

TRANSPORATATION BENEFIT BOARD RESOLUTION NO. 0002.TBD

A RESOLUTION OF THE DES MOINES TRANSPORTATION BENEFIT DISTRICT BOARD adopting rules of procedure.

WHEREAS, chapter 36.73 RCW and RCW 35.21.255 authorize the City Council to establish a Transportation Benefit District within the City's jurisdiction for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district, that are consistent with any existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, and

WHEREAS, the City Council of the City of Des Moines found it to be in the best interests of the City to establish a citywide Transportation Benefit District for the preservation and maintenance of the City's transportation infrastructure consistent with chapter 36.73 RCW, to protect the City's long-term investments in that infrastructure, to reduce the risk of transportation facility failures and improve safety, to continue optimal performance of the infrastructure over time, and to avoid more expensive infrastructure replacements in the future, and

WHEREAS, in Ordinance No. 1417, the City Council of the City of Des Moines established a Transportation Benefit District as authorized by RCW 35.21.225 and subject to the provisions of RCW 36.73, and

WHEREAS, the Transportation Benefit District includes the entire City of Des Moines as the boundaries currently exist, and

WHEREAS, pursuant to RCW 36.73.020(3), the members of the City Council, acting *ex officio* and independently, constitute the governing body of the Transportation Benefit District, and

WHEREAS, the Board Meetings, Duties and Privileges of Boardmembers, and Board Procedures shall be outlined in the "City of Des Moines Transportation Benefit District Board Rules of Procedure"; now therefore,

**THE CITY OF DES MOINES TRANSPORTATION BENEFIT DISTRICT BOARD
RESOLVES AS FOLLOWS:**

Sec. 1. Adoption of Rules of Procedure. Adoption of rules of procedure for the Des Moines Transportation Benefit District Board Meetings, Duties and Privileges of Boardmembers, and Board Procedures as outlined in Attachment A, "Des Moines Transportation Benefit District Board Rules of Procedure"

Sec. 2. Severability. Should any section, paragraph, sentence, clause or phrase of this resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this resolution be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this resolution or its application to other persons or circumstances.

Sec. 3. Effective date. This resolution shall take effect and be in full force immediately after its passage, approval, and publication in accordance with law.

ADOPTED BY the Des Moines Transportation Benefit District Board this 15th day of January, 2009 and signed in authentication thereof this 15th day of January, 2009.




C H A I R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk, Acting

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**SECTION I
BOARD MEETING - LOCATION**

RULE 1. All meetings of the Transportation Benefit District (hereafter known as the "TBD") Board shall be held at 21630 – 11th Avenue South, which is designated as the location of the Des Moines City Hall, except that, when necessary, the TBD Board may hold meetings at other places.

BOARD MEETING - TIME

RULE 2. Meetings of the TBD Board shall be held at 6:30 p.m., on the second Thursday of the month, unless otherwise posted. The TBD Board will meet at a minimum one time per year.

BOARD MEETINGS - OPEN TO THE PUBLIC

RULE 3. All meetings of the TBD Board shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140.

ELECTION OF OFFICERS

RULE 4. Procedures for electing officers are as follows:

(a) Biennially, in even numbered years starting at the first meeting of the TBD Board in 2010, the members thereof shall choose a presiding officer from their number who shall have the title of Chair. In addition to the powers conferred upon him/her as Chair, he/she shall continue to have all the rights, privileges and immunities of a member of the TBD Board. If a permanent vacancy occurs in the Office of Chair, the members of the TBD Board at their next regular meeting shall select a Chair from their number for the unexpired term. Following the election of the Chair, there shall be an election for Vice Chair. The term of the Vice Chair shall run concurrently with that of the Chair.

(b) The election for Chair shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the TBD Board shall be permitted to nominate one (1) person, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations are then closed. The election for Vice Chair shall be conducted by the Chair-elect, and nominations shall be made in the manner previously described for the election of the Chair.

(c) Except when there is only one nominee, election shall be by written ballot. Each ballot shall contain the name of the Boardmember who cast it. The City Clerk shall publicly announce the results of the election by reading each ballot into the record, stating the name of each voting Boardmember and the manner in which the Boardmember voted. Thereafter, the City Clerk shall record in the minutes of the meeting the manner in which each voting member of the Boardmember cast his or her ballot.

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(d) In the event the TBD Board is unable to agree on a Chair by majority vote of members present, the Office of Chair shall be temporarily filled by an Acting Chair. The Acting Chair shall be the Boardmember who just previously served as Chair; or if such person is not a member of the TBD Board the Boardmember who just previously served as Vice Chair; or if such person is not a member of the TBD Board, the Boardmember with the highest seniority as determined by the City Attorney. Ties shall be resolved in a contest by chance. The office of Acting Vice Chair shall be filled by the Boardmember who just previously served as Vice Chair; or if such person is not a member of the TBD Board, by the Boardmember with the next highest seniority. The Acting Chair and Acting Vice Chair shall continue in office and exercise such authority as is described in Chapter 35A.13 RCW until the members of the TBD Board agree on a Chair, at which time the Office of Acting Chair and Acting Vice Chair shall cease and terminate.

PRESIDING OFFICER

RULE 5. The Chair shall preside at meetings of the TBD Board. The Chair shall have no regular administrative or executive duties. In case of the Chair's absence or temporary disability the Vice Chair shall act as Chair during the continuance of the absence. When the Vice Chair acts as Chair by participating in preparation of a TBD Board meeting agenda, or by presiding at a meeting of the TBD Board, the Vice Chair shall have authority only to approve the TBD Board meeting agenda as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda as written. In case of the absence or temporary disability of the Chair and the Vice Chair, a Vice Chair selected by members of the TBD Board shall act as Chair during the continuance of the absences or disabilities. The Chair or Vice Chair are referred to as "Presiding Officer" from time to time in these Rules of Procedure.

QUORUM

RULE 6. At all meetings of the TBD Board, four Boardmembers, who are present and eligible to vote, shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, provided that written notice of said adjournment be posted on the exterior Boardroom doors per RCW 42.30.090. TBD Board meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.

SPECIAL TBD BOARD MEETINGS

RULE 7. It is the intent of the TBD Board that the procedures of this Rule are enforceable to the same extent as RCW 42.30.080, as the Board's implementation of the Open Public Meetings Act special meeting requirements set forth at RCW 42.30.080. Procedures for setting a special meeting are as follows:

- (a) A special meeting may be called by the Chair or any four members of the TBD Board.
- (b) Notice of the special meeting shall be prepared in writing by the City Clerk. The notice shall contain the following information about the meeting: time, place, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form.
- (c) (1) The notice shall be delivered by mail, by electronic mail to an address designated by the receiver of the email, or personally to each Boardmember, the City Manager, and the business office of each local newspaper and radio and television station which has on file a written

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request for notice of special meetings. The notice must be delivered at least twenty-four (24) hours prior to the meeting. (2) When email notice is given to Boardmembers, the City Clerk shall provide confirming follow up of such email notice by making a personal telephone call directly to each Boardmember who has made a standing written advance request to the City Clerk for such follow up telephone call. The City Clerk shall document the date and time of such follow up telephone call.

(d) The notices provided in this section may be dispensed with in the circumstances provided by RCW 42.30.080; that is: (1) As to any member who at or prior to the time the meeting convenes files with the Clerk a written waiver of notice, (2) As to any member who was actually present at the meeting at the time it convenes, and (3) In the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

TBD BOARD MEETING AGENDA

RULE 8. This rule specifies the method of preparation of a TBD Board meeting agenda for meetings. The Presiding Officer, three (3) Boardmembers, or the City Manager may introduce a new item to the preliminary agenda. The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the TBD Board. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Boardmembers, the City Manager, and the press seventy-two (72) hours before a regular Board meeting.

CITY MANAGER

RULE 9. The City Manager of the City of Des Moines, as the chief executive officer and head of the administrative branch of City government or his/her designee, shall be designated as the TBD Board's Executive Director and shall attend all meetings of the TBD Board, unless excused by the Presiding Officer or TBD Board. The City Manager shall be responsible to the Board for the proper administration of all affairs of the City as related to the Transportation Benefit District. The City Manager shall recommend for adoption by the TBD Board such measures as he/she may deem necessary or expedient; prepare and submit to the TBD Board such reports as may be required by that body or as the City Manager deem it advisable to submit; keep the TBD Board fully advised as to the business of the Board; and shall take part in the TBD Board's discussion on all matters concerning the welfare of the Board. In the event that both the City Manager and Assistant City Manager are unable to attend a TBD Board meeting, the City Manager or Assistant City Manager shall appoint a key staff member to attend the meeting as the representative of City Administration.

CLERK

RULE 10. The City Clerk of the City of Des Moines shall be ex-officio Clerk of the TBD Board and shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, and including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the TBD Board, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the TBD Board.

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TREASURER

RULE 11. The City of Des Moines Finance Director or his/her designee shall be named as the TBD Treasurer.

CITY ATTORNEY

RULE 12. The City of Des Moines City Attorney or his/her designee shall be named as the TBD Attorney, and shall serve in that capacity to the extent that no issues before the Board establish a conflict or appearance of a conflict between the City Attorney's role as counsel to the City of Des Moines and counsel to the TBD Board.

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**SECTION II
DUTIES AND PRIVILEGES OF BOARD MEMBERS**

FORMS OF ADDRESS

RULE 13. The Chair shall be addressed as "Chair (surname)". The Vice Chair shall be addressed as "Vice Chair (surname)". Members of the TBD Board shall be addressed as "Boardmember (surname)".

SEATING ARRANGEMENT

RULE 14. Boardmembers shall occupy the respective seats in the TBD Boardroom assigned to them by the Chair.

DISSENTS AND PROTESTS

RULE 15. Any Boardmember shall have the right to express dissent from or protest against any resolution of the Transportation Benefit District and have the reason therefore entered in the minutes.

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**SECTION III
BOARD PROCEDURES**

RULES OF ORDER

RULE 16. Rules of order not specified by statute or resolution shall be governed by The Scott, Foresman Robert's Rules of Order Newly Revised, 10th Edition, as published by Da Capo Press.

MOTIONS

RULE 17. All items of business placed before the TBD Board that require the expenditure of Transportation Benefit District and/or administration resources, shall be in the form of an affirmative motion.

ORDER OF BUSINESS

RULE 18. The business of all regular meetings of the TBD Board shall be transacted as follows; provided, however that the Presiding Officer may, during a TBD Board meeting, rearrange items on the agenda to conduct the business before the TBD Board more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

- (a) Call to order by the Presiding Officer.
- (b) Roll call.
- (c) Approval of Minutes of previous meeting
- (d) Correspondence not previously received by the TBD Board.
- (e) Comments from the public (non-public hearing topics). Public comments are encouraged and appreciated. The information and advice received from citizens helps the TBD Board make the best possible decisions.

(1) Procedure.

- a. Citizens are encouraged to supplement verbal comments through written submittals.
- b. All citizens desiring to address the TBD Board during the Public Comment period shall first fill out a sign-in sheet and submit the form to the City Clerk prior to the start of Public Comments.

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(2) Scope of Comments.

a. Subjects not on the current agenda. Any member of the public may request time to address the TBD Board after first stating their name, address, and the subject of their comments. The Presiding Officer may then allow the comments subject to such time limitations as the Presiding Officer deems necessary. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to administration.

b. Subjects on the current agenda. Any member of the public who wishes to address the TBD Board on an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. The Presiding Officer shall rule on the appropriateness of public comments as the agenda item is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (.e.) proponents, opponents, adjacent owners, vested interests, etc.).

c. Subjects of a Public Hearing. Comments made during the Public Comment period on a topic set for a public hearing by the TBD Board shall be out of order. To ensure a fair hearing to applicants or matters that are subject to a public hearing before the TBD Board, the presiding officer may rule public comments made outside the scope of a public hearing record to be out of order.

d. Any ruling by the Presiding Officer relative to the preceding two subsections may be overruled by a vote of a majority of members present.

(3) Rules of Conduct. A minimum number of basic rules are established to ensure that all individuals wishing to address the TBD Board are fairly heard.

a. Each person addressing the TBD Board shall step up to the indicated speakers table, give his or her name and address for the record, and shall limit comments to three (3) minutes. Groups may be allotted five (5) minutes by the presiding officer.

b. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated speaking table and addressed to the TBD Board as a body and not to individual members, the audience or the television cameras.

c. The presiding officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude

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his or her remarks. All speakers are encouraged to submit supplemental or detailed written remarks for TBD Board consideration.

d. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the TBD Board, may be ordered to leave the meeting. The presiding officer has the authority and duty to preserve order at all meetings of the TBD Board, to cause the removal of any person from any meeting for disorderly conduct and to enforce these rules.

e. The presiding officer may rule "out of order" any comment made with respect to a quasi-judicial matter pending before the TBD Board. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

f. Any person whose comments have been ruled out of order by the presiding officer shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from personal, inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the presiding officer may subject the individual to removal from the TBD Boardroom.

(f) Public Hearings (see Rule 19 for procedural details)

(g) Old Business.

(h) New Business.

(i) Next meeting date announced by Presiding Officer.

(j) Adjournment. No meeting shall be permitted to continue beyond 7:25 PM.

ACTIONS FOR A PUBLIC HEARING

RULE 19. The procedures for a public hearing are as follows:

(a) Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and

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otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the TBD Board, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).

(b) The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each TBD Board meeting.

- (1) "All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here."
- (2) "It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent."
- (3) "No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting."
- (4) "There will be no demonstrations during or at the conclusion of anyone's presentation."
- (5) "These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech."

(d) The Presiding Officer calls upon Administration to describe the matter under consideration.

(e) The proponents or speakers now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).

(f) The Presiding Officer calls for additional proponents or speakers three times.

(g) The Presiding Officer calls for opponents by announcing the following:

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"At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation. The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."

(h) Opponents speak.

(i) The Presiding Officer calls for additional opponents three times.

(j) The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.

(k) The Presiding Officer announces the following:

"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."

(l) The Presiding Officer inquires as to whether any Boardmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Boardmember has questions, the appropriate individual will be recalled to the podium.

(m) The Presiding Officer closes the public hearing.

(n) The Presiding Officer inquires if there is a motion by any Boardmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Boardmembers. The Presiding Officer may call on individual Boardmembers in the discussion.

(o) The Presiding Officer inquires if there is any further discussion by the Boardmembers.

(p) The Presiding Officer inquires if there are any final comments or recommendations from administration.

(q) The Presiding Officer inquires of the Boardmembers as to whether they are ready for the question.

(r) The Clerk shall conduct a roll call vote.

(s) The Presiding Officer directs administration to prepare findings consistent with the action.

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VOTING

RULE 20. The votes during all meetings of the TBD Board shall be transacted as follows:

- (a) Unless otherwise provided for by statute or resolution, all votes shall be taken by voice, except that at the request of any Boardmember, a roll call vote shall be taken by the Clerk. The order of the roll call vote shall be determined by the Presiding Officer.
- (b) In case of a tie in votes on any proposal, the proposal shall be considered lost.
- (c) Every member who was in the Boardroom when the question was put, shall give their vote unless the TBD Board, for special reasons, shall excuse the member by motion or unless the Boardmember is excused. If any Boardmember refuses to vote "aye" or "nay", their vote shall be counted as a "nay" vote.
- (d) The passage of any resolution for the payment of money, any approval of warrants, or budgets shall require the affirmative vote of at least a majority of the whole membership of the TBD Board.

RESOLUTIONS

RULE 21. A resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall in all cases be read prior to its passage; provided, should a Boardmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a TBD Board meeting.

PERMISSION REQUIRED TO ADDRESS THE TBD BOARD

RULE 22. Persons other than Boardmembers and administration shall be permitted to address the TBD Board upon introduction by the Presiding Officer.

RECONSIDERATION

RULE 23. Any action of the TBD Board, but excluding a reconsideration of any action previously reconsidered, motions to adjourn, motions to suspend the rules, an affirmative vote to lay on the table or to take from the table, or a vote electing to office one who is present and does not decline; shall be subject to a motion to reconsider. Such motions can only be made by a member of the prevailing side on the original action. A motion to reconsider must be made no later than the next succeeding regular TBD Board meeting. A motion to reconsider is debatable only if the action being reconsidered is debatable. Upon passage of a motion to reconsider, the subject matter is returned to the table anew at the next regular TBD Board meeting for any action the TBD Board deems advisable.

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**LEGISLATIVE PROCESS, PREPARATION, INTRODUCTION AND
FLOW OF ORDINANCES AND RESOLUTIONS AND MOTIONS**

RULE 24. Resolutions shall be prepared, introduced, and proceed in the manner described on the flow chart attached hereto as Exhibit "A", and by this reference incorporated herein. Prior to final passage of all resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:

(a) PROPOSED DRAFTS shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the TBD Board where a vote is taken directing some official action or further consideration.

(b) TBD BOARD DRAFTS shall be documents or proposals which have been presented in open session and voted on by the TBD Board when the resultant TBD Board action was other than passage or a vote to cease further consideration.

COMPLAINTS AND SUGGESTIONS TO TBD BOARD

RULE 25. When citizen complaints or suggestions are brought before the TBD Board not on an agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

(a) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the TBD Board finds such complaint suggests a change to an ordinance or resolution of the City, the TBD Board may refer the matter to Administration or the Des Moines City Council of the whole for study and recommendation.

(b) If administrative and a complaint regarding administrative staff performance, administrative execution of legislative policy or administrative policy within the authority of the City Manager, the Presiding Officer should then refer the complaint directly to the City Manager for his/her review if said complaint has not been so reviewed. The TBD Board may direct that the City Manager brief or report to the TBD Board when his/her response is made.

**ADMINISTRATIVE COMPLAINTS MADE DIRECTLY TO INDIVIDUAL TBD
BOARDMEMBERS**

RULE 26. When administrative policy or administrative performance complaints are made directly to individual Boardmembers, the Boardmember may then refer the matter directly to the City Manager for his/her view and/or action. The individual Boardmember may request to be informed of the action or response made to the complaint.

**PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE --
PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION**

RULE 27. No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, flood lights, or similar artificial illumination shall be made at TBD Board Meetings without the consent of the Presiding Officer or a majority of the TBD Board.

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AUDIO RECORDINGS OF MEETINGS

RULE 28. All meetings of the TBD Board held in the Des Moines City Council Chambers at 21630 11th Avenue South shall be recorded by the City Clerk on an audio recording device.

VIDEO RECORDING AND BROADCAST

RULE 29. All regular meetings of the TBD Board held in the Des Moines City Council Chambers at 21630 11th Avenue South are recorded on video digitally and such recordings are cablecast within the City.