

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM

March 20, 2018

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room, March 20, 2018 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

Amy Evans) Members of Council Present
Loren Ron Edinger)
Dan English)
Woody McEvers)
Dan Gookin)
Kiki Miller)

CALL TO ORDER: Mayor Widmyer called the meeting to order.

INVOCATION: Pastor Craig Miles with Real Life Ministries CDA gave the invocation.

PLEDGE OF ALLEGIANCE: Councilmember McEvers led the pledge of allegiance.

LIFE SAVING AWARD: Fire Chief Kenny Gabriel noted that on December 27, 2017 there was an emergency call for service to Firefighter Lucas Pichette's house, as he went into sudden cardiac arrest. Deputy Chief Tom Grief noted that there were a number of people instrumental in the life saving measures taken to save Mr. Pichette's life. The following were presented with a Life Saving Award for their role in saving Mr. Pichette's life: 911 Dispatch personnel: Lindsey Robinson, Tina Tipke, and Kayla Asher; Kootenai County Sherriff's Officers Deputy Ragan, Deputy Bixby, and Deputy Mumford; Northern Lakes Fire Department personnel: Bill Daniels (FF/Paramedic), Bob Jaegar (Engineer), Garrett Kitterman (FF), Scott Hochberger (Captain), and Bill Clifford (Acting Battalion Chief); as well as Coeur d'Alene Fire Department personnel Paramedic Nate Hyder, Engineer Kelan McKeirnan, and Captain/ Paramedic Jeff Sells. Special thanks was given to Jessica Pichette, Lucas's wife, as she conducted the first four to six minutes of life saving measures, which are the most important minutes in responding to a cardiac arrest.

OPIOIDS AND DRUGS IN COEUR D'ALENE: Police Chief Lee White provided statistics regarding drug calls over the past 10 years. He noted that there has been a large increase in heroin arrests over the years, as well as possession/delivery of synthetics and paraphernalia arrests. Over the past year, the Fire Department has administered 45 doses of Narcan, the drug that counteracts an opioid overdose, and encountered 19 fatal overdoses from opioids. The Police Department is responding to this issue by providing community education, offering a

prescription drop off point at the police station, while continuing to have Narcan available in the patrol vehicles, and providing continued enforcement and treatment efforts.

DISCUSSION: Mayor Widmyer noted that this issue has been a nation-wide issue, so he wanted to have a presentation as to what is going on in our community. Chief White noted that there is more marijuana being used out in the open since the laws changed in Washington.

Councilmember Miller asked if there are more drug drop off locations. Chief White noted that they are at most local law enforcement buildings, such as the Kootenai County Sherriff's Office and the Post Falls Police Station.

CONSENT CALENDAR: Motion by McEvers, seconded by Edinger, to approve the consent calendar.

1. Approval of Council Minutes for the March 6, 2018 Council Meeting.
2. Approval of Minutes from the March 12, 2018 Public Works Committee Meeting.
3. Approval of Bills as submitted and reviewed for accuracy by Finance Department
4. Approval of the Financial Report
5. Setting of Public Works and General Services Committee meetings for March 26, 2018 at 12:00 noon and 4:00 p.m. respectively
6. Approval of Beer and Wine License transfer from Ameritel Inns Inc. to Hotel Management Services, LLC dba La Quinta Inn and Suites – CDA (333 Ironwood Drive) and Hotel Management Services, LLC dba Hampton Inn and Suites – CDA (1500 W. Riverstone Drive).
7. Approval of an outdoor seating permit for Evans Brothers Coffee Roasters, 504 E. Sherman Avenue (new, no alcohol service).
8. **Resolution No. 18-015** – a Resolution of the City of Coeur d'Alene, Kootenai County, Idaho, authorizing the below mentioned contracts of the City of Coeur d'Alene, including approval of a Cooperative Funding Agreement with the City of Hayden and City of Dalton Gardens for the 2018 chip seal project, and approval of an Purchase Agreement with Northwest Grading, Inc., for +/- 100,000 cubic yards of structurally suitable used soil material.

ROLL CALL: Miller Aye; McEvers Aye; Gookin Aye; English Aye; Edinger Aye; Evans Aye.
Motion Carried.

COUNCILMEMBER ANNOUNCEMENTS:

Councilmember Miller noted that there will be a public input meeting regarding the Atlas waterfront project on Thursday March 22, 2018, from 5:30 to 7:00 p.m. at the Frontier Ice Arena. She noted that there would be opportunities for public input at the meeting.

MOTION: Motion by McEvers, seconded by Edinger to approve the appointment of Katherine Hoyer to the CDATV Committee. **Motion carried.**

RESOLUTION NO. 18-016

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AN EXCLUSIVE WEEKLY CONCERT SERIES AGREEMENT WITH DAVIS ENTERPRISES, INC., FOR "LIVE AFTER FIVE" EVENTS AT MCEUEN PARK.

STAFF REPORT: Parks and Recreation Director Bill Greenwood explained that last summer Davis Enterprises held 13 "Live at Five" Concerts at McEuen Park on Wednesdays. These concerts were well attended and received good reviews from staff and the public. He explained that the City does not have any financial outlay for the concert series. Davis Enterprises will pay \$500.00 per concert during the series, which will pay for all facility use costs including staff overtime. For the three large concerts that are identified in the agreement, the City will receive an additional \$3 per ticket sold. Additionally, the terms of the agreement clarify that the city may have other concerts or series outside of Wednesdays.

DISCUSSION: Councilmember Miller noted that the amendment to the exclusivity section now clarifies that the City may allow events from the Library and other agencies on other days.

MOTION: Motion by Gookin, seconded by Edinger to approve **Resolution No. 18-016**, approving an Agreement with Davis Enterprises, Inc. for the "Live at Five" Concerts at McEuen Park.

ROLL CALL: McEvers Aye; Gookin Aye; English Aye; Edinger Aye; Evans Aye; Miller Aye.
Motion carried.

RESOLUTION NO. 18-017

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ACCEPTING THE BID OF PSP ENTERPRISES, INC., FOR THE 2018 CENTENNIAL TRAIL SEALCOAT AND REPAIR PROJECT.

STAFF REPORT: Trails Coordinator Monte McCully explained that the City of Coeur d'Alene, City of Post Falls, Kootenai County, and the Centennial Trail Foundation agreed to apply for a grant to fix and sealcoat the Centennial Trail. The City applied for the grant through the State of Idaho and was awarded the Recreational Trails Program grant. A bid opening was held on March 15, 2018 and one bid was received. Staff has determined the bid from PSP Enterprises, Inc., in the amount of \$200,000, was a responsive bid and recommends entering into a Contract with PSP Enterprises Inc.

MOTION: Motion by Edinger, seconded by Miller to approve **Resolution No. 18-017**, approving an Agreement with PSP Enterprises, Inc. for the 2018 Centennial Trail Sealcoat and Repair Project.

ROLL CALL: Gookin Aye; English Aye; Edinger Aye; Evans Aye; Miller Aye; McEvers Aye.
Motion carried.

LEGISLATIVE PUBLIC HEARINGS WASTEWATER UTILITY RATES AND FEES

COUNCIL BILL NO. 18-1002

AN ORDINANCE AMENDING SECTIONS 13.08.010, 13.08.020, AND 13.16.010, COEUR D'ALENE MUNICIPAL CODE, TO ADJUST RESIDENTIAL AND COMMERCIAL WASTEWATER SERVICE AND USAGE CHARGES, AND CAPITALIZATION FEES, OVER THE NEXT FIVE FISCAL YEARS FOR COEUR D'ALENE AND FERNAN VILLAGE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

STAFF REPORT: Mike Anderson, Wastewater Superintendent, explained that the new charges and fees will replace those defined in the January 2013 Comprehensive Wastewater Rate Study. The recent rate study by HDR Engineering was authorized by the City Council in October 2016 and has taken into account the numerous operational and capital improvements made to the wastewater collection, treatment and compost facilities during the past five years, as well as anticipated future expenditures. Particularly, the rate study has incorporated the extensive planning, design and construction costs that the City has incurred to meet the stringent discharge requirements of the National Pollutant Discharge Elimination System (NPDES) permit that was issued to the City in December 2014 by the United States Environmental Protection Agency (EPA). The hearing was advertised twice and the department sent direct e-mails to the local Building Contractors Association, Board of Realtors and the Downtown Association for input. He noted that the rates will go up 6.5% over the next year, which covers the cost of the third phase of treatment needed to lower the phosphorous levels. Consultant Shawn Koorn, Associate Vice President of HDR Engineering, presented the findings of the study and the process used to set rates. He noted that it is important to have cost-based and equitable rates associated to the correct user. He reviewed the revenue requirement assumptions to include a 10-year forecast, and operation and maintenance costs. Mr. Koorn noted that adequate reserve levels were reviewed over the next 10-year period that included capital project funding and debt service coverage ratio, to ensure a strong, healthy financial position. In the last study, they increased commercial customers higher than residential; however, in this study the findings indicated a new balance. All customer rates will go up evenly at 6.5% annually over the next five years. Mr. Koorn noted that they reviewed other utilities in the area from Post Falls to Spokane and found rates are all higher than the proposed rate for the City of Coeur d'Alene, which he credits to the City doing a good job at getting DEQ loans at very low rates. Additionally, he explained that a CAP fee charge is a one-time rate for paying into the system for new customers. They updated the assumptions from the 2012 study and looked at current capacities, which resulted in a little lower rate for the CAP fee, other than the commercial high strength category, which went up slightly due to the strength level. He also compared CAP fees from other cities in the area, which fluctuated more than the rates between the cities.

DISCUSSION: Councilmember McEvers asked if at some point in the future the costs would come down because technology gets better. Mr. Koorn noted that costs could go down but the challenge is that the strength level is going up and harder to treat. Mayor Widmyer asked for

clarification regarding the residential rate for Fernan Village. Mr. Anderson noted that the rate for Fernan is based on a contract between the cities many years ago. The City of Fernan has small pump stations that pump into our system, so citizens in Fernan pay to both the City of Fernan and Coeur d'Alene. Mr. Tymesen confirmed that there was an Agreement with Fernan as the City of Coeur 'Alene was asked to assist Fernan in treating their effluent and they have a much higher fee from their City. Councilmember McEvers noted that he has been through a few rate study presentations and pilot projects, and wondered at what point construction of plant expansion would be complete. Mr. Anderson explained that he does not anticipate additional treatment processes being required, and they are currently in a study that will map out where they see the wastewater plant over the next 10 to 20 years. Councilmember McEvers asked if the City would always need to discharge into the river. Mr. Anderson noted that he would like to move from discharging into the river and is researching options to reuse water for irrigation services in the future. Councilmember English noted that during the Public Works Committee meeting he was impressed to see that the City of Coeur d'Alene rates are less than those around us. He believes that is in part due to the City making smart decisions about spending their money and feels there is a reasonable balance proposed for the next five years. Councilmember Gookin asked for clarity regarding the need to maintain a \$6 Million cash reserve. Mr. Koorn noted that the phase two project needs to be funded; thereafter, the rates are set to maintain the fund balance. In the future, the capital funds will be lower so the rates need to be balanced to maintain the target reserves. The reserves will cover 40-65 days of operations and maintenance; however, he would like to see it around 90 days. Some lending institutions are requesting 180 days in reserve. Mr. Anderson explained that the cash needed for the operating budget would be \$10 Million annually and they have big ticket items that can fail. For example, if an interceptor fails, the fix would cost approximately \$600,000 and the department spends approximately \$700,000 annually in repairs. Councilmember Gookin asked for other examples of past-unanticipated breakdowns and costs associated. Mr. Anderson noted the \$5 Million pilot study was unanticipated; however, ended up saving \$30 Million in future costs.

PUBLIC COMMENTS:

Eileen Johnson, Hayden, noted that she is in opposition of the fees and feels the CAP fees should not be reduced and should be used to cover new construction costs. She explained that everyone should be paying their fair share, which is not the case with the current fee structure as a family of two pays the same as a family of six. Mr. Anderson explained that the City bills at a flat rate. She noted that she does own a rental in Coeur d'Alene and said that she did not get an automatic lowering of her bill when her line was broken.

Sharron Casey, Coeur d'Alene, said that the water is being treated for phosphorous and ammonia, which is high due to fertilizers and those causing the contamination, who should pay a higher rate, such as the golf courses.

DISCUSSION CONTINUED: Mr. Koorn explained that CAP fees are very regulated and there are strict legal approaches to setting those rates. The recent court decision regarding Hayden, Idaho caused the approach currently used to analyze the CAP fee. Mr. Anderson noted that any sort of irrigation or run-off from a golf course does not go into a wastewater system. The study does address the amount of waste and the appropriate fee for what goes into the system. The

run- off into the river is reviewed by DEQ and that comes forward in the Total Daily Maximum Load (TMDL) number. The DEQ monitors the river and point sources; however, it is difficult to monitor what is coming off a golf course, but DEQ does set best practices that must be followed. Councilmember Gookin asked for additional clarification of occupancy charges for the example of a family of two versus a family of six. Mr. Anderson explained that the easiest way to accurately charge for wastewater would be to charge for water usage; however, because the water usage goes up four times in the summer it is not possible. He clarified that the sewer system is not set up with a separate meter; therefore, they cannot charge for direct usage. He further noted that to install separate meters would be very costly. Councilmember Gookin asked if the City could base individual usage based on each individual's water usage in the winter. Mr. Anderson confirmed that could be an option. Mr. Tymesen explained that the city has a lower rate eligible for winter use of 5,000 gallons, or less, over two months; however, the customer must be a year round resident and make the request for analysis to the City. Councilmember Gookin asked if the rate fee could be considered a tax. Deputy City Attorney Randy Adams explained that the Courts have reviewed this and confirmed that cities can do a flat fee for the same type of users. Councilmember Miller asked if the city automatically lowers a rate if the usage goes down. Mr. Tymesen explained the City would have to look at the period when the usage was lower and that the Utility Billing Division does look at the winter usage automatically. Mr. Adams clarified that the vacation rate does require that the water be turned off.

Mayor Widmyer closed public comments.

DISCUSSION CONTINUED: Councilmember McEvers noted that it is rare that anything goes down, so he feels better that the CAP fee is lowering, but understands that this rate is not forever. He noted the history of why the City did not move the plant to the prairie and that the City has invested a lot into the plant and he would support the rate study. Mr. Anderson confirmed that the new rates would go into effect on April 1, 2018.

MOTION: Motion by English, seconded by McEvers, to dispense with the rule and read **Council Bill No. 18-1002** once by title only.

ROLL CALL: English Aye; Edinger Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin Aye.
Motion carried.

MOTION: Motion by English, seconded by Evans, to adopt **Council Bill 18-1002**.

ROLL CALL: English Aye; Edinger Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin Aye.
Motion carried.

COUNCIL BILL NO. 18-1003

AN ORDINANCE AMENDING SECTION 2.48.020 OF THE COEUR D'ALENE MUNICIPAL CODE REGARDING MEMBERSHIP OF THE PLANNING AND ZONING COMMISSION; AMENDING SECTIONS 16.25.030, 16.25.050, AND 16.30.040 OF THE COEUR D'ALENE MUNICIPAL CODE REGARDING REQUIRED NOTICES IN THE SUBDIVISION PROCESS; AMENDING CERTAIN SECTIONS OF THE ZONING

ORDINANCE OF THE COEUR D'ALENE MUNICIPAL CODE, INCLUDING SECTIONS IN CHAPTERS 17.01, 17.02, 17.03, 17.05, 17.06, 17.08, 17.09 AND 17.44, IN ORDER TO COMPLY WITH STATE LAW, TO CLARIFY AMBIGUITIES, TO ADDRESS DESIGN STANDARDS, TO ADDRESS REQUIRED NOTICES, AND TO ADDRESS RECENT ISSUES ARISING UNDER THE EXISTING CODE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

STAFF REPORT: Planner Mike Behary explained that the City's Zoning Ordinance has been in need of an update for many years. The Planning Department staff, the Development Review Team, and the Building Department staff have discussed recent developments within the City and are in agreement that certain sections of the Zoning Code need amendments. Following direction from City Council, workshops were conducted with the Planning Commission to work on these amendments. The Planning Department and the Planning Commission held workshops on the Zoning Code Amendments on July 11, 2017, August 22, 2017, and on November 28, 2017. Staff has also been working with the North Idaho Building Contractors Association (NIBCA) and Coeur d'Alene Realtors Association on the proposed code changes. The Planning Commission held a public hearing on the proposed Zoning Code amendments on February 13, 2018. Prior to the hearing, staff met with NIBCA and the Coeur d'Alene Realtors Association to hear their concerns and suggestions. At the public hearing the Planning Commission heard comments from an NIBCA representative and directed staff to amend the code to address NIBCA's concerns as well as incorporate recommendations from the City Engineer, and directed staff to bring forward the proposed amendments with the additional changes to the City Council for approval. The purpose of the proposed Zoning Code amendments is to eliminate loopholes in the Zoning Code and to make other sections more clear and concise. He briefly explained the amendments ranging from side yard setbacks, accessory structures, accessory dwelling units, to shipping containers in residential areas. Mr. Behary explained the proposed code regarding a "hardship" rebuild, which occurs when a non-conforming house is damaged or destroyed by over 50%. One issue that is being amended is that if the non-conforming structure does not meet the current setback, it can be rebuilt on the prior footprint.

DISCUSSION: Councilmember English asked if there is a definition of "shipping container", as they might be a better storage option than a shed. Mr. Behary explained that the definition is that the prime use was a shipping container; however, the moving pods are used for temporary use and are allowed. He noted the safety of a shipping container was a concern as there are no additional access points if closed and it is without ventilation. Councilmember McEvers noted that the storage use of shipping containers seem like a great recycled use. Mr. Behary noted that this came forward as an issue through all their workshops. Councilmember McEvers said he would like the use to be open, especially in a C-17L zone. He would like staff to review options for allowances rather than fully disallowing the use of storage containers. Councilmember Gookin noted that if one wanted to reuse a shipping container, they could bring it up to code through submittal of a building permit. Mr. Behary confirmed that containers are allowed within a commercial zone. Councilmember English suggested a clarification that they are not allowed to be stackable, but are allowed. Councilmember Miller expressed concern about what is driving the code change.

Councilmember Gookin noted that businesses can pay a fee-in-lieu of providing parking stalls, and wondered if a residential use can pay the same fee and not provide parking. Mr. Behary noted that fees-in-lieu of are only allowed in [sic] the Downtown Core District. Councilmember Gookin asked for clarification regarding the berming up of lots and if the proposed code would allow one to match elevation to a neighbor that previously bermed their lot. Mr. Behary confirmed that would be allowed to match to an abutting property owner. Councilmember McEvers expressed disagreement with the requirement for site location permits for structures 120 square feet to 200 square feet in size.

PUBLIC COMMENTS: Mayor Widmyer called for public comments. With no comments received, public comment was closed.

MOTION: Motion by McEvers, seconded by Evans, to dispense with the rule and read **Council Bill No. 18-1003** once by title only.

DISCUSSION: Councilmember McEvers noted that he proposes to pass the Ordinance with the removal of the section regarding shipping containers and removal of the requirement for site location permits for structures 120 square feet to 200 square feet in size. Councilmember Gookin agreed that it should be passed and then see where additional feedback is received. Councilmember Miller verified that staff will bring items back regarding sidewalks, parking on lawns, etc. with a recommendation at a later date.

ROLL CALL: Edinger Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin Aye; English Aye.
Motion carried.

MOTION: Motion by McEvers, seconded by Edinger, to adopt **Council Bill 18-1003**, with the removal of section 34, 41, and 42 regarding shipping containers and removal of the requirement for site location permits for structures 120 square feet to 200 square feet in size.

ROLL CALL: Edinger Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin Aye; English Aye.
Motion carried.

EXECUTIVE SESSION: Motion by McEvers, seconded by Miller to enter into Executive Session pursuant to Idaho Code 74-206A (a) to consider a labor contract offer or to formulate a counteroffer.

ROLL CALL: Evans Aye; Edinger Aye; Miller Aye; McEvers Aye; Gookin Aye; English Aye.
Motion carried.

The City Council entered into Executive Session at 8:24 p.m. Those present were the Mayor, City Council, City Administrator, and Deputy City Attorney. Council returned to regular session at 8:50 p.m.

ADJOURNMENT: Motion by English, seconded by Gookin that there being no other business this meeting be adjourned. **Motion carried.**

The meeting adjourned at 8:50 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk