPTED BY the City Council of the City of Des Moines, Washington this _____ day of _____, 2012 and signed in authentication thereof this _____ day of _____, 2012.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

EXHIBIT "A"
Resolution No. _____

Number	Description	Approximate Value
1	1978 Bayliner Sailboat, HIN Number BLBE19B4117	\$500

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Memorandums of Understanding with the Des Moines Police Guild, the Des Moines Police Management Association, Teamsters Local 763, General Employees, Court Employees, and Exempt Employees regarding changes to 2013 Cost of Living Adjustments and Benefits

FOR AGENDA OF: December 13, 2012

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: December 7, 2012

ATTACHMENTS:

- 1. MOU with Des Moines Police Guild regarding COLA and HRA
- 2. MOU with Des Moines Police Guild regarding Domestic Partner Benefits
- 3. MOU with Des Moines Police Management Association
- 4. MOU with Teamsters Local 763
- 5. MOU with City of Des Moines General Employees
- 6. MOU with City of Des Moines Court Employees
- 7. MOU with City of Des Moines Exempt Employees

CLEARANCES:

- [] Legal N/A
- [] Finance N/A
- [] Marina N/A
- [] Parks, Recreation & Senior Services N/A
- [] Planning, Building & Public Works N/A
- [] Police N/A
- [] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to request the City Council to approve memorandums of understanding between the City of Des Moines and the Des Moines Police Guild, the Des Moines Police Management Association, Teamsters Local 763, General Employees, Court Employees, and Exempt Employees regarding changes to 2013 Cost of Living Adjustments and Benefits

Suggested Motion

“I move to approve the memorandum of understanding with the Des Moines Police Guild, the Des Moines Police Management Association, Teamsters Local 763, General Employees, Court Employees, and Exempt Employees regarding changes to 2013 Cost of Living Adjustments and Benefits.”

Background

City Administration has been working with the various represented and non-represented employee groups with regard to previously agreed upon cost of living adjustment (COLA) formulas for fiscal year 2013 and certain benefits, including health benefits to domestic partners, life insurance, the provider of the City's Health Reimbursement Arrangement (HRA), vacation accrual schedules, and sick leave cash out.

Discussion

The attached memorandums of understanding (MOU) reflect the discussion held with the various represented and non-represented employee groups.

Alternatives

Council may elect not to approve the attached MOUs and direct the City Manager to continue discussions.

Financial Impact

The value of the revised COLA formulas contained in the MOU's is approximately \$102,000 in the General and Street Funds and \$21,500 in all other funds.

Recommendation or Conclusion

None.

Concurrence

None.

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF DES MOINES, WASHINGTON
and
DES MOINES POLICE GUILD

THIS MEMORANDUM OF UNDERSTANDING is supplemental to the AGREEMENT by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the Employer, and the DES MOINES POLICE GUILD, herein after referred to as the Guild.

WHEREAS the City is facing a difficult budget year in 2013, and;

WHEREAS the Guild members desire to assist the City in these difficult times,

NOW THEREFORE, the parties agree:

1. The Cost of Living Adjustment (COLA) formula for 2013 shall be as follows:
 - a. One percent (1.0%) on January 1, 2013;
 - b. An additional one percent (1.0%) on July 1, 2013; and
 - c. An additional seven tenths of one percent (0.7%) on November 1, 2013; provided that the General and Street Fund revenues are projected to exceed the budgeted figure of \$16,739,381 by at least one percent (1.0%), excluding one-time revenues (permitting, sales tax and B&O tax) associated with the Artemis Hotel Project, grant revenue, and operating transfers (except transfers the General Fund receives from the Marina and Surface Water Management Funds shall be included).
 - d. If General and Street Fund revenues are projected to be less than one-hundred and one percent (101%) of budget, all employees shall receive a one-time accrual of an additional eight (8) hours of vacation time at the first pay period in December 2013.
2. The City agrees that no Guild member will be laid off in 2013.
3. The City shall change the Health Reimbursement Agreement (HRA) provider from BCC to HRA VEBA (or similar company that provides an HRA equal to or better than HRA VEBA).
4. Changing from BCC to HRA VEBA will eliminate the City's cost of \$5.25 per account per month to provide an HRA; therefore the City will share this savings with the Guild and increase its HRA contribution as follows:
 - a. For employees without a spouse or dependent, an additional \$30.00 will be added annually to the amount called for in Article 23.A.4.
 - b. For employees with a spouse and/or dependent(s), an additional \$30.00 will be added to the annual amount called for in Article 23.A.4.
 - c. Any existing HRA balances at BCC at the time of change over to HRA VEBA will be transfer to HRA VEBA as soon as is practical but no later than July 1, 2013.

DES MOINES POLICE GUILD

CITY OF DES MOINES, WASHINGTON

By _____
Barry Sellers
President

By _____
Anthony A. Piasecki
City Manager

Date _____

Date _____

2. MOU with Des Moines Police Guild regarding Domestic Partner Benefits

Item will be presented early in the week of December 10.

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF DES MOINES, WASHINGTON
and
DES MOINES POLICE MANAGEMENT ASSOCIATION

THIS MEMORANDUM OF UNDERSTANDING is supplemental to the AGREEMENT by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the City, and the DES MOINES POLICE MANAGEMENT ASSOCIATION, herein after referred to as the Association.

WHEREAS, the City changed the provider of Long-Term Disability (LTD), Survivors Income Benefit (SIB), Term Life Insurance and Accidental Death and Dismemberment (AD&D) Insurance from Assurant (Fortis) to the Standard in 2011; and

WHEREAS, the City realized a savings in costs to provide this coverage to Association members from the Standard equal to approximately 0.90% of salary; and

WHEREAS, this results in the City's costs to replicate the benefits of Social Security going down from a cost totaling 6.40% of salary to 5.50% of salary; and

WHEREAS, this results in a savings of 0.70% of salary compared to the 6.2% of salary the City would pay if it were still in Social Security; and

WHEREAS, the City is facing a difficult budget year in 2013; and

WHEREAS the Association members desire to assist the City in these difficult times; and

WHEREAS in 2007, the City extended the eligibility criteria for health insurance benefits to include most domestic partners; and

WHEREAS on December 6, 2012, the City changed the criteria to allow only spouses and couples with one person being over age 62 who are domestic partners registered with the State of Washington to receive health insurance benefits paid for by the City, effective June 1, 2013;

NOW THEREFORE, the parties agree as follows:

1. In addition to the LTD and SIB coverage the City provides, the City will purchase for each Association employee Term Life Insurance, with AD&D coverage, in an amount equal to one and one-half times (1½ x) each member's annual salary, excluding overtime but including any Educational Pay. The current annual cost to provide this coverage is 0.396% of salary or \$0.22 per \$1,000 of benefit per month. The City will be responsible for any increase costs in future years and will keep any savings that results from providing this benefit. The current AD&D coverage of \$5,000 (\$10,000 in event of accidental death) will no longer be provided.
2. The City will modify the terms of the 401(a) Social Security Replacement and 457 Deferred Compensation Plans it purchases from ICMARC to allow retired Association members to annually withdraw, tax free, the maximum amount allowed by law to pay for health insurance premiums.
3. Association members who are recalled from layoff per Article 3.3.C. of the Collective Bargaining Agreement between the City of Des Moines and the Des Moines Police Management Association shall have their sick leave balances restored to the number of hours that were in their sick leave banks at the time of layoff, minus any hours that were cashed out.
4. The Cost of Living Adjustment (COLA) formula for 2013 shall be as follows:
 - a. One percent (1.0%) on January 1, 2013;
 - b. An additional one percent (1.0%) on July 1, 2013; and
 - c. An additional seven tenths of one percent (0.7%) on November 1, 2013; provided that the General and Street Fund revenues are projected to exceed the budgeted figure of \$16,739,381 by at least one percent (1.0%), excluding one-time revenues (permitting, sales

tax and B&O tax) associated with the Artemis Hotel Project, grant revenue and operating transfers (except transfers the General Fund receives from the Marina and Surface Water Management Funds shall be included).

- d. If General and Street Fund revenues are projected to be less than one-hundred and one percent (101%) of budget, all employees shall receive a one-time accrual of an additional eight (8) hours of vacation time at the first pay period in December 2013.
- 5. The City shall change the Health Reimbursement Agreement (HRA) provider from BCC to HRA VEBA (or similar company that provides an HRA equal to or better than HRA VEBA).
- 6. Changing from BCC to HRA VEBA will eliminate the City's cost of \$5.25 per account per month to provide an HRA; therefore the City will share this savings with the employees and change its HRA contribution as follows:
 - a. For employees without a spouse or dependent, an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - b. For employees with a spouse and/or dependent(s), an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - c. Any existing HRA balances at BCC at the time of change over to HRA VEBA will be transfer to HRA VEBA as soon as is practical but no later than July 1, 2013.
- 7. The six month time frame between the date of the criteria change and the effective date of the implementation provides adequate mitigation for the impacts of the new criteria that provides health insurance benefits to employees' spouses and domestic partners registered with the State of Washington when one of the partners is 62 years of age or older only, as of June 1, 2013.
- 8. If the any other City of Des Moines employee group, represented or not, agrees to a longer time from that provided in section 1, the Association shall have the option to have the different time frame apply to the Association.
- 9. If any other City of Des Moines employee group, represented or not, does not agree to change the current criteria, the Association has the option to not agree to the change to the current criteria.
- 10. If R-74 is overturned by any process, the City will offer health insurance benefits to all domestic partners registered with the State of Washington if such registry is re-established for all domestic partnerships or to the current criteria if such registry is not re-established.
- 11. Article 7.2 shall be modified to decrease the number of Holiday Hours that can be cashed to 48, requested by the end of November, to be paid on the members first December paycheck, effective for 2012. The October request of 40 hours cashed out is removed, effective for 2012.
- 12. The City agrees that no Association member will be laid off in 2013.
- 13. Article 21 of the Collective Bargaining Agreement shall be modified to extend the CBA for an additional year by stating that the CBA is in full force and effect through December 31, 2014.

DES MOINES POLICE MANAGEMENT ASSOCIATION

CITY OF DES MOINES, WASHINGTON

By _____
Kevin Tucker
President

By _____
Anthony A. Piasecki
City Manager

Date _____

Date _____

4. MOU with Teamsters Local #763

Item will be presented early in the week of December 10.

Attachment 4

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF DESMOINES, WASHINGTON
and
CITY OF DES MOINES GENERAL EMPLOYEES

THIS MEMORANDUM OF UNDERSTANDING is supplemental to the AGREEMENT by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the Employer, and THE CITY OF DES MOINES GENERAL EMPLOYEES, hereinafter referred to as the General Employees.

WHEREAS, the City is facing a difficult budget year in 2013, and;

WHEREAS the General Employees desire to assist the City in these difficult times, and;

WHEREAS in 2007, the City extended the eligibility criteria for health insurance benefits to include most domestic partners, and;

WHEREAS on December 6, 2012, the City changed the criteria to allow only spouses and couples with one person being over age 62 who are domestic partners registered with the State of Washington to receive health insurance benefits paid for by the City, effective June 1, 2013,

NOW THEREFORE, the parties agree as follows:

1. The Cost of Living Adjustment (COLA) formula for 2013 shall be as follows:
 - a. One percent (1.0%) on January 1, 2013;
 - b. An additional one percent (1.0%) on July 1, 2013; and
 - c. An additional seven tenths of one percent (0.7%) on November 1, 2013; provided that the General and Street Fund revenues are projected to exceed the budgeted figure of \$16,739,381 by at least one percent (1.0%), excluding one-time revenues (permitting, sales tax and B&O tax) associated with the Artemis Hotel Project, grant revenue, and operating transfers (except transfers the General Fund receives from the Marina and Surface Water Management Fund and Internal Service Funds shall be included).
 - d. If General and Street Fund revenues are projected to be less than one-hundred and one percent (101%) of budget, all employees shall receive a one-time accrual of an additional eight (8) hours of vacation time at the first pay period in December 2013.
2. The City shall change the Health Reimbursement Agreement (HRA) provider from BCC to HRA VEBA (or similar company that provides an HRA equal to or better than HRA VEBA).
3. Changing from BCC to HRA VEBA will eliminate the City's cost of \$5.25 per account per month to provide an HRA; therefore the City will share this savings with the General Employees and change its HRA contribution as follows:
 - a. For employees without a spouse or dependent, an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - b. For employees with a spouse and/or dependent(s), an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - c. Any existing HRA balances at BCC at the time of change over to HRA VEBA will be transfer to HRA VEBA as soon as is practical but no later than July 1, 2013.
4. The six month time frame between the date of the criteria change and the effective date of the implementation provides adequate mitigation for the impacts of the new criteria that provides health insurance benefits to employees' spouses and domestic partners registered with the State of Washington when one of the partners is 62 years of age or older only, as of June 1, 2013.
5. If any other City of Des Moines employee group, represented or not, agrees to a longer time frame from that provided in section 4, the General Employees shall have the option to have the different time frame apply to the General Employees.

6. If any other City of Des Moines employee group, represented or not, does not agree to change²² the current criteria, the General Employees have the option to not agree to the change to the current criteria.
7. If I-74 is overturned by any process, the City will offer health insurance benefits to all domestic partners registered with the State of Washington if such registry is re-established for all domestic partnerships or to the current criteria if such registry is not re-established.

CITY OF DES MOINES GENERAL
EMPLOYEES

CITY OF DES MOINES, WASHINGTON

Rex Christiansen Date

Anthony A. Piasecki Date
City Manager

Terryann Dell Date

Scott Wilkins Date

Dave Maresh Date

Bonnie Wilkins Date

6. MOU with City of Des Moines Court Employees

Item will be presented early in the week of December 10.

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF DESMOINES, WASHINGTON
and
CITY OF DES MOINES EXEMPT EMPLOYEES

THIS MEMORANDUM OF UNDERSTANDING is supplemental to the AGREEMENT by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the Employer, and THE CITY OF DES MOINES EXEMPT EMPLOYEES, hereinafter referred to as the Exempt Employees.

WHEREAS, the City is facing a difficult budget year in 2013, and;

WHEREAS the Exempt Employees desire to assist the City in these difficult times, and;

WHEREAS in 2007, the City extended the eligibility criteria for health insurance benefits to include most domestic partners, and;

WHEREAS on December 6, 2012, the City changed the criteria to allow only spouses and couples with one person being over age 62 who are domestic partners registered with the State of Washington to receive health insurance benefits paid for by the City, effective June 1, 2013,

NOW THEREFORE, the parties agree as follows:

1. The Cost of Living Adjustment (COLA) formula for 2013 shall be as follows:
 - a. One percent (1.0%) on January 1, 2013;
 - b. An additional one percent (1.0%) on July 1, 2013; and
 - c. An additional seven tenths of one percent (0.7%) on November 1, 2013; provided that the General and Street Fund revenues are projected to exceed the budgeted figure of \$16,739,381 by at least one percent (1.0%), excluding one-time revenues (permitting, sales tax and B&O tax) associated with the Artemis Hotel Project, grant revenue, and operating transfers (except transfers the General Fund receives from the Marina and Surface Water Management Fund and Internal Service Funds shall be included).
 - d. If General and Street Fund revenues are projected to be less than one-hundred and one percent (101%) of budget, all employees shall receive a one-time accrual of an additional eight (8) hours of vacation time at the first pay period in December 2013.
2. The City shall change the Health Reimbursement Agreement (HRA) provider from BCC to HRA VEBA (or similar company that provides an HRA equal to or better than HRA VEBA).
3. Changing from BCC to HRA VEBA will eliminate the City's cost of \$5.25 per account per month to provide an HRA; therefore the City will share this savings with the General Employees and change its HRA contribution as follows:
 - a. For employees without a spouse or dependent, an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - b. For employees with a spouse and/or dependent(s), an amount equal to half the combined total of the annual deductible and out-of-pocket limit, plus an additional \$30.00.
 - c. Any existing HRA balances at BCC at the time of change over to HRA VEBA will be transfer to HRA VEBA as soon as is practical but no later than July 1, 2013.
4. The six month time frame between the date of the criteria change and the effective date of the implementation provides adequate mitigation for the impacts of the new criteria that provides health insurance benefits to employees' spouses and domestic partners registered with the State of Washington when one of the partners is 62 years of age or older only, as of June 1, 2013.
5. If any other City of Des Moines employee group, represented or not, agrees to a longer time frame from that provided in section 4, Exempt Employees shall have the option to have the different time frame apply to the Exempt Employees.

6. If any other City of Des Moines employee group, represented or not, does not agree to change the current criteria, the Exempt Employees have the option to not agree to the change to the current criteria.
7. If R-74 is overturned by any process, the City will offer health insurance benefits to all domestic partners registered with the State of Washington if such registry is re-established for all domestic partnerships or to the current criteria if such registry is not re-established.

CITY OF DES MOINES EXEMPT
EMPLOYEES

CITY OF DES MOINES, WASHINGTON

Robert Ruth Date

Anthony A. Piasecki Date
City Manager

Dale Southwick Date

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Amendments to the Pacific Ridge Zone Building Heights (Chapter 18.31 DMMC)

ATTACHMENTS:

- 1. Draft Ordinance 12-178

FOR AGENDA OF: December 13, 2012

DEPT. OF ORIGIN: Economic Development

DATE SUBMITTED: December 7, 2012

CLEARANCES:

- Legal TG
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DEL
- Police N/A
- Economic Development MJ

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AX

Purpose and Recommendation:

The purpose of this Agenda Item is to consider the amendments related to the Pacific Ridge Zone codified in Chapter 18.31 DMMC. The amendments remove minimum and increase maximum height requirements; increase building width maximums; and allow more flexibility where architectural features exceed height maximums.

Suggested Motion:

First Motion: I move to suspend Rule 26(a) to pass Draft Ordinance No. 12-178 on first reading.
And

Second Motion: I move to enact Draft Ordinance No. 12-178 amending DMMC 18.31.090 regarding building height and width restrictions in the Pacific Ridge Neighborhood Zone.

Background:

On July 13, 2000, the City Council adopted Ordinance No. 1267, establishing the Pacific Ridge Zone codified as Chapter 18.31 DMMC, an effort aimed at providing regulations to promote redevelopment of properties in Pacific Ridge in order to create an attractive, safe, and desirable area

to work and reside. The Pacific Ridge Neighborhood was also the first neighborhood in the City of Des Moines history that was zoned to allow for mid-rise and high-rise construction. However, during the establishment of the dimensional standards, the City utilized a number of standards that had been previously developed by the City to regulate low-rise commercial development. As the City gains a better understanding of how these types of buildings are constructed and the unique challenges that are associated with regulating taller buildings, refinements to the dimensional regulations are necessary to better regulate mid-rise and high-rise buildings.

Under the current code, the *minimum* building height limit in the Pacific Ridge Commercial 1 (PR-C1) and Pacific Ridge Residential (PR-R) zones is 35 feet. Additionally, in the PR-R zone, there is a *maximum* building height limit of 35 feet, with a height bonus allowed only for condominium projects.

Discussion:

This ordinance removes the minimum building height for the PR-C1 and PR-R zones and sets out a maximum building height of 100 feet (or 200 feet with condominium height bonus) in the PR-R zone. Note language allowing greater height limits for condominiums is indicated in Section 10 and 11a.

This ordinance also increases the extent that architectural features can exceed height maximums, from seven to ten percent of total building height, as indicated in Section 11b.

The City seeks to encourage and promote new development in the Pacific Ridge Zone. Allowing the same building heights for both condominiums and apartments will create consistency, and encourage building projects in today's economic market. Removing height minimums will allow for box retail projects that are desirable from a City revenue perspective, generating more tax dollars on the limited commercial property that the City has available.

Additional building height flexibility for enhanced design of distinctive rooflines would achieve desired internal ceiling height clearances for buildings of high quality and appropriate scale. In addition to the zoning code, the building and fire codes also limit and control other facets of building height making it difficult for applicants to meet all City requirements as currently regulated.

The flexibility of existing zoning controls regulating building height, as proposed here, will allow for the quality of design envisioned for the Pacific Ridge neighborhood area.

Alternatives:

With respect to Draft Resolution 12-178, the City Council has the following alternatives:

1. Alternative 1: Do Nothing

The City Council could decline to adopt Draft Ordinance 12-178. Doing so would retain the existing minimum and maximum building height requirements, and building width requirements. This is not the recommended action.

2. *Alternative 2: Adopt the Draft Ordinance*

The City Council may adopt Draft Ordinance 12-178 modifying the dimensional standards for the PR-C1 and PR-R zones. This is the recommended action.

3. *Alternative 3: Adopted the Draft Ordinance with amendments.*

The City Council may adopt Draft Ordinance 12-178 with different amendments to the dimensional standards for the PR-C1 and PR-R zones.

Financial Impact:

Financial impact is foreseen as positive, in encouraging building projects that might otherwise not be allowed while maintaining the City's vision of quality development for the Pacific Ridge Zone.

Recommendation/Conclusion:

Administration recommends that the City Council adopt the Draft Ordinance as written.

Concurrence:

Economic Development; Planning, Building, & Public Works; and the Legal Departments concur.

DEVELOPMENT SERVICES SECOND DRAFT
12/4/2012

DRAFT ORDINANCE NO. 12-178

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, amending DMMC 18.31.090 by removing the minimum building height requirements for the Pacific Ridge Commercial 1 (PR-C1) and the Pacific Ridge Residential (PR-R) zones and increasing the maximum building height in the PR-R zone.

WHEREAS, the City seeks to encourage and promote new development in the Pacific Ridge Zone, and

WHEREAS, additional building height flexibility for enhanced design of distinctive rooflines is required to achieve desired internal ceiling height clearances for buildings of high quality and appropriate scale, and

WHEREAS, in addition to the zoning code, the building and fire codes also limit and control other facets of building height making it difficult for applicants to meet all City requirements as currently regulated, and

WHEREAS, some additional flexibility of existing zoning controls regulating building height will allow for the quality of design envisioned for the Pacific Ridge neighborhood area, and

WHEREAS, The *Des Moines Comprehensive Plan* Strategy 2-04-08 of Land Use Element states that the City should "[E]ncourage improvement of the ... Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan", and

WHEREAS, the intent of the Pacific Ridge Neighborhood as established by the *Des Moines Comprehensive Plan* Goal 11-01-01 of the Pacific Ridge Element is "...to transform Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, stable soils, and view potential. The transformation of Pacific Ridge will include replacement of lower-scale, existing buildings with new structures that will dramatically enhance the appearance, character, economics, and safety of the area", and

Draft Ordinance No. 12-178
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WHEREAS, the Des Moines Planning Agency at its regular meeting on December 3, 2012 reviewed the concept of potentially raising maximum building height and removing the minimum building height requirements in the PR-R and PR-C1 zones, and

WHEREAS, the City adopted a SEPA Planned Action for the Pacific Ridge under Ordinance 1298, and

WHEREAS, the SEPA Planned Action was based on the adopted the Pacific Ridge Neighborhood Improvement Plan and Comprehensive Plans, and

WHEREAS, the City has adopted zoning regulations which are codified in the Des Moines Municipal Code to facilitate the implementation of the SEPA Planned Action, the Pacific Ridge Neighborhood Improvement Plan, the Comprehensive Plan, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official adopted the existing environmental documentation entitled "Pacific Ridge Neighborhood Improvement Plan and Integrated Draft Environmental Impact Statement" dated May 24, 2000 pursuant to WAC § 197-11-600 and DMMC § 16.04.108, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official adopted the existing environmental documentation entitled "Pacific Ridge Neighborhood Improvement Plan and Integrated Final Environmental Impact Statement" dated July 5, 2000 pursuant to WAC § 197-11-600 and DMMC § 16.04.108, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents, and

WHEREAS, the Des Moines Planning, Building and Public Works Director acting as the SEPA responsible official determined that the existing environmental documentation fulfilled the SEPA requirements established by chapter 197-11

Draft Ordinance No. 12-178
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WAC and chapter 16.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, pursuant to DMMC 18.56.080 amendment of the Zoning Code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

WHEREAS, pursuant to DMMC 18.56.200 amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

WHEREAS, DMMC 18.60.120(3) requires that the date of the public hearing to consider amendments to the Title 18 be set by motion of the City Council, and

WHEREAS, The City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 2012-178 fixing the public hearing for December 13, 2012, and

WHEREAS, the textual code amendments proposed in this ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on November 21, 2012 in accordance with the DMMC, and

WHEREAS, a public hearing was held on December 13, 2012, and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.31.090 and Section 1 of Ordinance No. 1513 are each amended to read as follows:

Dimensional standards.

(1) Lot Area. Every lot shall have a minimum area of 7,500 square feet.

Draft Ordinance No. 12-178

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(2) Lot Width. Every lot shall have a minimum width of 75 feet.

(3) Front Yard.

(a) In the PR-R zone, every lot shall have a front yard of not less than 15 feet.

(b) In the PR-C1 and PR-C2 zones, no front yard is required.

(4) Side Yard.

(a) In the PR-R zone, every lot shall have a side yard on each side of the lot. The side yards shall have a width of not less than 10 feet.

(b) In the PR-C1 and PR-C2 zones, no side yard is required.

(5) Rear Yard. Every lot shall have a rear yard of not less than 15 feet.

(6) Measurement of Building Height.

(a) PR-R zone: Building height shall be measured from average finish grade.

(b) PR-C1 zone: Building height shall be measured from mean sidewalk grade of Pacific Highway South.

(c) PR-C2 zone: Building height shall be measured from mean sidewalk grade as follows:

(i) Building height for properties abutting Pacific Highway South is measured from Pacific Highway South.

(ii) Building height for properties abutting 24th Avenue South is measured from 24th Avenue South.

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(iii) Building height for properties that do not abut Pacific Highway South or 24th Avenue South is measured from South 216th Street.

~~(7) Minimum Building Height.~~

~~(a) Except for buildings containing only a full-service restaurant or a gasoline service station, and other instances specifically authorized by the city manager or designee in writing, no building shall be less than the height specified below:~~

~~(i) PR-R zone: 35 feet.~~

~~(ii) PR-C1 zone: 35 feet.~~

~~(iii) PR-C2 zone: No minimum building height.~~

~~(b) For the purposes of this subsection, minimum building height shall not include decorative towers or appurtenances, roof slopes out of character with the building's architecture, or other contrivances provided solely for achievement of the required minimum building height. In calculating minimum building height, the city manager or designee shall include regular architectural features enclosing functional, occupiable building areas.~~

~~(87) Maximum Building Height. Buildings and structures may be built to the height specified:~~

~~(a) PR-R zone: 35 100 feet. Buildings may be built to a height of ~~120~~ feet 200 feet with approval of a condominium height bonus or with approval of a floor area clustering height bonus as provided by this chapter.~~

~~(b) PR-C1 zone:~~

Draft Ordinance No. 12-178

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(i) Except as provided by subsection (~~87~~) (b) (ii) of this section, 55 feet.

(ii) In that portion of the PR-C1 zone east of Pacific Highway: 85 feet.

(c) PR-C2 zone: 55 feet.

(~~98~~) Building Height Limitation Adjacent to Single-Family. When an abutting property is designated single-family residential by the Des Moines Comprehensive Plan, building height shall be limited as follows:

(a) Within 20 feet of the abutting single-family residential property, maximum building height shall be 35 feet.

(b) Within 40 feet of the abutting single-family residential property, maximum building height shall be 45 feet.

(c) During the design review and environmental review, the city manager or designee may impose other conditions of approval in order to mitigate potential height, bulk, and scale impacts upon adjacent single-family residents not sufficiently mitigated by existing regulations.

(~~109~~) Condominium Building Height Bonus. In the PR-R zone, the city manager or designee may authorize buildings ~~36~~ 100 up to ~~120~~ 200 feet in height when a condominium declaration which satisfies chapter 64.34 RCW is recorded for all dwellings within the building.

(~~110~~) Floor Area Clustering Building Height Bonus. In the PR-R zone, the city manager or designee may authorize buildings up to 200 feet in height when all of the following provisions are met:

Draft Ordinance No. 12-178

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(a) A condominium height bonus was granted pursuant to the condominium building height bonus established by subsection ~~(10)~~ of this section.

(b) The total floor area of the building does not exceed the total maximum floor area of a building that could have been built under the condominium building height bonus established by subsection (10) of this section.

(c) The minimum building site area is 43,560 square feet.

(d) Useable pedestrian plazas and open space are provided.

~~(1211)~~ Height Allowance for Enhanced Design of Distinctive Rooflines. In the PR-C1, PR-C2 and PR-R zones, a portion of a building may exceed the maximum building height; provided, that the following provisions are met:

(a) The purpose of the additional height for the building is to provide a roofline that is of distinctive form through the use of design elements such as pitched roofs, sloped roofs, vertical offsets or other similar roof features that achieve the goals of Pacific Ridge Design Guideline 2.B.2.

(b) The maximum building height established in ~~subsection (9) of this section~~ DMMC 18.31.090(8) shall only be increased by a maximum of ~~seven~~ ten percent.

(c) Architectural features associated with the distinctive roofline shall be used to emphasize significant architectural elements of the building such as the main entrance of the building or the buildings orientation to a corner, or to provide for pitched or sloped roofs for the building.

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(d) Height allowed for distinctive rooflines under this section shall not be used to determine the building height for the purposes of establishing the maximum gross floor area under DMMC 18.31.110(3).

(e) The building area or amount of building structure extending above the maximum height established in ~~subsection (9) of this section~~ DMMC 18.31.090(8) shall be limited to 30 percent of the building roof deck area. When multiple building rooflines exist at different building levels or stories, the 30 percent requirement shall only apply to the area of the roof deck of the tallest portion of a building.

(1312) Placement of Buildings.

(a) Where a building site abuts the public right-of-way of Pacific Highway South, at least one of the main buildings on the site shall be placed as follows:

(i) Except as provided below, the building shall abut, or be in close proximity to, the public right-of-way of Pacific Highway South.

(ii) Through the permit review process, the city manager or designee may determine it is in the public interest to allow the proposed building to be set back from the right-of-way. In considering a request for setback, the director shall consider matters such as adopted land use policies, vehicular and pedestrian circulation, sight distances, landscaping, existing site improvements, adjacent site improvements, easements or other encumbrances, and public benefit features such as plazas and public artwork.

(b) The distance between a building containing dwelling units and any other building shall be not less than 10 feet.

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(c) On the rear third of an interior lot, accessory buildings not containing dwellings may be built to the side lot lines and the rear lot line; provided, not less than 10 feet of the rear lot line shall be free and clear of buildings.

(d) On the rear one-third of a corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line and the rear lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(e) On the rear third of a reverse corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(iii) No building shall be erected closer than five feet to the rear lot line.

Sec. 2. Severability - Construction.

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

Draft Ordinance No. 12-178
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(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

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

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2012 and signed in authentication thereof this _____ day of _____, 2012.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

Effective Date:

Published:

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Dangerous Dog Appeal Procedures
and Licensing Requirement Updates

FOR AGENDA OF: December 13, 2012

DEPT. OF ORIGIN: Legal/PD

ATTACHMENTS: Draft Ordinance 11-021

DATE SUBMITTED:

CLEARANCES:

- Legal 
- Finance _____
- Marina _____
- Parks, Recreation & Senior Services _____
- Planning, Building & Public Works _____
- Police 
- Courts _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

“The purpose of this Agenda Item is to provide updates and improvements to the City’s appeal procedures and licensing requirements to the Dangerous and Potentially Dangerous Dog Ordinance found in DMMC 8.16. Staff recommends adopting these changes.”

Suggested Motion

First Motion: “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 11-021 on first reading.”

Second Motion: “I move to enact Draft Ordinance 11-021, updating the appeal procedures and licensing requirements for dangerous and potentially dangerous dogs.”

Background

The provisions of DMMC 8.16 enable the Animal Control Authority to declare a dog “dangerous” or “potentially dangerous” when that dog exhibits specific menacing behavior in a public place, such as biting or attacking a human being or another domestic animal. This Ordinance has not been updated since 1992.

Over the last few years, a number of issues have arisen regarding changes that could be made to the Ordinance to better protect the public of the City of Des Moines as well as those in neighboring communities. Additionally, the legal standard to uphold a declaration made by the Animal Control Authority needs to be modified to comply with current case law. Finally, the costs associated with the enforcement and housing of these animals has increased since the Ordinance was originally adopted. The draft Ordinance increases fees and costs for owners of dangerous and potentially dangerous dogs to cover the City's expenses.

Discussion

The Animal Control Authority for the City of Des Moines is authorized to declare a dog "dangerous" or "potentially dangerous" if that dog exhibits specific menacing behavior in a public place, such as biting or attacking a human being or another domestic animal. Once the declaration is made by the Animal Control Authority, the owner of the dog is given an appeal opportunity through the Municipal Court. The Des Moines Municipal Court Judge ultimately makes the decision whether to uphold the declaration and find the dog either "dangerous" or "potentially dangerous", or to deny the declaration.

If the declaration has been upheld by the Municipal Court, the dog owner has the ability to redeem the animal only if certain conditions are met. These conditions include obtaining liability insurance for the animal, securing a proper enclosure for the animal and proper notification to the public that a "dangerous" or "potentially dangerous dog" is on the property. The designation also requires a special license from the Animal Control Authority.

The City Attorney's Office has met with Animal Control to determine necessary changes to increase public safety as well as to limit the cost on the City of continuing this effort. The recommended changes consist of the following:

- *Change the required burden to uphold a dangerous dog/potentially dangerous declaration from "sufficient evidence" to a "preponderance of the evidence". This change is due to the fact that "sufficient evidence" is not a standard of proof but rather is a review standard for appellate courts.
- *Require all dogs found to be potentially dangerous or dangerous to be "neutered/spayed" prior to issuance of a certificate of registration.
- *Require all vet bills to be paid prior to issuance of certificate.
- *Allow for microchip to be used rather than tattoo, and allow vet discretion as to the placement.
- *Increase fees and costs (amounts have not been adjusted since 1992.)
- *Allow Animal Control Officer to have discretion as to whether to impound potentially dangerous dog. This would remove the mandatory requirement.
- *Require potentially dangerous dogs to wear orange collar (already applies to dangerous dogs).
- *Increase reporting requirements for moving or breeding of a dangerous or potentially dangerous dog.

Alternatives

The City Council may:

1. Adopt the draft ordinance as written.
2. Adopt the draft ordinance with amendments.
3. Decline to adopt the ordinance and leave DMMC 8.16 as it currently exists.

Financial Impact

The actual cost of boarding an animal has increased since this Ordinance has been adopted. Increasing the fees charged under this Chapter will reduce the costs currently borne by the City.

Additionally, the cost of registering and licensing of “dangerous” and “potentially dangerous dogs” is substantially higher than the cost as currently set. City staff spends a substantial amount of time ensuring that the owners of a “dangerous” or “potentially dangerous” dog remain current on the licensing requirements. Increasing the licensing costs will help off-set the cost of City staff time dedicated to ensuring owners comply with the Code.

Recommendation or Conclusion

It is the recommendation of the Des Moines Police Department, the Animal Control Authority, as well as the Legal Department that this Ordinance is passed.

CITY ATTORNEY'S FIRST DRAFT 11/2/2012

DRAFT ORDINANCE NO. 11-021

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to animal control, amending chapter 8.16 DMMC to update the dangerous dog and potentially dangerous dog appeal procedures and licensing requirements,

WHEREAS, the City Council finds potentially dangerous dogs and dangerous dogs need to be regulated to reduce the danger posed to members of the public, and

WHEREAS, the City Council has previously adopted appeal procedures and licensing requirements for dogs that have been designated to be potentially dangerous or dangerous, and

WHEREAS, updates are needed in order to bring the appeal procedures up to date with current case law, and

WHEREAS, updates to the licensing requirements will promote public safety, increase the City's ability to monitor and control dangerous and potentially dangerous dogs, and reduce the cost borne by the City for regulation; now, therefore

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

Sec. 1. DMMC 8.16.020 and section 2(B) of Ordinance No. 948 are each amended to read as follows:

Certificate - Issuance upon compliance. A certificate of registration shall be issued by the City upon a showing of compliance with the following:

(1) Placement of a proper enclosure on the owner's or keeper's property to confine the dog and the posting on the premises where the dog is harbored of a clearly visible warning sign that there is a potentially dangerous or dangerous dog on the property; and

(2) A conspicuously displayed sign on the premises where the dog is harbored with a warning

Ordinance No. ____
Page 2 of 9

symbol that informs children or adults who cannot read of the presence of a potentially dangerous or dangerous dog; and, either

(3) For potentially dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$100,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$100,000, insuring the owner or keeper for personal injuries inflicted by the dog(s); or

(4) For dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$250,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$250,000, insuring the owner or keeper for personal injuries inflicted by the dog(s);

(5) A certificate issued to satisfy the insurance requirements of this chapter shall provide for written notice to the City within 30 days of cancellation, reduction of limits, or termination of coverage.

(6) Any unaltered dog may not be redeemed by any person or issued a certificate of registration until the dog is spayed or neutered. In all cases, the veterinarian fee shall be paid prior to the redemption of the dog by the dog's owner or keeper.

Sec. 2. DMMC 8.16.060 and section 2(F) of Ordinance No. 948 are each amended to read as follows:

Ordinance No. ____
Page 3 of 9

Declaration - Appeal - Hearing - Procedure.

If the owner or keeper of the animal wishes to contest the declaration, the following procedures shall apply:

(1) The owner or keeper shall, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to DMMC 8.16.040(3), request a hearing before the Municipal Court of the City. Failure to exhaust this administrative appeal process shall be a bar to further action in superior court. Any appeal taken from the decision of the Des Moines Municipal Court shall be in accordance with the Rules for Appeal of the Decisions of Courts of Limited Jurisdiction as presently constituted or as may be subsequently amended and designated.

(2) If the Des Moines Municipal Court finds by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be affirmed. ~~that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.~~

(3) If the Des Moines Municipal Court does not find by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be rescinded, and the restrictions imposed thereby annulled. ~~finds sufficient evidence to support the declaration then it shall be affirmed.~~

(4) If the Des Moines Municipal Court finds that the animal is not a potentially dangerous or dangerous dog, no costs shall be assessed against the City or the animal control authority or officer.

Sec. 3. DMMC 8.16.090 and section 3(B) of Ordinance No. 948 are each amended to read as follows:

Ordinance No. ____
Page 4 of 9

Special license requirements - Information required. The owner or keeper of a dog that is subject to a special license shall furnish the following information along with the appropriate special license fee:

(1) The animal's age, weight, coloring, breed, and any other special identifying characteristics;

(2) Two 3" x 5" color photographs of the animal;

(3) Proof of placement of a tattoo or micro chip, consisting of the owner's or keeper's Social Security number or current contact information, in a location as deemed fit by a licensed veterinarian. ~~either inside the left ear or inside the upper left rear thigh of the dog;~~

(4) Proof of current rabies vaccination for the animal; and, either

(5) For potentially dangerous dogs: a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or

(6) For dangerous dogs: a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

Sec. 4. DMMC 8.16.140 and section 3(G) of Ordinance No. 948 are each amended to read as follows:

Immediate impoundment - Conditions warranting.

(1) Any dangerous dog shall and any or potentially dangerous dog ~~shall~~ may be immediately impounded by an animal control authority if:

Ordinance No. ____
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(a) The dog is not validly registered under this chapter; or

(b) The owner or keeper does not secure or maintain the liability insurance coverage required under this chapter; or

(c) The dog is not maintained in a proper enclosure; or

(d) The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled or under proper physical restraint by the responsible person; or

(e) The dog is otherwise in violation of registration or licensing provisions of this chapter.

(2) In addition to such impound, the owner or keeper of such animal shall be deemed guilty of a criminal offense and assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later. The owner or keeper of any dog impounded under this subsection may redeem such dog from the animal control authority only upon proof of a valid special license and registration, ~~under this chapter~~ proof that all required conditions under this chapter have been met, and payment of ~~\$10~~ 20.00 per day for each day such dog has been in the control of the animal control authority; provided, however, that in the event the owner or keeper has not redeemed such dog within 10 days of being notified of the impound, the dog shall be destroyed in an expeditious and humane manner and the owner or keeper shall be assessed an additional

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civil penalty in the amount of \$50.00 for the cost of destroying such dog.

Sec. 5. DMMC 8.16.150 and section 3(H) of Ordinance No. 948 are each amended to read as follows:

Impoundment for biting. If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the animal control authority may be killed by such official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death. The owner or keeper of any dangerous dog impounded and destroyed pursuant to this subsection shall be assessed, in addition to the actual costs of the quarantine, a civil penalty in the amount of ~~\$10~~ 20.00 per day for each day such dangerous dog is quarantined by the animal control authority and in the amount of \$50.00 for the cost of destroying such dangerous dog.

Sec. 6. DMMC 8.16.170 and section 4 of Ordinance No. 948 are each amended to read as follows:

Limitations on ownership of potentially dangerous dogs and dangerous dogs - Reporting requirements.

(1) It is unlawful for an owner or keeper of a potentially dangerous dog or dangerous dog to permit such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of

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restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied or tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dangerous dogs and potentially dangerous dogs shall wear a bright orange collar, not less than two inches in width, at all times.

(2) It is unlawful for any person under the age of 18 years to own or keep a potentially dangerous or dangerous dog within the City limits.

(3) It is unlawful for any person to own or keep more than one potentially dangerous or dangerous dog within the City limits.

(4) It is unlawful to transfer ownership of a potentially dangerous or dangerous dog within the City limits unless the recipient has complied with the registration and licensing requirements of this chapter for such animal.

(5) It is unlawful to keep or maintain the offspring of a dangerous dog within the City for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs under this chapter.

(6) It is unlawful for the owner or keeper of any animal which is subject to any licensing requirements of the City to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.

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(7) It is unlawful for any owner or keeper of any dangerous or potentially dangerous dog to fail to immediately notify the animal control authority in writing of:

(a) The removal from the City or death of any dog registered under this chapter, including the address and contact information for the relocation of the dog outside the City limits; or

(b) The birth of offspring of any ~~dangerous dog~~ licensed under this chapter; or

(c) The new address of the owner or keeper of any dog registered under this chapter should such person move within the City limits.

(8) Failure to Comply. Any person who fails to comply with the mandatory or prohibitory provisions of this section shall be ~~assessed a civil penalty or shall be guilty of a gross misdemeanor~~ subject to the penalties as provided in DMMC 8.16.200.

Sec. 7. DMMC 8.16.180 and section 5 of Ordinance No. 948 are each amended to read as follows:

Potentially dangerous dog, dangerous dog, special license fees.

(1) The special license fee for each potentially dangerous dog to be licensed under this chapter is ~~\$100~~ 250.00. The annual renewal fee for each potentially dangerous dog licensed under this section is ~~\$100~~ 50.00.

(2) The special license fee for each dangerous dog to be licensed under this chapter is \$ 250.00. The annual renewal fee for each dangerous dog licensed under this section is ~~\$100~~ 50.00.

Ordinance No. ____
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NEW SECTION. Sec. 8. Severability - Construction.

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

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

NEW SECTION. Sec. 9. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2012 and signed in authentication thereof this ____ day of _____, 2012.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Use of One-Time Funds
for Future Budgets

ATTACHMENTS:

- 1. Draft Ordinance No. 12-215
- 2. One-time Projects Spreadsheet

FOR AGENDA OF: December 13, 2012

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: December 7, 2012

CLEARANCES:

- Legal TG
- Finance N/A
- Marina N/A
- Parks, Rec. & Senior Services N/A
- Planning, Building & Pub. Works N/A
- Police N/A
- Economic Development N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this Agenda Item is to seek City Council approval of Draft Ordinance No. 12-215 which established the City's policies regarding the expenditure of one-time revenues.

Suggested Motions

FIRST MOTION: "I move to suspend Rule 26(a) to pass Draft Ordinance No. 12-215 on first reading."

SECOND MOTION: "I move to enact Draft Ordinance No. 12-215 adding a new chapter to Title 3 DMMC entitled *Use of One-Time Revenues*," defining one-time revenue, and creating phased-in expenditure requirements."

Background

Mayor Kaplan has asked that Draft Ordinance No. 12-215 be brought forward for discussion and consideration for adoption by the Council.

Recommendation

Staff recommends the adoption of Draft Ordinance No. 12-215.

CITY ATTORNEY'S FIRST DRAFT 11/30/2012

DRAFT ORDINANCE NO. 12-215

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON adding a new chapter to Title 3 DMMC entitled "*Use of One-Time Revenues*", defining one-time revenue, creating phased-in expenditure requirements, and codifying a new chapter in Title 3 DMMC.

WHEREAS, the City of Des Moines has an important responsibility to its citizens to carefully account for public funds, manage municipal finances wisely, and plan adequate funding of services and facilities desired and needed by the public, and

WHEREAS, each year, the City receives revenue from a number of different sources which is then used to determine the next year's annual budget, and

WHEREAS, one-time revenues have historically been used to balance the budget and to pay for services that continue from year to year, and

WHEREAS, one-time revenues are by definition non-recurring and therefore should not be relied on in future budget periods, and

WHEREAS, the City Council finds that the continued use of one-time revenues for ongoing expenditures is not sustainable, and

WHEREAS; the City Council finds that by the year 2017, one-time revenues will be used solely for one-time expenditures and will not be used to fund ongoing services, now therefore,

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

Sec. 1. A new chapter shall be added to Title 3 DMMC, entitled *Use of One-Time Revenues*, as follows:

Attachment 1

Ordinance No. _____
Page 2 of 3

(1) Definitions.

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

(b) "One-time revenue" means all corresponding sales tax and business and occupation tax revenues received by the City from development projects with a total value exceeding fifteen (15) million dollars. Revenues from permit fees are not considered one time revenues and are specifically excluded from the requirements of this Chapter.

(2) Phased-In expenditure requirements created.

- (a) For the calendar year of 2014, the total amount of one time revenues to be used to fund the 2014 general fund budget shall not exceed 75% of the total one time revenues received by the City.
- (b) For the calendar year of 2015, the total amount of one time revenues to be used to fund the 2015 general fund budget shall not exceed 50% of the total one time revenues received by the City.
- (c) For the calendar year of 2016, the total amount of one time revenues to be used to fund the 2016 general fund budget shall not exceed 25% of the total one time revenues received by the City.
- (d) For the calendar year of 2017 and beyond, no one time revenues shall be used to fund the general fund budget.

(3) Expenditure of one time revenue

All revenues designated as one-time revenues which are restricted from being used to fund the general fund budget shall be transferred to the Municipal Capital Improvements Fund to be used for projects consistent with the purposes of that fund.

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Sec. 2. Codification. Section 1 of this Ordinance shall be codified as a new chapter in Title 3 DMMC.

Sec. 3. Severability - Construction.

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

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

Sec. 4. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2012 and signed in authentication thereof this _____ day of _____, 2012.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

One Time Projects over \$15,000,000.00		
Project	Permit Number	Valuation
Highline Community College Higher Education Building (CWU)	B2003-0160	\$26,000,000.00
North Hill Elementary School	B2004-0003	\$16,170,106.00
Mount Rainier High School	B2004-0412	\$56,142,768.00
Judson Park Wing Additions	B2006-0177	\$19,400,000.00
Midway Elementary School	B2007-0205	\$22,675,000.00
Parkside Elementary School	B2008-0072	\$26,572,590.00
SCORE Facility	B2009-0188	\$59,430,000.00
Projects under \$15,000,000.00		
Highline Community College Student Activity Building	B2003-0018	\$10,831,868.00
Walgreens Drug Store	B2004-0334	\$1,630,200.00
Dr. Verraich Project (22613 Pacific Highway South)	B2006-0047	\$2,115,000.00
Dr. Buttar Project (23040 Pacific Highway South)	B2007-0552	\$3,492,695.00