

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511**

July 10, 2006

**MEMORANDUM**

**TO:** Mayor Cieslewicz and Members of the Common Council

**FROM:** James M. Voss, Assistant City Attorney

**SUBJECT:** **Substitute Ordinance ID No. 03961, amending various sections of the MGO's relating to the imposition and collection of fees in lieu of land dedication, subdivision service costs and impact fees and creating a new Parkland Impact Fee to respond to the recent adoption of 2005 Wisconsin Act 477.**

The Substitute Ordinance, ID No. 03961, evolved through further consultation with other Wisconsin municipal attorneys and City of Madison staff involved with the administration of these subdivision regulation and impact fee ordinances. Overall, the changes have little substantive impact compared to the original, and essentially no fiscal impact.

The first change is to eliminate the new language proposed for Sec. 16.23(9)(e), MGO, paragraph 3 in the original ordinance, that would have given the developer the sole option of reimbursing the City its subdivision service costs thereunder through an escrow advanced as an element of the subdivision improvement contract, as occurs now, or having the service costs imposed as special charges. All other municipalities contacted consider the reimbursement of these subdivision service costs to be not subject to the statutory changes made under 2005 Wisconsin Act 477, and plan to continue following the current service cost reimbursement procedures. However, the change made by removing this language in the Substitute does not eliminate the possibility of imposing these service costs as special charges (see paragraph 1). The developer will still have input on the alternatives during the subdivision approval process and the City will choose the method of service cost recovery.

Other minor technical changes in the Substitute include: a) adding a reference to paragraph 7 as an exception to developments approved after June 14, 2006, to Sec. 16.23(8)(f)9, MGO, paragraph 2 of the ordinance; b) substituting the word "noticed" for "invoiced" in Sec. 20.06(2), MGO, paragraph 5 of the ordinance, and eliminating "billed as" in Sec. 20.09(1)(f), MGO, paragraph 7 of the ordinance, because we intend to notice the impact fees for collection on

the face of the plat or CSM, rather than to separately invoice or bill them to the owners of individual lots created; c) correcting the new Parkland Impact fee amount from \$1.50/square foot in 2002 dollars to \$1.74 in 2006 dollars, consistent with the current fees imposed in Sec. 16.23(8)(f); and (d) creating Sec. 20.16(5), MGO, paragraph 9 of the Substitute, regarding Park Development Impact Fee credits, to reflect current practice, and consistent with credits authorized under Sec. 16.23(8)(f)8.

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James M. Voss  
Assistant City Attorney