

**CLARK COUNTY COUNCILORS
MINUTES OF DECEMBER 18, 2018**

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The Board convened in the Councilors' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Councilors Jeanne E. Stewart, Julie Olson, John Blom, Eileen Quiring, and Marc Boldt, Chair, present.

PUBLIC HEARING: 2018 ANNUAL REVIEWS & DOCKETS

To consider 2018 Annual Reviews and Dockets amending the 20-Year Growth Management Comprehensive Plan Text and Map, Zone Map, and Clark County Code (Title 40):

1. CPZ2018-00015 - Urban Holding Removal near the I-5/179th St Interchange/Killian. A proposal to consider removing the urban holding overlay on 40 acres designated in the Comprehensive Plan map and zoning map.

2. CPZ2018-00019 Park Impact Fees for Trails - A proposal to revise Title 40 development code to allow the Park Impact Fees to be applied to trails.

BOLDT: Moving on to our annual review and dockets. First of all, Urban Holding Removal I-5/179th Street Interchange/Killian.

And as everybody is getting situated, I'd like to remind you when you come up, again speak slowly and spell your last name, oh, and speak into the mic. Very good. Maybe I should. Good morning or afternoon probably, yeah.

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ORJIAKO: Yeah. Good afternoon, Councilors. For the record, Oliver Orjiako, Community Planning.

Before you this morning is a question to release urban holding on approximately 40 acres on the north side of 179th Street. I think the Council is familiar with how we use urban holding.

There's always confusion about urban holding and urban reserve. Urban reserve areas are areas that are outside the urban growth boundary. Urban holding is inside the urban growth boundary and has urban zoning.

We use urban holding as a way to phase development and also as a way to address transportation gaps, if you will. So Matt Hermen is going to go over this request before you.

The 179 and the I-5 corridor is the only area inside the urban growth boundary of Vancouver that is still in urban holding and we are making progress to work our way through release of that urban holding so that the area can develop according to the urban zoning.

So with that, I will turn it over to Matt. This is one proposal, there are many that will come before you. We are looking at releasing urban holding in phases, so this is Phase I known as Killian property and I will turn it over to Matt.

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HERMEN: Good afternoon. My name is Matt Hermen, planner with Clark County Community Planning.

So to begin, one of the comprehensive plan requirements for releasing urban holding is that the critical links and intersection improvements are reasonably funded through the TIP or through a Development Agreement.

For this proposal in front of you today for the release of urban holding the mechanism that they will release urban holding is through a Development Agreement. So also with your action is the contemplation on a Draft Development Agreement associated with these 40 acres.

So the proposal itself is two and a half acres. I'll show you where the half-acre lies. Approximately four, 40 acres it's mixed use zoning as well as mixed use comprehensive plan designation.

The proposal in their initial concept plans are the development of 200 single-family homes and 326 multi-family. Those developments have a total trip generation during the PM peak or rush hour as commonly referred to of 402 trips.

So this developer, the property owner, is in a very unique

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situation. The property owner went through a Development Agreement in 2012 that was approved by the Council at that time in which it vested trips at the intersection along 179th east of the I-5 interchange. For this proposal they want to use the mechanism of a new Development Agreement to transfer the trips that they reserved in the previous Development Agreement to the new Development Agreement.

So just to orient you with where the proposal lies, here's the 179th/I-5 interchange, 10th Avenue goes directly to the west of the proposed property. Here's one property, two properties and the half property is actually this whole property except only half of it lies within the urban holding overlay. The property owners property that are currently in ownership are shown in red here. Again, the property that's proposed for urban holding release is in this shaded hatch mark here.

The Development Agreement that was executed in 2012 applied to properties where my cursor is at south of 179th west of 15th Avenue and east of 15th Avenue. The Development Agreement proposed in front of you today along with the urban holding removal would transfer trips that were reserved for development at this property, transfer it to property to the north. With that transfer of property, in the Development Agreement there is the condition that the property that they are transferring from cannot develop for

five years.

So the specific details regarding those Development Agreement is the draft is in your booklets, it ensures cooperation that there's continuing coordination with the master plan of the 179th interchange area as it develops, as well as the construction and dedication of an eastbound turn lane to southbound lane at the intersection of 179th and 15th Avenue. Currently this is a three-way signal.

The construction would have a right-turn lane that would solely be dedicated to right turners. Right-of-way on 179th between the interchange and 15th Avenue would be dedicated as part of this Development Agreement, that dedication is a total of 100 feet right-of-way, so it would require dedication on both sides of the road. The dedication of a future two-lane minor arterial with bike lanes is also contemplated, this would have the connection from 179th at the intersection, from 179th to 10th Avenue.

As we previously discussed in prior work sessions with the Board, there was consideration of 15th Avenue extending from 179th at the intersection to 10th Avenue and its cost versus the cost of 12th Avenue extending from 179th to 10th Avenue. Currently, Public Works and my department are evaluating those options.

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The Development Agreement that's proposed to you today keeps that less discreet, does not call it out as far as 15th or 12th, it just refers to it as a future two-lane minor arterial. Also, the Development Agreement would ensure access to the developer's property on the north side of 179th. This would be this large parcel which is zoned commercial as well as comprehensive plan designation of commercial, this would ensure access, private access onto 179th during the construction or development of that site.

The Planning Commission heard this matter on September 6th and recommended unanimous approval of the removal of urban holding from the zoning overlay as well as comprehensive plan overlay along with the approval of the Draft Development Agreement. I'd be happy to answer any questions if you have any.

BOLDT: So this, a little history, we put this in the urban growth boundary and then I can't believe when it was, but then we added plan language to put some teeth into that urban holding saying that as long as there was transportation money, things like that, that that would be lifted; right?

HERMEN: Yeah. In 2004, this specific property was added to the urban growth area in Vancouver urban growth area and then in 2007 another expansion occurred. The property that's before you today

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was increased in 2004. At that time, there was specific provisions put in for this urban holding that applied for the entire urban holding area that the completion of the critical links and intersections improvements had to be reasonably funded in order for that urban holding to be removed.

BOLDT: Okay. Any other questions? Okay. With that, Lance Killian. I don't see Terry Wellner. Good afternoon.

KILLIAN: Good afternoon, Council, and happy holidays. Well, I can say one thing for certain it's been a long road to get here, but we're happy to be here before you today and I'd like to thank County staff for hanging in there over the past 12 months working on this and we would -- I don't really have any substantive comment to offer today other than we concur with Planning Commission's vote recommendation to you and also staff's recommendation and we're certainly here available today to answer any specific questions you may have, so thank you.

BOLDT: Any questions?

OLSON: Finally we get a path forward.

KILLIAN: Yes.

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BOLDT: Very good. Thank you so much for all your work.

KILLIAN: Thank you and thank you for your service.

BOLDT: Anyone else wishing to testify? Seeing none, I will return it to the Council for a --

QUIRING: Motion.

BOLDT: -- motion, yeah.

OLSON: If I might, yeah, I would be honored to make this motion. I move that we approve CPZ2018-00015 to remove urban holding at I-5 and 179th Street interchange.

QUIRING: I'll second it.

BOLDT: Second. Discussion? A lot of great work for a lot of years. Thank you very much.

OLSON: And a lot of work to do at this intersection, it's a big opportunity we have inside the urban growth boundary here.

ORJIAKO: Yeah. Thank you very much, Councilors. There will be more requests coming. This is, as I said, this is Phase I so you're

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approving this and the Developer's Agreement.

BOLDT: Yes.

STEWART: So this is a large area that is developable and it had some transportation issues and if there's a way to sort all that out and effectively do both, get effective transportation and get some effective development, it's the best outcome, so I'm interested in how we end up on this. Thank you.

BOLDT: Very good. Yes.

OLSON: Do I need to fix my motion?

COOK: Oh, I'm sorry?

OLSON: Do I need to pair my motion?

COOK: Yes, that was what I was going to request. Just so that it is crystal clear, the approval of the urban holding removal would be subject to the parties agreement to the Developer's Agreement, both parties agreement or all parties agreement, and the motion would also include the County's approval of the Developer's Agreement.

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OLSON: Could you make it more complicated.

COOK: I could try.

OLSON: Let me see if I can get this right. So, I mean, I move that we approve CPZ2018-00015, removal of urban holding at I-5 and 179th Street subject to all parties agreement and the County's agreement or approval.

COOK: All parties agreement and maybe a separate motion to approve the Developer's Agreement, that might make sense.

OLSON: Okay.

QUIRING: There was something about the County in there though --

COOK: Right.

QUIRING: -- that didn't get in, that's separate.

COOK: So the motion to lift urban holding is subject to all parties, and that includes the County, agreement to this Draft Developer's Agreement and then I would suggest a second motion for the County to approve the Developer's Agreement because the County has not done so.

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BOLDT: But we don't -- do we know, that's not in front of us.

COOK: It is in front of you.

OLSON: Yes, it is. So how about if I -- let's remove that last motion.

COOK: It's posted, it has been -- yeah.

OLSON: What if we start with approving the Developer Agreement, would that make the second part --

COOK: That works too.

OLSON: All right. Mr. Chair, I move that we approve the Developer Agreement between Clark County and Killian as presented.

BOLDT: Second?

QUIRING: Second it.

BOLDT: All if favor say aye?

EVERYBODY: AYE

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BOLDT: All opposed? Motion carried. And next.

OLSON: We can hopefully simply move that we approve CPZ2018-00015, removal of urban holding at I-5 and 179th subject to the parties agreement.

BOLDT: Second?

QUIRING: I'll second it.

BOLDT: All in favor say aye?

EVERYBODY: AYE

BOLDT: All opposed? Motion carries. I have a question for you. So we've done two, we've had a lot of voice, so is it possible when we get this resolution that the parties see it and the Council sees it as one, and I don't know if that would have to come back as a like an agreement or as a, I don't know what I'm trying to say, consent agenda.

COOK: As an item on the consent agenda or separate business.

QUIRING: Just to make sure everybody's on the same page.

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COOK: That's generally done for annual reviews and dockets so that they're all officially approved together, yes.

BOLDT: Right. Okay.

ORJIAKO: As I said, you have one more request coming before you, the Clark Regional Wastewater matter and then Holt Home, that is in February. So we will be coming back with adopting ordinance that you will approve on consent.

BOLDT: Very good. Okay. Thank you very much. And moving on to the Park Impact Fees. Good afternoon.

BJERKE: Good afternoon, Councilors. For the record, my name is Bill Bjerke, I'm the Parks and Lands Manager, Public Works, and today we're seeking Council approval to include the park impact or to include trails development into the park impact fee program via ordinance adoption. Is that better? Thank you. Joining me is Steve Duh with Conservation Technix who is our active consultant.

HOLLEY: I'm sorry, Steve who?

BJERKE: Steve Duh, D-u-h.

HOLLEY: Slow down.

BJERKE: Sorry. Sorry. Okay. And also in the audience joining us is members of our Parks Advisory Board. So I've got a small PowerPoint presentation for you. So discussions for the inclusion of trails into the park impact fee program has actually been brought up that dates way back to the 1990s but it's never been implemented, so that's our purpose today.

Clark impact fees currently pay for only urban park areas, open space and not for trails. State statute and County code are silent on the usage of impact fees for trails, and so at the direction of the County Council earlier this year, we started the review of the park impact fees to include the trails acquisition and development.

So trails consistently rank as the most desired recreational need. Trails promote connectivity between parks and schools and other trails, and Clark County has a list of priority trails throughout our Parks, Recreation & Open Space Plan and more importantly the, I'm sorry, the, yeah, the Parks, Recreation & Open Space Plan and the plan within that. Numerous municipalities across the state have already incorporated the use of trails within our fifth park impact fee program.

So on this slide you're going to see existing language as it relates to in code and on the bottom of the slide in highlighted in red you'll see the inclusion of the new language that we're proposing as well as the formula modification, and I can read that out loud here.

The impact fee component for parks, open space and recreational facilities which include the acquisition or development of public open spaces devoted to public parks, playgrounds and trails and other recreational purposes shall be calculated using the following formula, and then the formula itself includes the inclusion of trail cost.

So this docket item is a change only to the Title 40 Development Plan Code and it's not a comprehensive plan amendment. The Title 40 Development Code changes can be processed at any time as we discussed last week, no fee increases are included with this proposal. The Planning Commission unanimously recommended the approval of the proposal and so what we're asking you is to approve the ordinance.

On this slide here you'll see that with the calculation it does make a difference, but in the very first column is our existing fee structure. In the third column is what we're proposing that

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no fee increase be made. That is it. So do you have any questions for me?

OLSON: I do. Can you go back to the language, yeah, that one right there. So, and you may have answered this question when we had our work session, but I'm still not clear on it. You also have other language that's proposed that's not on this that defines trail cost or T means or T for the purpose of the formula; right?

BJERKE: Yes. Yes.

QUIRING: Line 34 and 5.

BJERKE: It says and it's in the definitions where it says T means proportionate share of plan trail improvements that add system capacity reflected as a per capita cost for anticipated population growth for the planning horizon.

OLSON: So I guess my question is, and we talked a little bit about this last week, is if we just include this language in red here, which would define and trails as part of open spaces and what have you, why do we have to add a definition for trail cost and why do we have to add it to the formula?

Because it provides an avenue for raising PIFs and I'm not, I don't

want to do that. I mean, well, we can raise it in the ways that we typically would raise it, but just not by virtue of adding trails. So I'm wondering, I know we had this conversation the other day and you mentioned our code was sort of required us to do it, I guess I'd like to understand how and where.

BJERKE: So I know we talked about this last week and Steve might be able to help us with this, but I believe if we're introducing trails into the definition, we probably need to add the or modify the calculation as well to include that. But as we also talked about, if we are to increase fees, we would likely come to the Councilors and ask for that formally.

OLSON: But in the PROS plan it talks about open spaces, public facilities, I don't have it in front of me, but it talks to that already, and the trails easily could be included in that definition, and to add the trail cost to the formula and the definition in the code just provides a very clear path to this added cost, added increase of TIFs or PIFs on top of what we already currently do and I don't believe that's the Councils' desire or the direction we want to go.

We want trails to be included but we want them to be included in the current calculation as, if we can fit it into the definition that already exists and already it exists in our PROS plan.

BJERKE: Go ahead.

DUH: And if I may, the broader intent of this material in front of you tonight or this afternoon is to provide you a bridge to enable trails to become part of your park impact fee program.

Up until now, the PIF calculation really was looking solely at the acquisition of community parks, neighborhood parks and open space and a development of community parks and neighborhood parks.

So the calculation itself where it talks to acquisition cost and development cost is specific to the currently adopted standards that are in your park and recreation open space plan for the different types of park facilities.

So those calculations and the formula for that are again specific to parks and are not inclusive of out of park property trail and the cleanest way to approach including trails at this point as a bridge to a broader discussion of how this impact fee program looks in the future is to add an additional line item effectively to enable trail costs to be put into the formula but it's in there as a very limited and severely prorated cost as the (inaudible) work through.

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BOLDT: And I would say I think piggybacking you is some good faith; however, so currently we make a park, okay, within that park you got playgrounds whatever and there's a trail between the playgrounds, so we already fund.

DUH: Correct.

BOLDT: That's already. It sounds like in a way that if we add this language, we can do all this stuff, then we'll pull the trail back out and then we'll pay for it again in a way that we could.

BJERKE: So when it comes to park development, the trails within the footprint of the park are actually part of the park itself, and what we're talking about here are trails that are outside of your typical parks, so connecting parks to schools, to cities, towns and to commerce.

BOLDT: I think that's where it's kind of confusing, it doesn't say outside or --

OLSON: Well, and, well, and in the plan, in the PROS plan it says neighborhood parks often include amenities such as playgrounds, turf areas, pathways and trails, picnic tables. So that's in the neighborhood park trail language; right?

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DUH: Right.

OLSON: On Page 19 it says, Facilities may include sports fields, extensive trail systems, or large picnic areas. In addition, regional parks often include, so I'm just, you can see we're still struggling with this, I'm struggling with it. And is there somewhere in our current code that requires us to include material cost in the calculation and in this definition section?

QUIRING: Yeah.

OLSON: And what if we didn't, I mean what if we didn't include the trail cost and this additional definition, how would we not then still be doing what we want to do?

DUH: Sure. To answer the second question first. If the language, the proposed language is not included in the code as presented, then you are working within your existing structure that would enable future park development to include trails only within a park site.

So it doesn't accommodate the usage of impact fees for development or acquisition costs that connects parks to parks or part of larger corridors of trails. So the current structure is for enabling limited pathways and parks, within parks I should say.

OLSON: And where is that literally in our code language or in the structure of our current code? I'm sorry to put you on the spot. I'm just trying to, I'm trying to understand why we can't do it the way we want to do it.

HENESSEE: Or alternatively could we not define trails as parks, the space that a trail outside of a designated park is utilizing, could that not be considered a park even if it's or if it's treated the same as a park.

I mean, that I guess is the crux of the issue, if you will, is is the trails that are located outside of officially park boundaries, could those trails not be treated just as parks in and of themselves so that the existing PIF that is received could be paid for that, and if the code does not allow that, what specific portion of the code needs to be modified to allow those existing PIFs to apply to those trails outside of the park area.

QUIRING: Right. And I think this is what we discussed during the work session but didn't really work it out so that it was understood that because why can't we just have the text without including it in that because it states to me, this playgrounds and trails and other recreational purposes, it looks like we are adding the availability to do that, and if we eliminate the plus trails costs,

we're working within that particular equation and then we would remove the definition of trail T as well. Can we not do that? And if we cannot, I would like a citing that precludes us from being able to do that.

DUH: To again answer the second question which is can we not do that, if you retain the current calculation for the impact fee and even address the ambiguity that exists in the code today that enables you or that would enable you to utilize impact fees for trails, if you call it linear parks or some other park term.

The calculation itself is still built around a set of standards that is specific to let's say proper park development and acquisition and you would certainly have the flexibility to adjust that, but the calculation as presented enables you to capture the portion of the costs that are in your adopted capital improvement plan that are again for those linear trail corridors that are outside parks proper.

So there's a set of costs that are in your capital improvement plan for park acquisition and park development, but there's also a set of costs for trails that connect between things, and utilizing the existing capital improvement plans was the basis for running the calculations to adjust the formula and to adjust the fees as noted.

QUIRING: So there are parks, I mean, excuse me, trails existing in this capital improvement plan, because I'm thinking about the trails that we've talked about before and I'm trying to restate what I think I just heard, and in order for those, in order for trail, more trails to be included, included in the capital improvement plan, we need to add this to the equation?

DUH: Correct. There are over \$10 million worth of capital costs in the existing capital improvement plan that are strictly trails --

QUIRING: Trails.

DUH: -- that are outside of parks, and through this process we are utilizing the revision to the PIF program to enable you to accommodate the usage of impact fees for those \$10 million worth of capital improvements albeit it would be a limited portion.

QUIRING: Are those trails already identified?

BJERKE: Yes.

QUIRING: They're specific.

BJERKE: We have the original trails plan that, and once again,

these trails can only or these PIF funds can only be spent within the urban unincorporated area within the PIF districts and so, yes. Yes, they are spoken for.

QUIRING: They're not just generic trails?

BJERKE: No. No, they've actually been planned for many, many years and our track record of building trails has been pretty, pretty poor over the years, so this is going to provide us a tool to help leverage funds and grants and other forms of revenue.

QUIRING: And we can't do that without a calculation, with the language without the calculation? Because what we're doing, it looks to me like we're extracting from, we're going to be extracting the cost from somebody else rather than using the available funds or those funds that will be coming from PIFs in the future as well.

BJERKE: So the reason that we are not asking for to include additional costs right now is because we are in the middle of a park impact fee increase that was Board approved back in 2016 and we're in the second year right now going into the third year where we'll fully realize the increase, and so that has been pretty substantial and we don't, we thought that adding trail cost at this time would hamper.

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QUIRING: And I understand that and that really, that actually wasn't my question. I understand that they're going up, we don't want them to go up, continue to go up even further because now we're including trails. We'd like to use the funds that exist or will exist as other PIF fees are paid by adding this language, the language only, the text only.

BJERKE: So to address that question to include the trail cost into the calculation, I don't know if it's legal for us to not have it there and that is a question that's for --

QUIRING: Well, that's our question.

BOLDT: I'm reading through here, so there's definitions under Development but there's, I see nothing, is there a specific definition of development costs?

DUH: The development costs are outlined in a park impact fee technical document that has been previously reviewed and approved by Council over the years and it's not in, I don't believe it's in the material you have with you right now.

BOLDT: But is it defined in the technical document?

DUH: It is defined in the technical document.

BOLDT: Not to include trails?

DUH: It is defined in the technical document by reference to the Parks, Recreation & Open Space Plan which defines a neighborhood park, a community park and the typical elements that are within those.

But, again, one of the core issues is that your current County code is silent on the application of impact fees for trails and we were in the process of doing those to make it explicit and this was the approach. Since the County code defines specifically park, there's different definitions for community park, neighborhood park and regional park, within those specific definitions in the code it doesn't reference that trails are allowable outside of park space.

So, again, utilizing the calculation as presented is a way to enable using impact fees for trails outside of park spaces, but recognizing that the Council has concerns about the future of the impact fee program it might make sense to revisit this as the County also needs to reconsider its broader park recreation and open space plan within the next couple of years and reassess some standards and reassess the impact fee program, what's eligible and what's not.

BOLDT: And I realize that this is a bridge so we can start putting trails in here, but I mean if I'm just a farm boy looking at this, I see development code costs, I'm going to think development cost is development cost I don't care if you're building a trail or whatever.

So it looks like, as again I say it looks like to me just by reading it, unless we figure out later hopefully the new Board will figure this out, is that it looks like we're double dipping.

OLSON: I mean, what's the difference between acquisition cost and development cost of park property versus trail property if trails are defined in the text?

DUH: Most specifically the acquisition cost is based on your adopted standard. So the adopted standard for acquisitions is three acres of community park, two acres of neighborhood park and one acre of open space for the general public, so a six-acre aggregate.

OLSON: And we don't talk about trails in that?

DUH: It does not talk about trails, and the acquisition costs are derived from the residential land costs that are spread across the

unincorporated area and then applied to that standard. So, again, the program to date has been silent on trails.

OLSON: What if we define T as zero?

STEWART: So one of the concerns that has been expressed to me for years - and this was effective both at the city council and here by developers - is as they build, they're required to pay park impact fees and we have at least a couple of districts where it wouldn't matter how much we collected, there's no land to buy to put a park, we still collect that fee.

So is there any way that, and I realize it's to be spent within a district, is there any way that those funds could be pooled to help us get some trails where - I don't know what happens to that money - if we collect it and we can't spend it, to buy land for a park or to expand development of an existing park?

I'm trying to think if there are other resources of funding that we could use to rather than increase the park impact fee to accommodate the need and desire for trails until we can figure it out better, is there a way to use some existing resources.

So it's a question, it's open-ended, but I think the idea of from the work session was we would like to see a trail have relatively

the same status as a park for a public open space and what we have heard over the years is more and more people want trails and really they prefer to have connecting trails or trails that connect one green space with another, and I think as high as park impact fees are now, and we don't make that up out of thin air, we have formulas, we have needs, we have land costs, I understand that, but the demand for actual trails is increasing among our citizens.

So I think there has to be some way to work this out without putting pressure on increasing park impact fees and I think that's the discussion we're having. I'm just trying to figure out.

Do we have some resources out there that we would -- so in order to use collected funds for trails, collected funds in areas that we can't put a park, what would we have to do? Would there have to be, would we have to do an overlay of park districts that would tell us that in the larger overlay you could use money within that larger overlay? I'm just trying to figure out if there isn't a way.

QUIRING: Yeah. I have another question. Is there another place that this language can go rather than under the impact fee? Because it's housed in the impact fee language, I can see why you'd want to add the trail cost.

Is there somewhere else in this code that it can be added so that we can use it in the way that we are expressing right now that we want to use it? We want trails to be used and developed as a part of our existing PIF funds.

BJERKE: Well, we can enhance the language in the Parks, Recreation & Open Space Plan, but I believe that it actually has to exist in the park impact fee technical document that is recognized through the Parks, Recreation & Open Space Plan, but I believe it does have to be shown in code for it to be active.

Now, though I'm looking at this, and I don't know if we have to actually include the word cost with trail and that's still a question, a legal question that I don't know yet.

OLSON: Except that you define it. So whether it's cost or whether it's the letter T, it's still defined in the document, it's still defined.

BJERKE: That's true.

QUIRING: So it's per capita, I mean.

OLSON: I guess, so I hate to do this, but as I'm reading and looking in this language here, I just feel like we got out -- and by the

way, thank you for your work, thank you for your work, but I just feel like we got out in a process of trying to get this done not in the direction that we wanted it to go and so I'm really hesitant to go forward.

I just I'm not comfortable going forward with where we are and I apologize for that, but I don't think this is the direction that we wanted to go and I would be really hesitant and cautious about going forward because going back is always harder to try to fix things.

I'd rather us do it, I'd rather just get it done, even though we're not going to be able to use these fees right now for trails, I get that and that's if we don't go forward, but I'm just concerned about that we went down this path kind of not in the direction that I think the Councilors really wanted to go and so that's just where I --

BJERKE: There was a driver behind this that kind of led to us taking this action in the first place and that's when we had a developer approach us wanting to build a trail in exchange for PIF credits and at that time we said, sorry, we can't do that because trails are silent in the code, so we couldn't use that, so... It's not only collecting fees, but it's the ability for our development community to actually provide trails to us at a lesser cost and

so it's just keep that in mind.

QUIRING: Well, I have a question then about what you just said, where is this code? Is this the code? Is that the code you're talking about that isn't defined in our code to this developer that wanted to make a trail --

BJERKE: Yes.

QUIRING: -- you said this is not defined in our code.

BJERKE: Correct.

QUIRING: Where in the code can we define it other than in the impact fee, is there a way?

MIGCHELBRINK: I think what he's referring to is --

HOLLEY: Name.

MIGCHELBRINK: Amanda Migchelbrink, Deputy Prosecuting Attorney.

BOLDT: Spell your last name, please.

MIGCHELBRINK: Migchelbrink, M-i-g-c-h-e-l-b-r-i-n-k. So the

40.620.020, which is the provision that we're looking to amend right now specifically states that impact fees, the impact fee component for parks, open space and recreational facilities shall be calculated using the following formula.

So I think what they're trying to do is include the, include trails into that so that we can specifically say, yes, you can use PIF credits for trails, so that's what they're looking to do, that's the only provision, the County code provision I've been able to find that specifically discusses this issue. There's only one PIF code section, this is it, this is the only one. So that's where that definitional piece is coming from, that's where we believe we need to have the term trail in there.

I don't know if we need to have, I haven't found anything that says that we specifically have to change the formula to go along with that, so that's the one piece I haven't been able to find, it's not in State statute to specifically, that I've been able to find yet that specifically says you must also include the cost in the formula if you're going to change the definition of what is included in the text for what is a park or what is the, that component for.

So that's, and my -- from what I'm hearing that's where the disconnect is, why are we requiring that the formula change, I don't, I haven't found a statutory requirement that the formula

must change and it shouldn't.

I think at this point what we need to do is pull the ordinance back and take a look at it and, because I'm not an expert in GMA and I'm not an expert in those sorts of things, I want to check that and make sure that that is, that I'm not missing something.

So I think at this point it sounds like it might be best to pull it back and then that will give us some time. Because this is not something that has to go under the for the docket, we can bring this back to you early next year so that we can get that process moving and collect those fees and get the PIFs going towards the trails.

BOLDT: Okay. Even if we don't, thank you very much. I think I'll have, so since we have, it's a public hearing, I'd still like to hear from people about what we're going to talk about even if it's next year. So Steve Madsen and Ryan Makinster can come up together or it's okay. Come on up.

MADSEN: I'll take the back up. I'm going to read my comments which I don't usually do but we prepared them by a group of us at the office so I want to make sure I get it right. First, I just want to start off with something we talked about at the office. Oh, I'm sorry. Steve Madsen, Aho Construction. Thank you.

BOLDT: Spell your last name.

MADSEN: M-a-d-s-e-n. One of the things that we talk about occasionally at the office is that they got the acronym wrong, it should be PIMF because these are impact mitigation fees, they're designed to mitigate the impacts of development at their core.

Some time ago I provided you folks with a fairly extensive memo on both statutory and local authority for these impact fees and you might want to consider revisiting that, so I'll begin my comments.

Aho Construction I, Inc. would like to thank Clark County Council for the opportunity to voice its concerns regarding the text amendments to Clark County Code 40.620.020 proposed by County staff.

Functional trail systems are heavily dependent upon topography, ownership and other site-specific factors which make purchasing these systems very expensive. Aho believes that trail acquisition in particular represents a good example of why the parks plan needs a developer contribution component.

Private developers are able to add many more opportunities for

connectivity through their project design and provide these facilities at a much lower cost than direct public acquisition.

Aho believes in the kinds of amenities provided for in the parks plan including trails. We're concerned that the current proposed text changes may undermine that effort by expanding the scope of projects to be funded by PIFs without providing any process for developer participation.

Like many jurisdictions, Clark County has existing code under CCC 40.630.060 that allows for developers to receive credit from land dedication or improvements in lieu of impact fees. The problem is Clark County, unlike many other jurisdictions, lacks a process for developer involvement in park construction and land dedication.

In Clark County, developers have been limited to simple payment of impact fees rather than providing direct mitigation on or near the construction site. We are concerned that rather than addressing this issue directly, the code changes proposed by staff would add an additional \$10 million in trail development and acquisition cost to the PIF program.

Developer involvement in neighborhood parks and trails results in lower costs to the municipality as well as more functional and

cohesive park system. We believe that such a program in Clark County would result in; 1, a larger parks and trails inventory; 2, lower administrative acquisition and development costs; 3, a more integrated and functional neighborhood park and trail system; 4, parks that are actually built with growth; and, 5, an overall reduction in PIF rates resulting in lower housing costs.

Aho looks forward to working with County staff to develop fair, equitable and cost-effective strategies for implementing the goals of Clark County Parks, Recreation & Open Space Plan.

BOLDT: Thank you. Yeah.

MAKINSTER: Thank you, Chairman Boldt and Councilors. This is Ryan Makinster, I'm Government Affairs for the Building Industry Association of Clark County. It's R-y-a-n, last name is M-a-k-i-n-s-t-e-r. I'm here speaking on behalf of the BIA of course, and our member companies and their employees.

I appreciate the efforts the Council is making with regards to trails, we support trails, obviously they add to, you know, the quality of life in our community and we want to see that happen, we also want to see park impact fees used to realize that, that vision that you guys are putting forward as well as the department.

Originally I had some notes written up, but it's kind of gone a little bit different now after the testimony of the department as well as their consultant. We understand that there's underlying, under, underlying language that might be difficult for them to implement easily and I recognize that their attempt to make it an easy transition here with this trail cost. Having said that, we feel there's an unintended consequence that could occur.

At this point we recognize there's no request for an increase in impact fees at this point, but it lends itself to it in the future and as a separate cost center. You have the acquisition development cost as one thing and trails cost is separate. It could be used in the future to have two separate requests for money or to grow that impact fee separately or to pit two other things against each other in this case, you know, oh, you guys don't support trails or you don't support parks, however that may lay out.

It's our belief and hope that the trails we pay out that they all be paid out of the same fund and not treated as a segregated cost and that the feeling I get is what the Council is looking for that as well. I apologize for at the last minute kind of coming forward with this. I know this has been going forward and the department has put a lot of work into it.

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There has been discussion and one of those discussions leads to kind of what Steve was saying as well that this was supposed to be or we were hoping it would be a part of a broader discussion about what our impact fees, what are the opportunities for credits as well as what do we consider as part of our land inventory currently and so we have not had that discussion yet, we're a little reticent to support this as it's written.

BOLDT: Okay. Thank you very much. Good job. Barbara Anderson and Kelsey Potter, bring you up together or whoever wants to come on up.

POTTER: Hello.

BOLDT: Hello.

POTTER: I'll start while everyone's making they're way up here, Kelsey Potter, P-o-t-t-e-r. I also wrote a nice little thing I was going to say, but the wind has blown a different direction, so I'm just going to (inaudible) out here a little bit.

So to address a couple of things that were just said up here in terms of credit, working with development, trails, our board has formed a subcommittee with DEAB's board to start talking about those issues and how we can work together to create more credit

opportunities and what that would look like because we really don't have a system for that currently. We've talked about inventory and what that looks like.

So I want you guys to know that behind the scenes we are trying to, you know, create just more communication with the development community on how we can improve parks and trails in Clark County. So that's one thing I wanted to say.

Obviously, we're in favor of having trails included in the PIF because we don't really have a mechanism right now to fund those and the one thing that people constantly tell us in meetings and in our PROS plan and our surveys is we don't have enough trails, we want more trails.

And I'm fortunate enough to live next to the Salmon Creek Greenway, so I have like one is in my back pocket and I wish everyone in Clark County could have something like that in their back pocket because trails are really important for, I mean not just for exercise and getting out in nature, but I had a co-worker who took most of Burnt Bridge Creek via bike to commute to work.

Now that there is a park, Sorenson Park in my backyard with a trail system, I can cut through to Erickson Farms development and go have a coffee, I mean it increases so much potential in our county to

have really good trail systems.

So I get your concerns with the language. As we had discussed as an advisory board and as a group, we're not comfortable asking for the increase to come along with the additional language and I think Bill has addressed that, it wouldn't be just implemented without coming in front of the Council again.

So I don't know if I can change your mind today, but I'm hoping, I'm hoping we can work out these quirks that you have concerns with so we can get the PIFs to go towards trails.

BOLDT: Yeah, very good. Okay. Next.

ANDERSON: Thank you. I'm Barbara Anderson, 105 N.E. 150th Street, A-n-d-e-r-s-o-n. And I guess I'm going to take it more from a very low level here because to me I'm logical.

I'm on the subcommittee that's working with DEAB and I'm sure that there are ways that we can bring economies of scale to play here. I love the idea of partnering with people, you know my feelings on partnership. But when it comes to this right now, what we're looking for is a way to move forward where we can leverage the PIFs, we've got to do these interconnecting trails, that's our objective right now.

We have a bigger plan for when we redo our PROS plan to bring in a lot of new ideas, but for now we can't spend those dollars for these connecting trails from our PIF until we have this language adjustment. Now, in my mind, yeah, I see where you can see that if we add trail cost here that we're looking at more dollars and yet there has never been an increase without it being explicitly approved by you.

And so if I were to look at just, okay, this equation down here, it's bothersome, it has the opportunity to increase the number, but if we're building trails it may be there and mathematically it should be part of that equation, but we're still never going to get more than the 50 cents or a dollar that we ask for, right, whether the trails are in there or not because when we come to you and ask for an increase, we're asking for a specific amount, right, and you can say no then.

So the fact that it's got at T factor in there, which logically if we're building interconnecting trails which are not explicitly defined in today's PIF, that T should be there, that trail cost should be there, it doesn't mean there's got to be another nickel, we're not looking for that.

So along with Kelsey I'm hoping we can move forward now and not

delay because we can't go back and reallocate the dollars that are coming in.

BOLDT: Okay. Thank you. Next.

CHESTER: I don't think I have anything to add. I think they covered it pretty well.

SPENCER: Yeah, just real quickly. John Spencer, S-p-e-n-c-e-r, it's 103 S.E. 303rd also a member of PAB. What we're looking to do is add flexibility for staff and for the ability to take care of all of the issues we've talked with, this is one step of that. There's more to be done as we were talking about DEAB and other projects, that's my perspective, it's a step along the road, it's not the end deal for either end of it, but it's still an important step.

BOLDT: Okay. Thank you very much. Anyone else? Seeing none, I request, I mean I have a sense we're not going to do anything. I don't think we need to deny it, we just don't do --

OLSON: Can we, Mr. Chair, yeah, may I, can we get some clarification from the Prosecuting Attorney's Office with regards to the requirement to have this calculation adjusted in some way or I guess, I think ultimately we all want to get to where we all

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want to go, we're headed in the same direction, but it's the devil is in the details and there are a lot of details in here that are going to matter and I don't want to brush them over.

MIGCHELBRINK: Right. So are you asking right now what --

OLSON: No. No, can it come back I guess.

MIGCHELBRINK: You're asking for an official --

OLSON: Yeah.

QUIRING: Virtue of how we can do this without, how we might be able to put this language in another spot and still use existing, even existing funds.

BOLDT: I think the agreement that we would --

QUIRING: I don't know if we can, but...

MIGCHELBRINK: So I think - I feel like I'm yelling at you, sorry - I think we can, I think, I still think that the best move right now, and I don't know if Bill wants to officially withdraw it at this point, I think that might be the cleanest way.

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OLSON: We could continue it.

MIGCHELBRINK: Or you could continue it. So it's that might be another --

OLSON: Because my only thought was if we could get, if we could get clarification on this calculation and the definitions unless the Council just wants to start over.

BOLDT: No.

QUIRING: I mean, it's going to be next year anyway, isn't it? We only have one other meeting.

OLSON: To a date certain.

BOLDT: Date uncertain.

OLSON: Date uncertain.

QUIRING: Date uncertain.

BOLDT: Okay.

MIGCHELBRINK: I think that will work. And to answer your

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question, I don't believe that it can be put anyplace else into the code, I think this is the only --

QUIRING: The only spot.

MIGCHELBRINK: -- the only spot that we have, but I'll look into that as well and make sure that that's the case.

BOLDT: Okay. Thank you very much. So is there a motion to move CPZ2018-00019, park impact fees for trails to a date uncertain.

OLSON: So moved.

BOLDT: Second?

QUIRING: Second.

OLSON: And there's no problem with this, moving this, okay, with regard to dockets?

BJERKE: I don't know if we move this into next year, I could be wrong here, but it may not be effective until 2020.

OLSON: That's my question.

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BJERKE: Yeah.

STEWART: And in the meantime we need legal.

ANDERSON: Afternoon, Council. Colete Anderson, A-n-d-e-r-s-o-n, for Community Planning. This is a Title 40 Code Amendment only and as such it can come before Council at any time, so we can bring it back when you're ready to look at it.

OLSON: Okay. And it would go into effect just like a typical ordinance would go into effect?

ANDERSON: Yes.

OLSON: Okay. That was my question. Thank you.

BOLDT: Okay. Very good. All in favor say aye?

EVERYBODY: AYE

BOLDT: All opposed? Motion carried.

MIGCHELBRINK: We did second the motion?

BOLDT: Yes. With that, Councilor communications? Seeing none,

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we are adjourned. Thank you.

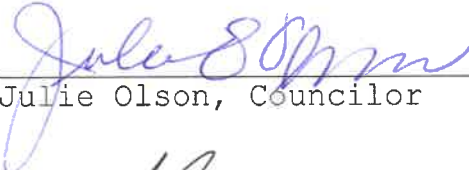
CLARK COUNTY COUNCIL

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Marc Boldt, Chair

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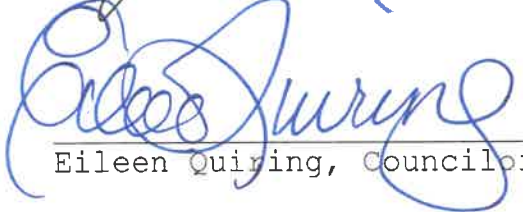
Jeanne E. Stewart, Councilor



Julie Olson, Councilor




John Blom, Councilor



Eileen Quiring, Councilor



ATTEST:



Rebecca Messinger, Clerk to the Council

Minutes Transcribed by:
Cindy Holley, Court Reporter/Rider & Associates, Inc.