

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

October 26, 2020

The Mayor and Council of the City of Coeur d'Alene met in a special session of said Council at the Coeur d'Alene City Library Community Room October 26, 2020 at 1:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

Dan Gookin)	Members of Council Present
Dan English)	Participated via Zoom teleconference
Woody McEvers)	
Amy Evans)	
Christie Wood)	
Kiki Miller)	

CALL TO ORDER: Mayor Widmyer called the meeting to order. He noted that that pursuant to Idaho Code § 74-204, subsection 2, the special meeting of the City Council of the City of Coeur d'Alene was being called because of an emergency involving injury or loss of life to the citizens of and visitors to the City; that emergency being the COVID-19 pandemic. The normal notice requirements of Idaho law are impracticable to take the action proposed and would increase the likelihood or severity of the injury or loss of life.

PRESENTATION: Jon Ness, Chief Executive Officer for Kootenai Health, noted that he was disappointed that it has fallen upon the City for decision-making today, as there is a separate system for health and it is very complex. He noted the letter from the Board of Trustees supporting mandatory masking and 280 physicians signed off on a letter of support. He said that within the past 30 days their situation at the hospital has become significantly worse, noting increased positive cases, increased critical care cases and employee fatigue. He said that they have current staff shortages, no vaccine is available, schools have opened and flu season is upon us. Therefore, they are looking for help to deal with this on a public health concern level. He outlined the chronology of events to help explain the current situation. On March 11, there was a worldwide alert of the virus. On March 13, Governor Little declared a state of emergency for Idaho. On April 23, Governor Little released his stage 4 reopening plan. From May through June the state quickly moved through the reopening stages. Late June and mid-July cases spiked within the County. On July 23, the Panhandle Health Board met and decided for mandatory masks. They saw a decrease in cases and on September 24, the board met and reaffirmed mandate. Several days later 11 North Idaho Legislators sent a letter to reconsider the mandate and make it a recommendation. On October 21, the hospital maxed out its inpatient capacity. On October 22, the Panhandle Health Board changed the status to red and rescinded the masking mandate. Those who voted to rescind the mandate do not live in Kootenai County. Today, October 26, the Governor is holding a press conference and might announce the return to Stage 3. The issue is not just in Coeur d'Alene and Kootenai County but within the state.

Dr. Karen Cabell, said that she is the Chief Physician Executive at Kootenai Health and has practiced for 20 years. She reviewed the numbers of beds and capacity as the hospital has grown over the past 20 years. In the last week they added 31 beds to the surgical area but it is not staffed. She noted that they serve over 50,000 patients. She reviewed the timeline of COVID cases and how it migrated into the United States. Locally, they were able to get testing up at the beginning of March. She noted that on March 16 was the first community positive in the County, which was a person that traveled here from out of the country, and on March 22 was the first hospitalization. They spent a lot of time planning from March through May, then saw the first spike in July. Today they have 35 patients at the hospital and they range from age 20 through 90, with 11 in critical care, who have ages ranging from 40-70. The older age group is represented in the death numbers. She explained how COVID is different than the flu, as it causes respiratory and gastral illnesses. SARS and MERS in the past were different as they were very deadly. COVID is different in its minimum number of symptoms at the onset and its maximum contagiousness. With COVID you are contagious right before symptoms or very early on. Individuals that need to go to the hospital won't realize it until about a week into the illness. Many people have no symptom or no illness, which is causing the undetected spread, and 80% are asymptomatic and 20% get very ill. 5% of those infected will end up in the hospital and 2% will need critical care. Locally, Panhandle Health numbers demonstrate a 1.5% mortality rate. Early on, Kootenai Health felt testing was a priority and opened the drive through testing. Dr. Cabell reviewed their surge plan for the treatment of COVID and noted they have transitioned part of the new tower for COVID patients and changed rooms to double occupancy. In these units the staff have PPE on all day long. They have tracked supply and equipment, and are constantly monitored. The supply for PPE has not improved and noted when the east coast had a surge Kootenai Health's supply chain was diminished. She said that they have had a hard time getting cleaning supplies, just like the rest of the community. They are working on personnel issues as well.

Jeremy Evans, Operations Vice President, reiterated the importance of a test unit. He explained that the hospital is experiencing a critical care need surge along with the current numbers climbing. The hospital has a 331-bed capacity with 200 beds for general medical patients. During the month of October, specifically last week, they had occupancy of 99% of beds filled. The hospital serves as the main critical care facility for almost all of the northern counties. He noted that they have over 3,500 employees and have had 132 employees that have tested positive. 85% have traced their exposure to community transmission and about 10% from exposure to co-workers, and less than 5% from patients, which speaks to their systems working. They are experiencing higher absenteeism from family members being sick, and are experiencing a shortage of nurses, which is a nationwide issue. They have opened 50-60 new positions for traveling nurses, and have only been able to fill about half. He thanked all staff at the hospital for their service. The hospital is open 24/7, 365 days a year, and today they will see hundreds of patients and 1,000's in outpatient settings. They are on a case-by-case basis, and last week had to deny transfers from other areas and deferred a number of necessary procedures. Working together is necessary to slow the spread, and masking, social distancing, and hand washing are integral to the slowing of the spread of this virus.

DISCUSSION: Councilmember McEvers asked if, when the hospital was down to one bed, was it due to more than just COVID. Mr. Ness explained that they have 330 beds, a large portion for children and women services, and some for behavioral health that cannot be used for COVID, 200 that are medical surgical beds that can be available for COVID, and so the one bed is in reference to the medical surgical beds available. He noted that they also have a designated unit within. Councilmember McEvers asked if there were 316 hospitalizations from COVID. Mr. Ness confirmed that they have had 315 from COVID to date. Councilmember Gookin asked if there have been studies as to why it affects one person more than another. Dr. Cabell noted that it might be a long time before that will be known, and said that it might be related to the dose of virus a person is exposed to. Councilmember McEvers noted that with SARS there was a mortality rate of 15% and questioned where we are with COVID. Dr. Cabell said that COVID currently has a 1-3% death rate. Councilmember Gookin asked if anyone is admitted to the hospital, for any reason, are they tested. Dr. Cabell confirmed that they are tested upon admittance. Councilmember Miller noted that it appears that the beds are specific to COVID, PPE, and ventilators, etc. for those patients, and you just can't just move them. Dr. Cabell confirmed that is correct and for every 6 critical care beds it takes 25 nurses to care for those patients. Mayor Widmyer noted the definition of COVID includes cold and flu, and some people believe that the increase in positive COVID-19 tests are due to it being cold and flu season and wondered if that could be clarified. Mr. Evans explained that they use a P.C.R. test. Dr. Cabell further explained that the test is very precise and it can look for every type of influence and you can piece out each specific strain, particularly COVID-19. She noted that they have only seen two positive flu results so far this season and she doesn't expect to see more flu until November.

Mayor Widmyer noted that Panhandle Health representatives were in the audience if the Council had more questions. Councilmember Gookin asked why they would mandate only masks, as the health experts said that hand washing and social distancing are also important parts of slowing the spread of the virus. Councilmember Evans noted that, nationally, the most effective means is a combination of efforts. Councilmember Gookin said that in prior virus outbreaks such as MERS, SARS, and SWINE Flu, they did not push masks, and questioned why. Dr. Cabell explained that the country has not encounter a pandemic since 1918. COVID-19 has an ability to spread the infection to a high number of people and keeps the transmission going. Councilmember Miller asked for clarification regarding the other small hospitals sending their critical care to Kootenai Health. Dr. Cabell confirmed that only a couple area hospitals have critical care, such as Bonner General, but if they need a higher level of crucial care, they come to Kootenai Health or Spokane. Councilmember Miller noted that they mentioned that their request for traveling nurses was unable to be filled. Mr. Evans confirmed they were only able to fill half the requested positions and are still looking. Councilmember McEvers asked how much elective surgery is still on-going. Mr. Evans explained that it varies but since they shut it down in March they are monitoring if a delay could make conditions worse. He explained that they are now conducting dual operations, as COVID patients are in isolation and they maintain other services. Dr. Cabell noted that they had eight surgeries delayed or cancelled, which included heart, abdominal, and neurological procedures. Councilmember Gookin said that H1N1 had 60 million cases but no masks were required. Dr. Cabell explained that the virus did not reach the status of worldwide pandemic that COVID is and they came out with a vaccine.

Councilmember Gookin expressed concern that medical personnel don't understand the virus. Dr. Cabell said that masking has been used to prevent the spread of infection diseases for a long time, and it is a normal practice in hospitals. She noted that the Centers for Disease Control (CDC) have studied the data and state that it helps reduce the amount of transmission through universal masking. Councilmember Gookin said that he has heard comments from the public that human immunity would eventually fight the disease and that there is bacterial harm to wear a mask and that it lowers oxygen levels. Dr. Cabell said that there is no evidence to bacteria or oxygen level but wearing masks may cause a rash. She noted that the percent positive rate is 17%, which denotes that there is a high percent of people walking around without knowing they have it.

Mr. Jeff Lee, Epidemiologist for Panhandle Health, said that he was deployed to Washington in 2019 for a measles outbreak and they used community-wide masking. He noted that they had 74 cases of measles in Clark County and they did require those coming in to medical facilities to mask. He noted that it is the large amount of people that COVID spreads to compared to influenza, and COVID may be asymptomatic the entire time. The world is still learning about COVID. Mr. Lee explained that the intent of the mask is to catch the droplets, and the reason a person should change out masks is when they are saturated. He recommended everyone wear a dry mask. He did confirm that COVID can be passed through the eyes, as the virus likes to attach itself to membranes. He noted that temperature is not as a reliable marker of the disease. Councilmember Wood suggested the hospital hold a virtual forum for the whole community. Mr. Ness noted that the while the hospital is a partner with Panhandle Health District, the Health District members are appointed by County Commissioners and it is their responsibility for public education. Councilmember Wood noted that the stories are great to have as the community information. Mr. Ness noted that Governor Little just announced today that he is rolling Idaho back to Stage 3 of his reopening plan.

Panhandle Health Regional Director, Lora Whalen, said that they would be willing to do a forum to educate the public. She said that she understands the community is divided on the mask issue, but it is an important non-pharmaceutical intervention that can be done. Contact tracing is another important function and she asked the community to answer their calls and inform people if they have been exposed. Councilmember Gookin asked if the end game is a vaccine. Ms. Whalen confirmed they are hopeful for a vaccine and noted it will create some herd immunity. Councilmember Gookin asked if there has ever been a vaccine for a CORONA virus. Ms. Whalen said that there has not been one for the common cold, nor SARS or MERS, and this is a new virus and it will take time to learn what works. Councilmember McEvers questioned the structure of the Health District as the Board said no to masks but Ms. Whalen says yes. Ms. Whalen said that it is the CDC's recommendation to wear masks and the Health District Board encourages it. The reason that one of the Board members voted no was that there is no enforcement and they felt it should be more of a community effort. Councilmember McEvers asked if they would be asking other cities to pass a mask mandate. Ms. Whalen said that she would be happy to work with other cities and felt that if Coeur d'Alene passes an order, other cities may follow.

Mayor Widmyer said that there was a downward trend the third week of July which he attributes to the mask campaign, and noted that the community had a lot of tourists in the City at that time.

He noted that the community then had an increase in cases the first part of October and the latest number is that over the past week there were 700 cases, over 100 a day, more than doubled from July. Mrs. Whalen agreed the increase in cases may include schools opening and fatigue, and weather turning cold pushing more inside activities. She noted that she felt it was important to keep schools open. Physicians are now telling the community they need support by way of a mask mandate, and they are the subject matter experts. Protecting the hospital capacity is why they are asking for the action. Mayor Widmyer noted that in a lot of ways they let their guard down. Councilmember Miller asked what the masking requirements are in the Idaho Stage 3 plan. Ms. Whalen said that there have not been any masking requirements in past Stage 3 orders but, rather, it pertains more to regulations of large gatherings. Councilmember Wood said that when she was in law enforcement, she upheld many City ordinances, with the desire of a code to create a change in behavior. The regulation would be a temporary regulation, and her proposal would be to do it to help the community.

Chief White noted that enforcement, in the previous mandate, was an education campaign, with no citations issued. During that initial mandate the Police Department received over 200 calls to the dispatch center, but no citations were issued. This is a different situation as people have their minds made up, so it would be the will of the Council to do enforcement by citation or just to have officers provide education. He requested clear direction. Mayor Widmyer noted that he favors the education piece; to look to businesses to have employees wear the masks and look to egregious offenders being cited. He noted that there are two states on either side of Idaho that have existing statewide mandates. The people that are used to a mask mandate will continue to wear their mask. Councilmember Wood said that the Police Department will always prioritize calls such as responses to illegal fireworks that they respond to when they can. Chief White noted that the difficulty is the bars that are packed with people, and they will get the calls, so he asked if it was the Council's intent for them to give tickets. Councilmember Wood said that they possibly would, as you would get compliance. Councilmember Gookin noted that enforcement is political, not science, and suggested it would then be mandatory enforcement above barking dogs and seatbelts. Chief White said that there are going to be priority calls, and they encounter those without masks, so he would like direction from Council on if they should issue those citations or not. Councilmember Gookin asked how many calls has the Police Department gotten regarding mask violations. Chief White noted that upon the original mandate they received 200 calls but it died off. When they contacted those not wearing masks, they would say they had a health issue. He expressed concern with officers having to ask for proof of a medical condition. Councilmember Gookin said that in order for the Resolution to be effective, enforcement would have to be hard. City Attorney Mike Gridley explained that the resolution includes a penalty of an infraction, so no one will be arrested, and it carries a \$100 fine. Mayor Widmyer noted that the Council could amend the language regarding the medical clause. He said that he believes if someone gives a reason they should not have to give further proof. Chief White said that the officers would not ask for further proof. Councilmember Miller said she would not want medical validation to fall to the officers, and that the officer's enforcement of City ordinances would be up to their discretion. Chief White said that typically they ask for compliance of the code and if there is a refusal they may issue a ticket. Councilmember Miller asked about the bars and their patrons and if they can ticket all of them. Chief White said that could be a possibility and the bars have had an increase of people from the west. They have encountered hard core gangsters causing trouble locally because the bars to the west close around

10:00 p.m. There could be a point that they could issue tickets to help resolve an issue. Councilmember McEvers asked if the business owner is responsible and if there is a difference between inside versus outside. Mayor Widmyer noted that either can be cited and the only difference between inside and outside is if you can socially distance by 6 feet. Councilmember English said that enforcement is an important part of the action, and agreed the Council should not pass laws they aren't going to enforce. However, this is a new virus and the biggest community area of interest, with a lot of emotions. They are learning as they go and if they pass the Resolution, education is the first line of defense with a warning. After a warning or if they are out of line, they need to be cited. It is not a criminal charge but, rather, an infraction and falls within officer discretion. Chief White noted that there is a group that will comply with the passage of the mandate; however, there are some who will not. Mr. Gridley clarified that it is an individual mask mandate and that the business is not responsible for patrons. Mayor Widmyer said that he would like to change the age exemption to 10 years old and under, and that the section B medical issue has the first line, and strike the balance of the wording. Councilmember Wood agreed with the change of the definition of face covering proposed this morning by Legal.

Deputy Chief Prosecuting Attorney Wes Somerton said the amendment to the definition of face covering was broadened to give more options to the community. Mayor Widmyer reiterated that if one can achieve a 6-foot social distancing, they are not required to wear a facemask. Councilmember Evans asked for an amendment to Section H under exception, requesting it denote indoor rather than recreational facilities. Councilmember Gookin asked about enforcement on Election Day at polling places. Mayor Widmyer said that they could add that clause. Councilmember Wood asked about section B and if the intent was to provide a tool for the prosecutors. Mr. Somerton said that it is an affirmative defense, similar with no proof of a driver's license, in that if you bring proof the ticket is dismissed. He noted that the wording as paired down would work.

Mayor Widmyer said that this is not a road the City wanted to go down, and reaffirmed the desire to give education first and if someone says it's a medical condition, police don't need to go beyond that. Councilmember Wood asked if section 7 could be amended to 90 days, as she felt they may not know its effectiveness in 30 days. Councilmember Evans agreed that 90 days would be good. Councilmember Miller said that the data is changing so rapidly, but felt that if circumstances changed they could bring it forward earlier. Councilmember English suggested 60 days as a potential compromise. Mayor Widmyer concurred that they could revisit earlier if need be. Deputy Civil City Attorney Randy Adams asked if the clarifications to section B should include that proof is not required. Mayor Widmyer concurred that would be good. Councilmember Miller said she thought that if they voluntarily demonstrated proof, they wouldn't have to get a ticket issued. She noted that law enforcement has asked for clear direction and they could have the ability to give them a ticket and provide proof later, otherwise anyone could say it and they are back where they started. Mayor Widmyer said that he does not want to have law enforcement having to make that determination or put that burden on them. Councilmember Wood said she would not want to put the burden on law enforcement and believes Mr. Somerton can handle dismissal on their end. Councilmember McEvers asked what impact this would have on schools. Mayor Widmyer clarified that the School District makes their own rules. He agreed that they are not health care experts and this should have been handled elsewhere. Councilmember Miller agreed that 10 years old or under don't need to wear

a mask, but the School District makes their own rules regarding the kids' use of masks on campus. Mr. Ness noted that it is fluid and there are lots of unknowns and he would support the 90-day period, and would encourage feedback to the Council from himself and the Health District in the middle of December for an update on medical information.

Mr. Gridley said that they should remove education facilities from the definition section. Mayor Widmyer concurred. Councilmember Evans said that she has reviewed the data and read all the public input received this weekend and appreciated all those that reached out. She further stated that there is scientific evidence for effective measures to slow transmission, which includes the wearing of masks. She noted that the community is at dangerously high levels of infections. Hospital are near capacity and the situation is crucial. The healthcare community is asking for the City's help. Schools, colleges, and universities are unable to open as normal and begging them to help. The businesses are greatly impacted by COVID-19 and can't afford any more shut downs. Everyone has been brave in the eye of the storm to this point, and they are not done. She noted that she works daily to keep the community safe and will vote yes to the Resolution.

RESOLUTION NO. 20-059

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, PROVIDING THAT ALL PERSONS IN THE CITY OF COEUR D'ALENE SHALL BE REQUIRED TO WEAR A FACE COVERING, WITH CERTAIN EXCEPTIONS; PROVIDING THAT A VIOLATION OF THIS RESOLUTION SHALL CONSTITUTE AN INFRACTION; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND DURATION.

MOTION: Motion by Evans, seconded by Wood to approve **Resolution No. 20-059** - Requiring the use of face coverings in indoor and outdoor public places, with exceptions, to help reduce the person-to-person transmission of COVID-19.

DISCUSSION: Councilmember English said that he realizes it is a high impact decision and he will support the Resolution and is convinced that it is what they need to do. Councilmember Miller said that she has received a letter in support from the CDA Tribe and a letter that has 15 regional CEO's in support of the face covering mandate. Mayor Widmyer said that it is a medical issue and they rely on people they trust for their medical decisions and Kootenai Health has a letter signed by 281 Kootenai Health physicians seeking their help. They have noted that they are at a tipping point of being unable to meet the needs of the community. Mayor Widmyer said that wearing masks and social distancing will slow the spread of COVID-19. He noted that in July he was concerned; however, not in favor of a City of Coeur d'Alene mandate as he felt a countywide mandate was needed. Since that time, he has changed his opinion that it is the best they can currently do and doing nothing is not an option. He noted that situations change and this is much different three months later. He read an email from Marla Lake, the Caretaker at the Jewett House, which noted that her mom just died of COVID. Ms. Lake has been a registered nurse for over 15 years and is now a hospice nurse. She expressed the difficulty of saying good bye to someone over a computer rather than in person. She encouraged the Council to approve the resolution. Councilmember Gookin said that he would be voting against the Resolution as he believes he will protect the rights of others, and noted that there are certain risks in living in a free society. He does not think masks work, the numbers are going up, and the experts don't

know how the virus works. He feels that there will be a massive civil disobedience movement if it is passed and it will be hard for the Police Department. Councilmember Wood said that the idea of doing nothing is not acceptable, our first responders are being exposed at alarming rates, and the health care workers are looking for help. Councilmember McEvers said he does believe in the masks and noted that they wear shields in the restaurants. He does believe in personal responsibility, but noted that if your customers aren't comfortable you won't survive. His concern is that the City is setting the example but not sure it's the best use of what they can do and he won't support the Resolution based on it only being applicable to the City.

ROLL CALL: English, Yes; Wood, Yes; Evans, Yes; Miller, Yes; McEvers, No; Gookin, No.
Motion carried.

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

The meeting adjourned at 3:25 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC
City Clerk