



# CITY OF BETHEL

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## Planning Commission Minutes

**Regular Scheduled Meeting March 8, 2001**

**PUBLIC WORKS BLDG., SECOND FLOOR CONFERENCE ROOM**

**7:30 PM**

### **I. CALL TO ORDER**

Meeting was called to order by Chair J. Guinn at 7:40PM.

### **II. ROLL CALL**

Present: J. Guinn, D. Notti, W. Keppel, M. Charlie.

Excused: J. Hamilton

Unexcused: L. Andrew and M. Kenick

Others Present: John Malone, City Planner

Sandra Moseley, Admin. Assistant, Recorder of Minutes

Lee Sharpe, Attorney with firm of Preston, Gates & Ellis

Teleconference: Louann Cutler, City Attorney with firm of Preston, Gates & Ellis

### **III. APPROVAL OF MINUTES**

M/M Charlie/Keppel Approve the minutes of February 8, 2001 meeting.

Unanimous

### **IV. APPROVAL OF AGENDA**

M/M Charlie/ Keppel To approve of the agenda as published.

Unanimous

### **V. COMMUNICATIONS**

Mr. Malone passed out a copy of an email received from Lee Sharpe earlier in the day pertaining to the effective dates of requiring piped sewer and water in subdivisions, and a memo with additional suggested amendments from the Public Works departments. All others were included in the meeting packets.

## **VI. PLANNERS REPORT**

Mr. Malone reported the following:

City Clerk Reminder: The city clerk informs that there are still some commission members that have not turned their financial disclosure paperwork into her office.

RFP - City Wide Mapping Project: There have been three respondents to this RFP. I requested that our Purchasing Office forward our proposed scoring sheet for selection criteria to Keith Jost, Dept. of Community and Economic Development, for technical comments and suggestions. Part of Jost's duties is developing community profiles along with community mapping. He has dealt with many similar type orthophoto community mapping projects. The Purchasing Office is anticipating convening a proposal evaluation committee for this RFP next week.

City Subdivision Sewer & Water Project – Easement Acquisitions: Easement acquisition packets have been sent to all Phase 1 landowners where new or additional easements are required. These easement acquisitions appear to have raised many questions and concerns. Most of these have been readily addressed via phone contacts. So far two have needed resolution through the city attorneys office. Since we have started our follow-up contacts about four weeks ago, the response from landowners (signed and returned landowner agreements) has significantly increased. These follow-up contacts continue on a weekly bases.

New Shooting Range: Our Parks and Recreation Dept has been sponsoring an every two week meeting at the Youth Center of a citizen group interested in re-establishing a shooting range within the community. At this weeks meeting two land proposals were offered. One was from Mayor Rogers who offered the use of a portion of his native allotment located off BIA Road. He wished this to be limited to a 10 year use period. As this allotment is in restricted deed status all negotiations for this type of use would have to be negotiated through ONC. The other proposal was from Ralph and Monty Doyle who offered to convey 10 acres to the local shooting club from their eighty acres conveyed from John W. Haroldsen's native allotment. This parcel would be located just north east of the present Haroldsen Subdivision. Oly Olson, one of the citizen committee members, and the person who presented the Doyle's offer, said he had personally contacted most landowners in Haroldsen Subdivision as to locating the shooting range north of the subdivision. He reported that none objected and many spoke very much in favor of the location. The shooting club members present said that they would convene a club meeting shortly for the purpose of reactivating their membership and considering the land proposals.

Information Technology: The WAN installation wireless portion is complete. The Public Works and Administration buildings are presently on line. Nicole conducted the first employee networking classes last week, and two this week. Six more in networking basics remain to be scheduled. We will be ordering a new server for the Administration Building. The present server

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is now 5 years old and does not have sufficient processing power to run server based applications, as opposed to workstation applications. We will also be ordering and installing network client (for workstations) virus scanning software. The City has been hit by 5 viruses in the last week, fortunately none deleted files.

**VII. PEOPLE TO BE HEARD**

None

**VIII. COMMISSIONERS COMMENTS**

Commissioner Keppel had earlier commented on the progress and activities of the citizen working group that had been meeting for the purpose of re-establishing a new shooting range in the community.

Commissioner Notti wished to inform that at the last city council meeting council member Drake had recommended that Notti submit his resume to fill a vacancy on the Alaska Coastal Policy Council.

**IX. OLD BUSINESS**

None

**X. NEW BUSINESS**

ITEM A. ORDINANCE NO. 01-05, AMENDING BMC TITLES 15,16,17 AND 18.

**SECOND PUBLIC HEARING**

Chair Guinn opened the public hearing at 7:55PM. He asked Mr. Malone to introduce this item.

Mr Malone reported that there were three additional written documents received since the February 8<sup>th</sup> public hearing. He suggested starting with the Public Works Department March 8<sup>th</sup> memo dealing with culvert inspections, road widths, cul-de-sac radius and driveway widths, then proceeding with Lee Sharps email memo on the effective date of piped sewer and water requirements for new subdivisions, and then Lee Sharps response memo that was mailed to the Commissioner's on March 5<sup>th</sup>, responding to the written comments submitted at the Commissions February 8<sup>th</sup> meeting.

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(The following is a comment memo from the Public Works Department)

Ordinance Amendment Comments - Clair Grifka Public Works Dept. March 8,'01

ORD 17.24.060 (A) 6. Minimum of 28' drivable surface on both collectors and arterials plus 3' shoulders for a total surface width of 34'.

ORD 17.24.060 (B) Pertaining to driveway culverts located within road right-of-ways:

1. Road Maintenance should pre-approve driveway culvert location and culvert specifications. Give final approval or require corrective action after installed.

2. Any culvert over 40' shall be fitted with an approved thaw pipe.

ORD 17.24.050 Cul-de-sacs: Keep 70' radius. Strongly urged by both Public Works and Fire Department.

ORD 18.48.200 (B) Minimum driveway widths should be increased to 25'.

(End of Public Works Comment Memo)

Mr. Malone reported that he had met with the Public Works Director, Clair Grifka, and Road Maintenance Foreman, Chuck Willert, earlier in the day on the above proposed changes. Lee Sharp pointed out that the culverting inspection requirements that were being requested more appropriately belonged in the Site Plan Application section of the ordinances.

PC Action: M/M Notti/Keppel Adopt suggested Public Works changes as proposed.

Unanimous

(The following is an E-mail from Lee Sharp received March 8, 01 and handed out at meeting.)

John, here is some language that could be substituted for the Effective date section of Ord 01-05 that would delay the sewer and water improvements requirements for smaller subdivisions, but require it for larger subdivisions when the rest of the ordinance becomes effective. If the PC would like to delay it for all subdivisions, the language could be changed to delete reference to the larger subdivisions. Also, we could refine the language to make it effective in specified districts ( 1, 2, or 3) or within specific phasing areas per the map.

Deferral of sewer and water improvements requirements.

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**Section 11. Effective Date.** (a) Except as provided in subsection (b), this ordinance shall become effective on \_\_\_\_\_, 2001.

- (b) BMC code sections 17.24.228 through 17.24.280 shall become effective upon the date set out in subsection (a) for all subdivisions creating \_\_\_\_ or more lots that have not received preliminary plat approval by that date; and shall become effective for all other subdivisions on January 1, 2002.

(End of Lee Sharp Email memo)

Discussion on implications of adopting these sections as written. As currently written this would require all new subdivisions to comply with piped sewer and water, regardless of size. Mr. Malone recommended a deferment to allow the city manager, city engineer, Public Works Department and Committee to evaluate different implementation scenarios. Lee Sharp suggested that the Commission defer the effective date of this section until January 1, 2002. Chair Guinn concurs.

PC Action: M/M Notti/Keppel Add language that would defer implementation of these sections until January 1, 2002.

Unanimous

(The next item address Lee Sharps responses to written comments that were presented at the Planning Commissions first public hearing of February 8, 2001.)

**MEMORANDUM**

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**TO:** John Malone, City Planner

**FROM:** Gerald L. Sharp

**DATE:** March 2, 2001

**SUBJECT:** Response to Written Comments on Ordinance No. 01-05 (Platting and Zoning Code Revisions)

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The following are my comments or suggestions relating to the comments provided to you by Clair Grifka, Oly Olson and Commissioner Keppel relating to Bethel Ordinance No. 01-05. Most of the suggestions made address what are essentially policy matters. The planning commission should recommend the policy it believes to be the most appropriate. Where it would be more appropriate to address the problem in a section other than the one identified by the citizen, I have indicated the more appropriate section.

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**2.24.050 Add a new subsection (I) that would cover work sessions that are informal and at which no voting is permitted (Keppel).** Work sessions (or similar sessions known by a different name) with their attendant informality are often essential to the efficient accomplishment of the work of a deliberative body such as a planning commission. Unfortunately, the source and purpose of the "no vote" rule is sometimes misunderstood or misapplied. This leads to unnecessary constraints when a purpose of the work session is to take advantage of the informal proceedings in order to reach a consensus on a subject.

The planning commission can take action as a planning commission only when it convenes as a planning commission. If the members of the planning commission convene as a work session or as a committee of the whole of the planning commission, any motion approved or other action taken at such a session is not an action of the planning commission; it is an action of the committee of the whole or the work session. The committee of the whole procedure is one that is recognized and covered in *Robert's Rules*. Under *Robert's*, the purpose of the committee of the whole is to permit the entire body to resolve itself into an informal proceeding. Once convened or resolved into a committee of the whole, the committee members are free to discuss the topic in an informal proceeding and to make motions as to what to report or recommend to the body when it reconvenes in its regular form. This procedure allows the members of the body to deal with matters in an informal manner and, at the same time, reach a definite consensus which then becomes a recommendation or report of the committee to the regular body.

The work session provision suggested could be incorporated into the rules governing the planning commission in two ways. First, a new subsection (I) could be added to BMC 2.24.050 authorizing work sessions of the planning commission and setting out a specific rule addressing the effect of a vote taken in a work session. Language for such a new provision can be drafted and provided if that is the commission's wish.

The second method would be to take advantage of BMC 2.24.050(D) which authorizes the Commission to adopt such modifications and additions to *Robert's Rules* as it may desire. This latter method has the advantage that the planning commission remains in control of the rule and would not have to go to the City Council for an amendment to the code if it found that the rule needed to be fine tuned.

PC Action: Discussion item that included City Attorney, Louann Cutler. Lee Sharp restated his written comments above and clarified the use and rules pertaining of work sessions and meeting as a committee of the whole.

**15.04.040 Adding proximity to a combustible as a fire hazard (Keppel).** Adding the phrase "or situated close to any combustible" to the second sentence of the definition of fire hazard will cause the structure which is near the combustibles to become the fire hazard. As I assume the purpose of the suggestion was to ensure that the city could deal with hazardous situations that threaten nearby structures, I suggest the addition of a new third sentence to the definition of "fire hazard" which would read:

Such term shall also mean and include any situation or condition in which any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind is especially

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liable to cause fire or endanger the safety of any structure, premises or human life.

PC Action: M/M Keppel/Charlie Adopt suggested change.

Unanimous

*9:18PM Chair Guinn suggested that the commission take a 5 minute break.*

*9:23PM Meeting Called back to order.*

**15.08.210 Date of application of flood hazard regulations to preexisting structures (Keppel).** The existing provision of the flood hazard code that permits nonconforming, preexisting structures to continue in existence without being a violation of the code identifies the date by which such structures must have been in existence as merely "the effective date of this ordinance codified in this chapter." Records indicate that this date was April 21, 1975. This date was incorporated into the revision in order to eliminate any doubts as to when the regulations first became effective. If the April 21, 1975 date is changed to January 1, 2001, or any other date following April 21, 1975, it would have the effect of exempting from the existing and revised flood hazard regulations all structures constructed between April 21, 1975 and January 1, 2001, even though constructed in violation of the present flood hazard regulations. I doubt that FEMA would give its approval to such a change. FEMA approval of the flood hazard code is required if flood insurance it to continue to be available for structures within the city. A phrase was added in the revision to give the same kind of grandfather rights to structures that are made non-conforming by amendments made after April 21, 1975. I do, however, recommend that the following language be inserted in the second line after the word "or":

. . . to a structure in existence and in full compliance with this chapter on . . .

and insert a "," after the word "chapter" in the third line.

PC Action: M/M Keppel/Charlie Adopt suggested change.

Unanimous

**15.12.020(G) Prohibition of permanent structures impeding water and sewer lines or access for emergency services (Keppel/George Young).** The suggested restrictions should be added to 15.12.050(A) as required permit conditions. For the restrictions regarding structures that may impede future water and sewer lines, I suggest a new subsection (A)(10) be added and that the existing subsection (10) be renumbered as subsection (11). The new subsection (10) would read:

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(10) No permanent structure may be placed within the area designated on the plat of a lot as a sewer, water, utility or similar easement. No permanent structure may be placed within an area of a lot that has been designated for the installation of a public sewer or water system on a sewer or water master plan, engineering plans or in sewer and water construction specifications, that have been approved by the appropriate city authority.

The access for emergency services is generally dealt with under setback and yard requirements of a zoning code. A specific requirement of a site plan permit under BMC 15.12.050(A)(5) is that the permit require that structures meet the setback and yard requirements set out in BMC Title 18, the Bethel Zoning Code. Please refer to BMC Chapters 18.20 through 18.40. Minimum setback requirements for each of the different zoning districts are set out in these chapters; in each case, the setback requirements will be found in section 050 of the district chapter provisions. The purpose of setbacks in the zoning code is to ensure that there is appropriate or adequate air, light, open space and access for emergency situations (generally fire suppression). The setback requirements for each district should be examined to determine whether they are appropriate for the district to which they apply. Also note that in each section 050, structures, other than minor structures, are prohibited within the setback area. The term "minor structure" is defined in the proposed ordinance in section 16.12.030 (on page 34). It is defined, for setback purposes, as:

. . . a structure such as a dog house, small storage box or other small structure not exceeding 3 feet in height and not occupying more than 25 square feet; except, a fence that does not exceed 6 feet in height is treated as a minor structure.

A minor structure, as defined above, may be placed in a required setback. Temporary structures, no matter how temporary or easily moved, are not permitted within a setback area unless they meet the requirements for a minor structure. If the commission believes that the setback area should have either a greater or a lesser degree of protection, it should modify the definition of minor structure to reflect the policy it believes to be appropriate.

PC Action: M/M Keppel/Charlie New subsection (A)(10) be added and that the existing subsection (10) be renumbered as subsection (11). Adopt above recommended language for new subsection 10.

Unamious

**15.12.020 (H) Requirement for accepted road access (Keppel).** The suggested restriction could be added as a new subsection (C) to BMC 15.12.040 reading:

(C) The land use administrator shall not approve any development for new structures or expansion of existing structures that

1. may be used for human habitation,
2. that would be occupied on a regular basis by individuals and would require the installation of new or larger water or sewage holding facilities, or

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3. that would increase the area or volume of an existing structure in a manner that would permit an increase in the number of persons who could live within or occupy the structure,

unless the street providing access to the site is maintained on a year round basis by the State of Alaska or is on the list of streets established by the director of public works under subsection (D) as meeting the minimum requirements for year round city maintenance.

(D) Only those streets that have been determined by the director of public works to meet the following minimum requirements may be placed on the list established for purposes of subsection (C):

1. the street has an improved drivable surface width of not less than \_\_\_\_\_ feet and has appropriate shoulders and ditches, and
2. if the street was constructed within two years of the date of the site plan application, the street met the construction standards required for streets required to be constructed as a condition of plat approval, or
3. if the street does not meet the two year and construction standards of subsection (D)(2) of this section, the street has a minimum improved driving surface width of \_\_\_\_\_ feet, has appropriate shoulders and ditches and does not have a history of failure evidenced by flooding, poor drainage, excessive wetness, heaving or other recurring conditions that cause the street to be impassible or would require frequent or substantial repairs or reconstruction, and
4. the director of public works has determined that under reasonably anticipated circumstances and with an ordinary and reasonable level of maintenance and repair for that type of street, city emergency vehicles, including police, ambulance and fire vehicles, as well as city sewer and water tank trucks should be able to safely use the street on a regular and year round basis without becoming stuck, and without damage to the street or the vehicle.

The conditions and standards a street must meet before a municipality accepts responsibility for maintenance would ordinarily be placed in some other part of the code, generally one that deals more closely with streets or the functions of the Public Works Department. Title 12 would be an appropriate location. Such provisions would generally include a little more detail and, perhaps, more precise standards than set out above. It would also probably contain procedures for getting a street qualified for the list and clarify the responsibilities of the City with respect to the street once it is on the approved list. It might even be appropriate to establish an additional list which would contain streets that do not quite come up to minimum City standards and for which the City would provide only limited or seasonal maintenance.

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The denial to a person of a permit required to develop their land based on factors over which they have little or no control can raise constitutional equal protection and "takings" issues. When such issues become relevant, there must be substantial governmental reasons for the restrictions that appear to "take" a person's property. Also, the restrictions need to be narrowly tailored to deal with the governmental purpose and to be relevant to the problem to be solved. The permit denial standards suggested above may need additional thought and refinement in light of possible constitutional issues that may be involved.

I would recommend that the above language not be added to the revisions at this time, but that a more complete provision regarding the determination of which streets qualify for city maintenance and repair be drafted and incorporated into Title 12. At the same time, some refinement of the types of development permitted or prohibited based on the access street could be included in the ordinance.

PC Action: M/M Keppel/Notti Refer to City Manager for Public Works Committee.

Unanimous

**15.12.020 No sharing of city, state or utility easements (Keppel).** Whether there can be a sharing or joint use of a city, state or utility easement is a policy matter to be addressed by the commission. On a related issue, it should be noted that the proposed BMC 17.04.070(B) sets out the authority of the City to control the placement of utility facilities within dedicated streets and dedicated utility rights-of-way and easements. This provides a mechanism for the avoidance of conflicts between utility facilities and avoids the rigidity of an absolute prohibition of multiple use of easements.

PC Action: M/M Keppel/Charlie No change .

Unanimous

**16.04.030 Striking authorization for public works director to act in absence of the city engineer (Olson).** This section is needed to assure that there will also be someone who can establish standards and perform certain plat reviews in the absence of the city engineer. Deletion of this section will not mandate the hiring of a city engineer; it would frustrate or impede the platting process if there were no engineer or the engineer were absent from the city.

PC Action: M/M Charlie/Keppel No change .

Unanimous

**17.04.025(D) (2) and (E) Increasing notice requirements.** The suggested increases in the time for mailing and posting of notice of platting action hearings and requiring return receipts for mailed notice has merit and is a policy matter for the planning commission. One factor that might be kept in mind is the statutory requirements for plat approval within 60 days. Increasing the notice time does not extend the 60-day requirement. Additionally, if the commission desired to continue a matter or reschedule it

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for a meeting sooner than its next monthly meeting, the 15-day mailed notice requirement would mean that the commission could not hold a hearing for another three weeks if it were to hold its hearing on the same day of the week as it meets for regular meetings. Requiring return receipts will increase the time and cost for mailed notice. A return receipt only gives the city some evidence that it mailed an envelope to the recipient; it does not improve or increase the quality or time of the notice. As the city currently does not regularly use return receipt mailings for notice of hearings, you may want to inquire of planning staff as to the effectiveness of the current practice.

PC Action taken: None – discussion item.

**17.04.065 Preliminary plat review from finance, public works and fire department (Keppel).** Proposed BMC 17.04.065 deals with a time in the platting process where plats have already been distributed to concerned agencies. This section deals with the authority of the planning commission to impose new requirements on plats that have been previously submitted and reviewed by the planning commission. It does not deal with the solicitation of comments from city and other agencies on preliminary plats.

Proposed BMC 17.12.050 requires submission of a copy of the preliminary plat to the fire department, public works department, and other government and private agencies. As the purpose for the submission of a copy to the finance department is not obvious, the reason for the submission to the finance department or the role it is expected to play in the plat approval process should be discussed by the commission so that appropriate changes can be made to this or other code provisions to set out the duties of the finance department with respect to preliminary plat applications.

PC Action taken: None – discussion item.

**17.12.030(B) (15) Delete reference to onsite sewage disposal (Olson).** This deletion would be appropriate as any of the few types of onsite sewage disposal that might be approved by a DEC would not involve in-soil disposals.

PC Action taken: None – discussion item.

**17.12.050 Requiring city agency comments (Keppel).** See comments at 17.04.065, above. Adding a requirement to the ordinance that city agencies are required to review and comment on preliminary plats would have unintended consequences if it is intended that timely review and comment by each city agency be a condition that must be met before the plat may be approved. Under such a provision, the failure of one city agency to respond could cause the planning commission to be unable to give its approval (or rejection) of a plat within the required 60 days. Obtaining city agency responses should be handled as an internal matter through policies set and communicated by the city manager.

PC Action taken: None – discussion item.

**17.12.070 Conditional approval (Keppel).** When the planning commission has before it a preliminary plat that requires changes, it could require that the plat be redrawn and returned to the commission with the required modifications shown before the commission gives its approval to the preliminary plat. In that case, there would be no approval of the plat until the commission had the opportunity to review the plat to ensure that its required modifications were

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correctly incorporated into the preliminary plat. To avoid the delay that would occur if the subdivider is required to bring the modified plat back before the planning commission, the planning commission could give its approval of the plat, conditioned on specific changes being incorporated into the preliminary plat. The commission could require that the modified plat be reviewed by the platting officer to determine whether the modifications had been correctly incorporated into the preliminary plat. If the planning commission wants to set limits on the amount of time the subdivider will be given to produce the modified plat, the commission could incorporate a reasonable time limit into its conditional approval.

PC Action taken: None – discussion item.

**17.18.010 Preliminary plat review by finance department (Keppel).** See comments under 17.04.065, above.

PC Action taken: None – discussion item.

**17.20.040 Minor replat review by finance department (Keppel).** See comments under 17.04.065, above.

PC Action taken: None – discussion item.

**17.24.050 Cul-de-sac diameter for school buses (Keppel).** The Alaska Department of Education and Early Development has established standards for school buses; however, the division responsible for the regulations that govern school bus standards informed me that it has not set any minimum or maximum turning radius standards for school busses. You may want to determine from the school district the greatest turning radius of the busses in the current fleet. You should get confirmation from Chief Young as to the requirements for the City's largest fire fighting apparatus.

PC Action taken: None – previously discussed.

**17.24.060 Increase gravel depth and clarify gravel standards (Grifka, Olson and Keppel).** The increase in the minimum gravel depth and the depth of each lift, and the clarification of the type and standards for the gravel are matters of policy, but should be based on sound engineering principals and experience with road building in Bethel. The standards set out in BMC 17.24.060(A) are minimums which may be made more stringent by the City Engineer. The minimum depths may be increased by changing the numbers in this section. The gravel minimum specifications may also be added, but should be designated by a class name for which there is a common (preferably national), recognized fixed standard.

PC Action taken: None – previously discussed.

**17.24.060(C) (3) City payment for arterial street improvements (Keppel).** As a general rule, there is no problem when a municipality requires a developer to bear the burden of the cost of public infrastructure required to serve the development. The developer may not be required to contribute more than what is required to serve the development. Collector streets, generally, and arterial streets, by definition, exist to serve more than just a single subdivision. When a street within a subdivision has been designated as part of an arterial system, requiring the subdivider to improve the street to arterial standards could be viewed as a "taking" since it would require the subdivider to pay for

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improving a street that is specifically designated and located so as to serve traffic from other subdivisions or areas of the city. While the city is justified in requiring local streets to be constructed at the subdivider's expense, requiring the subdivider to bear the expense of improving the street to the full collector or arterial width along with other costs that may be associated with the higher construction standards for collectors and arterials is viewed by some courts as a taking. To avoid that problem, the provisions of subsection (C) essentially give the city the opportunity to require the collector or arterial to be constructed to collector or arterial standards when the subdivision streets are constructed. If the City requires the extra width to be constructed, it must pay for that extra width. If the City is unwilling to pay for the extra width, then the subdivider is only required to construct this street to local street standards.

PC Action taken: None – discussion item.

**17.24.060 (C) (6) and (8) Increase of lane width requirements (Keppel).** Although there may be engineering standards or recommendations as to lane widths for different types of streets, this is mostly a policy decision for the planning commission.

PC Action taken: None – previously discussed.

**17.24.060 (C) (9) Crushed gravel requirement for arterial and collector roads (Keppel).** This subsection would allow the city engineer and public works director to establish minimum standards for construction of arterial and collector roads. If the commission would like to establish minimums, it could use essentially the same approach as is taken in subsection (C) (5) which sets minimum standards for surfacing of local streets.

PC Action taken: None – previously discussed.

**17.24.060 (C) (10) School bus turn radius and cul-de-sacs (Keppel).** See discussion under 17.24.050, above.

PC Action taken: None – previously discussed.

**17.24.060 Addition of language regarding source and cost of sand (Keppel).** The source and cost of sand for the streets and other public improvements is a matter that should be dealt with under some other provision of the code relating to city property or resources and their sale, use or disposal.

PC Action taken: Recommended that this be placed in resolution form by Planning Commission supporting the reduced pricing of this resource for the above purposes.

**17.24.200-220 Addition of provision to prevent sharing of easements (Keppel).** See comments at 15.12.020(I), above.

PC Action taken: None – previously discussed

**17.24.220 (E) Additional of thaw pipes for drainage (Keppel).** This recommendation could be accomplished by the addition of a second sentence to subsection (E) reading:

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Upon the recommendation of the director of public works, the planning commission may require the installation of thaw pipes of similar facilities.

PC Action taken: None – previously discussed.

**17.24.030 (A) Additional language regarding subdivider contracting for water system installation (Keppel).** The piped water system improvements are a responsibility of the subdivider, just as are streets, street lights and other subdivision improvements. The subdivider is free to choose the method of constructing the facilities.

PC Action taken: None – previously discussed.

**17.24.030 (C) Explanation of subsection (Keppel).** The preceding subsection (B) creates an exception to the requirement that the subdivider construct the piped water system. The exception applies when there is project approval and money available to the city or to a state or federal agency, for the construction of the water system within the next two years. Subsection (C) covers the situation where only a part of the required system qualifies for the exception. In such a case, the subdivider is required to construct the remainder of the system and leave it plugged and dry. The subdivider is required to pay in advance the amount that the city engineer estimates will be the cost to the city of connecting the subdivider-constructed part of the system to the City's water system.

PC Action taken: None – discussion only.

**17.24.235 Water and sewer facilities cost: on-site facilities as alternative (Keppel).** One of the purposes of requiring water and sewer improvements in the manner set out in 17.24.228-280 is to require the subdivider to bear the expense of public infrastructure that would otherwise have to be met out of the city treasury. Another purpose is to provide an incentive for the development of land which can be more economically served by the city. If the cost of installing a water or sewer facility will be about the same, whether constructed at the expense of the subdivider or constructed with city funds, the question is really who should bear the expense, the developer or the city. Requiring that new buildings be plumbed for sewer and water with the on-site lines extended to the sewer and water right-of-way may be an appropriate policy, but it does not address the issue of who is to bear the cost of installing the distribution and collection lines to which the individual properties must connect.

PC Action taken: None – previously discussed.

**17.24.285 New section requiring sewer treatment plan (Keppel).** Any special task taken on by a city department will require funding by the City Council. This is the body from which the direction (and the money) to accomplish a special plan or project will come. It is, essentially, a political/budget matter. However, BMC 16.08.020 requires that the planning commission regularly review the comprehensive plan and recommend additions, deletions and revisions to the City Council. As the 1996 Sewer and Water Facilities Master Plan is one of the elements in the comprehensive plan, it would be appropriate for the planning commission to review this plan and to make recommendations for appropriate changes to the City Council.

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PC Action taken: None – discussion only.

**18.04.070 (C), (D), (D) (2) and (E) Increased time of published mail and posted notice (Keppel).** See the comments under 17.04.025, above regarding changes in mailed and posted notice and return receipts. In addition to recommending an increase in the time for mailed and posted notice, this recommendation also includes an increase from 6 days to 15 days for notice published in a newspaper. Because of requirements imposed by the newspaper on the number of days before publication by which the newspaper ad must have been placed and the requirements and time for obtaining purchase orders, the order for the ad may have to be initiated 8 to 10 days before the date of publication. This means that if 15 days' published notice is required, the ad order may have to be placed anywhere from 23 to 25 days before the day the hearing could be held. Additionally, the newspaper is weekly and is published on Thursday, the same day of the week that the commission holds its meetings. For this reason, if meetings are to be held on Thursdays, the meeting could not be held until the third Thursday following publication. When this 3-week period is added to the lead time required for ordering the ad, it could be 5 weeks from the meeting at which the commission sets a hearing until it can hold the hearing. Because mailed notice is being provided to affected property owners and posted notice is also being provided, the requirement for published notice takes on less importance than where published notice alone is being relied upon. The commission should consider whether the benefits of expanding the minimum required published time to 15 days outweigh the additional time that may be required to meet the published notice requirements.

If the requirement for return receipt mailing is added in subparagraph (D) (2), it need not be added anywhere else in subparagraph (D) as (D) (2) covers all mailed notice.

An effort was made to provide uniform requirements for giving notice of hearings. For that reason, the notice requirements under Title 18 are identical to the notice requirements under Title 17, except where the nature of the proceeding required a deviation from the uniform requirements. If the planning commission recommends changes to either 18.04.070 or 17.04.025, the same changes should be made to the other section, unless the commission believes that there is a reason that notice under the platting code should differ from notice under the zoning code. Also, if changes are made to the time that notice is required, the procedures to which notice requirements apply should be reviewed to determine whether the change would affect the times or scheduling of affected procedures.

PC Action taken: None – previously discussed.

**18.16.010 Adding a requirement for civil penalties and authority for removal of encroachments into the city utility, water and sewer easements to site plan permit requirement (Keppel).** There are two types of civil penalties. One is imposed by a court in a judicial proceeding. This can be expensive, as such proceeding requires a filing fee and that the City be represented by an attorney. The other type of civil penalty is one that is imposed by the City in an administrative proceeding. This generally requires that there be a hearing conducted before an unbiased tribunal, most often a hearing officer. This system, too, can be expensive. If compliance, rather than punishment, is the goal, then other methods of getting the city's easements cleared should be considered. The threat of a civil or criminal penalty could then be reserved as a last resort. The zoning code, however, does not appear to be the most direct place to deal with the problem. I would suggest a twofold approach.

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First, under the appropriate section of BMC 15.12 on site plan permits, a provision would be added prohibiting the issuance of a permit if there exists any prohibited encroachment into a city street, right-of-way, utility, sewer or water easement on the lot, or that originates or extends from the lot, that is the subject of the permit. Secondly, a more detailed or comprehensive approach would be added to the Bethel Code at Title 12 which is reserved for the regulation of streets, sidewalks and public places. These new provisions would prohibit encroachments, and would authorize the director of public works (or other appropriate official responsible for the public easement, street or place) to give notice to the owner of the offending property that the encroachment exists and specify a time by which the encroachment must be removed. Failure to remove as ordered would be a violation of the code subject to whatever civil and criminal penalties the council may believe to be appropriate. Failure to remove would also give the city the authority to go upon the property to remove the encroachment at the expense of the property owner, such expenses becoming a lien on the property.

In dealing with encroachments, the city will need to take care that it does not treat as an encroachment something that is permitted under the terms of a particular easement.

PC Action taken: None – previously discussed.

**18.32.020 (G) Additional restrictions on freezer vans (Keppel).** Language can be drafted to implement a freezer van registration program that would apply to all existing and "new" vans that are not used for the temporary storage of goods or materials shipped into the city in the van or to vans used for the temporary storage of goods and materials for immediate shipment out of the city in the van. The suggested category could be refined to ensure that the line between vans that must be registered and those that are exempt from registration is where the planning commission believes the line should be. If the planning commission believes that the additional restrictions on the use and movement of freezer vans is appropriate, language can be drafted that would implement whatever additional restrictions the commission believes are appropriate.

PC Action taken: None – previously discussed.

**18.48.200 (A) Increasing residential driveway width (Keppel).** Increasing the width of residential driveways from a minimum of 9 feet to a minimum of 12 feet is a policy matter for the planning commission; however, if a major consideration in setting minimum driveway widths is the ability of public works, sewer and water trucks to gain safe and convenient access to holding tanks, comments from the director of public works should be requested.

PC Action taken: None – previously discussed.

**Other comments.** Junk is generally dealt with by municipalities in two different ways. One is to deal with junkyards as conditional uses. Some municipalities may authorize junkyards as a permitted use in a heavy industrial district. Others allow junkyards only as a conditional use in industrial districts or in transitional districts that are well away from the urbanized areas. Some set minimum standards for sight obscuring fences around junkyards. The Bethel code allows junkyards as a permitted use in the industrial district and as a conditional use in the GU district. There are no minimum fencing

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standards. Impound yards are not specifically listed in the code, but a similar approach can be taken for impound yards.

The foregoing approach addresses what are essentially commercial operations. The second approach deals more with the junky yards that spring up around the residence of people who have a collection of discarded and inoperable refrigerators, snow machines, vehicles, salvaged building materials, etc. These situations are most often dealt with through ordinances that are a part of a city's health or health and safety codes. They generally contain provisions relating to filing of complaints with the city, investigation by the responsible department, the issuance of an order to remove the offending material followed by criminal prosecution if there is a failure to comply. To the extent that abandoned motor vehicles are involved, these are generally dealt with through other code provisions because motor vehicles are titled by the state and certain procedures need to be followed with respect to titled vehicles (even if there is no current license registration). The city code contains some provisions dealing with abandoned vehicles, but these provisions need to be revised and updated.

The remaining questions identified by Mr. Keppel could be addressed at the hearing.

(End of Lee Sharp Comment Memo)

Lee Sharp reported that a response letter had been received this afternoon in the Planners Office from the Federal Emergency Management Agency pertaining to the amendments to the flood ordinance in Title 15. Mr. Sharp indicated that he saw little problem with incorporating these.

Lee Sharp stated that his preferred way of reporting the Planning Commission revisions to the ordinance back to the council would be in the form of a Planning Commission substitute – Ordinance 01-05 (PC Substitute). By returning to the council in this manner he could incorporate the agreed to changes by the Commission in the body of the ordinance. The other, less desirable alternative, would be to submit the requested revisions as a separate document.

All commission members and staff agreed that the PC Substitute was the better alternative.

Chair J. Guinn thanked Lee Sharp for his work, help and suggestions on this ordinance revision project.

**XI. ADJOURNMENT**

M/M Notti/Charlie to adjourn.

Unanimous

Meeting was adjourned at 10:58PM.

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**Prepared by: Sandra Moseley, Administrative Assistant**

**APPROVED:**

  
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John Guinn, Chair

Date

4/12/01