



Coeur d'Alene

CITY COUNCIL MEETING

November 6, 2007

MEMBERS OF THE CITY COUNCIL:

Sandi Bloem, Mayor

Councilmen Edinger, Goodlander, McEvers, Reid, Hassell, Kennedy

CONSENT CALENDAR

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT COEUR D'ALENE CITY HALL,
OCTOBER 16, 2007

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 Hall, October 16, 2007 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Al Hassell)	Members of Council Present
Woody McEvers)	
Loren Edinger)	
Deanna Goodlander)	
Mike Kennedy)	

Dixie Reid)	Members of Council Absent
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CALL TO ORDER: The meeting was called to order by Mayor Sandi Bloem.

INVOCATION was led by Pastor Jonathan Owens, Heart of the City Church.

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

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received.

CONSENT CALENDAR: Motion by Edinger, seconded by Kennedy to approve the Consent Calendar as presented.

1. Approval of minutes for October 2, 2007.
2. Setting of the Public Works Committee and General Services Committee meetings for October 22nd at 4:00 p.m.
3. RESOLUTION 07-064: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING AUTHORIZING THE DESTRUCTION OF CERTAIN RECORDS; ADOPTING A MEETING ROOM USE POLICY FOR THE NEW LIBRARY; APPROVAL OF AN ENCROACHMENT PERMIT FOR A BENCH IN FRONT OF THE TORCH LOUNGE; APPROVAL OF AN ANNUAL WAIVER OF COVERED LOAD REGULATIONS FOR THE STREET DEPARTMENT DURING LEAF PICKUP AND APPROVAL OF A REQUEST FOR WATER SERVICE OUTSIDE CITY LIMITS ON NETTLETON GULCH ROAD AND AN AGREEMENT WAIVING OPPOSITION TO ANNEXATION WITH BRAD JORDAN.

4. RESOLUTION 07-065: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO DECLARING AN ANNUAL LEAF OR GARDEN WASTE COLLECTION.
5. Approval of advertisement for bids for the construction of the Armstrong Park Booster Station Replacement
6. Approval of bills as submitted and on file in the City Clerk's Office.
7. Approval of cemetery lot transfers for: Doreen Dagon to Buddy McCorkle and from Irene Perrenaud to Jennifer Allison for the sale of the lot to Donn Nelson.
8. S-4-05 - Final plat approval for Bellerive, Phase II.
9. SS-3-06 - Final plat approval for Riverview Condominiums
10. SS-18-07 - Final plat approval for Trails Edge.
11. Setting of Public Hearings: V-07-2 0 Vacation of a portion of right-of-way on Seltice Way adjacent to Ceour d'Alene Honda for November 20, 2007 and O-3-07 Comprehensive Plan for November 20,2007.

ROLL CALL: Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye. Motion carried.

COUNCIL COMMENTS:

COUNCILMAN KENNEDY: Councilman Kennedy commented that residents had an opportunity to hear the Executive Director of the U.S. Interagency Council on Homelessness (ICH) speak about homelessness. He noted that he had attended a national summit on this topic last year which was very inspiring; however, this year's count of homeless people pointed out the need for something to be done.

MOTION: Motion by Kennedy, seconded by Edinger to have the City endorse the concept of creating a 10-year plan to end homelessness in our City.

Councilman Kennedy noted that his goal is to put together a committee to begin to address this issue. Mayor Bloem noted that he is not asking for any resources or staff time at this time but rather a motion to identify the political will of this Council that they will support the idea of a 10-year plan. Motion carried.

COUNCILMAN HASSELL: Councilman Hassell announced that absentee voting is now available until election day at both City Hall and at the County Elections office and encouraged all qualified electors to vote.

COUNCILMAN GOODLANDER: Councilman Goodlander commented that the City is continuing to add the televising of various committee and commission meetings on Channel 19.

APPOINTMENT TO CITY BOARDS/COMMISSION: Motion by Goodlander, seconded by Edinger to appoint John Kelly to the Pedestrian/Bicycle Advisory Board, Ed Eichwald to the Jewett House Advisory Board, Iris Siegler and Brian Halvorsen to the Childcare Commission, and Gregory Peak to the Sign Board. Motion carried.

POLICE DEPARTMENT STAFFING FOR IMPEMENTATION OF

ASSESSMENT RECOMMENDATIONS: Police Chief Longo presented the plan for implementing recommendations received from the recent consultant review of the Police Department. He is looking at hiring 2 Police officers, a civilian report taker, a part time property specialist, a part-time records specialist, and increasing 1 part-time administrative position in Investigations to full-time. He would like to staff the Front Desk to enable the Police Department to be open to the public for a few hours on Saturday. Chief Longo noted that the funds for implementation have already been budgeted in the current budget. He also plans on not hiring these positions until December for additional dollar savings.

RESOLUTION NO. 07-066

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN ADDENDUM TO THE LEASE AGREEMENT WITH THE HUMAN RIGHTS EDUCATION INSTITUTE, INC. FOR CITY OWNED SUB-STATION BUILDING AT 414 ½ MULLAN ROAD.

STAFF REPORT: Bob Bennett, Director of Human Rights Education Institute (HREI), gave a presentation that outlined exhibits, programs and events held by the Institute during 2006 and 2007, reviewed the improvements made to the sub-station building and provided HREI goals for the future.

Motion by Goodlander, seconded by Hassell to adopt Resolution 07-066.

ROLL CALL: Goodlander, Aye; McEvers, Aye; Hassell, Aye; Kennedy, Aye; Reid, Aye; Edinger, Aye. Motion carried.

AMENDMENTS TO ANNEXATION REQUEST PROCESS: Deputy City Attorney Wilson explained that staff is recommending that some or all annexation requests be brought to the City Council first to determine if the Council is interested in annexing the parcel prior to staff and applicants investing a great deal of time and money into the annexation process. Motion by McEvers, seconded by Kennedy to approve the amendment to the City's annexation request process to include the requirement of a City Council "check-in" on all annexation requests. Motion carried.

**ORDINANCE NO. 3319
COUNCIL BILL NO. 07-1041**

AN ORDINANCE AMENDING THE ZONING ACT OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, KNOWN AS ORDINANCE NO. 1691, ORDINANCES OF THE CITY OF COEUR D'ALENE, BY CHANGING THE FOLLOWING DESCRIBED PROPERTY FROM R-12 (RESIDENTIAL AT 12 UNITS/ACRE) TO NC (NEIGHBORHOOD COMMERCIAL), SAID PROPERTY BEING DESCRIBED AS FOLLOWS, TO WIT: A +/- .248 ACRE PARCEL AT 1036

NORTH 15TH STREET AND LEGALLY DESCRIBED AS THE NORTH 73 FEET OF LOT 7, WILLIAMS PARK ADDITION IN THE NORTHWEST 1/4 OF SECTION 18, TOWNSHIP 50N, RANGE 3W, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

Motion by Hassell, seconded by Goodlander to pass the first reading of Council Bill No. 07-1041.

ROLL CALL: McEvers, aye; Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye. Motion carried.

Motion by Edinger, seconded by McEvers to suspend the rules and to adopt Council Bill No. 07-1041 by its having had one reading by title only.

ROLL CALL: McEvers, Aye; Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, aye; Kennedy, Aye. Motion carried.

ORDINANCE NO. 3320
COUNCIL BILL NO. 07-1042

AN ORDINANCE AMENDING THE ZONING ACT OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, KNOWN AS ORDINANCE NO. 1691, ORDINANCES OF THE CITY OF COEUR D'ALENE, BY CHANGING THE FOLLOWING DESCRIBED PROPERTY FROM R-12 (RESIDENTIAL AT 12 UNITS/ACRE) TO NC (NEIGHBORHOOD COMMERCIAL), SAID PROPERTY BEING DESCRIBED AS FOLLOWS, TO WIT: A +/- .372 ACRE PARCEL AT 1003 NORTH 15TH STREET AND LEGALLY DESCRIBED AS LOTS 1 & 2, BLOCK 1, BIRCH PARK ADDITION IN THE NORTHEAST 1/4 OF SECTION 13, TOWNSHIP 50N, RANGE 4 W, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

Motion by Edinger, seconded by Hassell to pass the first reading of Council Bill No. 07-1042.

ROLL CALL: Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye. Motion carried.

Motion by Hassell, seconded by Goodlander to suspend the rules and to adopt Council Bill No. 07-1042 by its having had one reading by title only.

ROLL CALL: Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye. Motion carried.

COUNCIL BILL NO. 07-1043
REPLACING ORDINANCE NO. 3295 ADOPTED MAY 1, 2007

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO REPLACE ORDINANCE NO. 3295 AS THE ORDINANCE ANNEXING SPECIFICALLY DESCRIBED PORTIONS OF THE SW ¼ SE ¼ SECTION 4, TOWNSHIP 50, NORTH, RANGE 4W, BOISE MERIDIAN AND LOTS 7 & 8 BLOCK 4 OF "ORCHARDLANDS", AND ADJOINING HIGHWAY RIGHTS-OF-WAY IN ORDER TO CORRECT THE ZONING DISTRICT FOR THE ANNEXED PROPERTY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

Motion by Goodlander, seconded by Hassell to pass the first reading of Council Bill No. 07-1043.

ROLL CALL: Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye; Reid, Aye. Motion carried.

Motion by Edinger, seconded by Goodlander to suspend the rules and to adopt Council Bill No. 07-1043 by its having had one reading by title only.

ROLL CALL: Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, Aye; McEvers, Aye; Reid, Aye. Motion carried.

PUBLIC HEARING - CONSOLIDATED 5-YEAR PLAN FOR HUD/CDBG FUNDS: Mayor Bloem read the rules of order for this public hearing. Project Coordinator Renata McLeod and consultant Heidi Aggeler from BBC Research gave the staff report.

This public hearing was to provide the community an opportunity to comment on the proposed Consolidated 5-Year Plan for fair housing within the City. The City anticipates receiving \$300,000 annually from the HUD Community Development Block Grant for funding. Heidi Aggeler reviewed the various projects that a city can use HUD funding and the results of the various community meetings held in Coeur d'Alene regarding HUD funding.

PUBLIC COMMENTS: Meredith Bryant, 1988 E. Gunther Avenue, commented that the reason that the Council is not receiving public comments is because as a whole it is a complicated plan and difficult to understand; however, she has worked with HUD funding in California and knows how the program works. Harold Hocker, 1413 E. Hazel Avenue believes that this is a bad idea.

MOTION: Motion by Hassell, seconded by Kennedy to authorize the Mayor to sign the CPMP Grantee Certification and the SF 424 form required to submit the consolidated plan for HUD. Motion carried.

RECESS: The Council took a recess at 7:47 p.m. and resumed their meeting at 7:53 p.m.

PUBLIC HEARING - ALLOWING INGRESS/EGRESS ONTO FOSTER AVE. AT 702 N. 4TH STREET: Mayor Bloem read the rules of order for this quasi-judicial public hearing. No conflict of interest was declared by the Council. Councilman Goodlander noted that she lives within 2 blocks of the subject property. John Stamos, Associate Planner, gave the staff report.

Mr. Stamos reported that the applicants, Amendola, Anderson and Doty PLLC and 4th Street LLC are requesting removal or modification of conditions one (1), two (2) and four (4) for Zone Change LZC-2-94 in the C-17L zoning district pertaining to access from the existing parking lot to Foster Avenue and buffering of said parking lot along Foster Avenue. He noted that the conditions being requested to be removed are:

1. Provide a six (6') foot sight obscuring fence on the east and north ends of the property and along the frontage of Lot 3 together with a solid, dense vegetative screen, including a minimum of five (5) columnar deciduous trees 2" or more in caliper, planted at a distance between centers as determined by the Urban Forestry Committee.
2. Restrict Lot 3 so as not to allow a curb cut.
3. Restrict signage to 4th Street only.

On August 20, 2007 the Planning Commission voted to deny the request to remove these conditions by a vote of 4 to 0. On August 24, 2007, an appeal of the Planning Commission's decision was filed with the City by the applicant.

Mr. Stamos reported that on September 28, 2007, 66 notices of tonight's public hearing were mailed with a total of 20 responses being received - 5 in favor, 12 opposed and 3 neutral. Written comments were distributed for Council review.

PUBLIC COMMENTS:

Steve McCrea, attorney for the applicant, 507 W. Lakeshore Drive, believes that the request for the removal of conditions is to address the safety issues in traffic flow. He noted that the City is going to add access onto Foster for the Fire Administration Building between 3rd and 4th Streets. He also noted that by adding access onto Foster the customers to his client's building can continue west once they leave the building. He also believes that by adding the Foster Avenue access it will eliminate parking on Foster Avenue. He commented that by adding this access onto Foster it would have very minimal impact of traffic onto Foster Avenue. Councilman Kennedy asked about eliminating parking west of the proposed curb cut on Foster if the access was allowed. Mr. McCrea believes that parking on Foster Avenue west of the proposed access could be eliminated.

Clayton Anderson, 10021 N. McCoy Road, Washington, commented that although they applied for a curb cut and were issued a stop work order, if they had requested the amendments to the conditions on the zone change prior to requesting the encroachment permit, they would be appearing before the Council on this issue anyway. He believes that this is a safety issue for his clients. He promised the neighbors that if this curb cut causes any adverse effects on Foster Avenue he would pay to replace the curbing and fencing.

Gary Amendola, 3852 Palmer Drive, Coeur d'Alene, questioned some of the Findings of the Planning Commission in denying their request. First, the Finding that this neighborhood has a trend of being residential. He questioned this Finding in that 2 ½ blocks east and just south is the Social Security Administration Building that has curb cuts and Stepping Stones Day Care also has curb cuts onto the street. He believes this indicates that it is not trending towards residential. Another Finding by the Planning Commission that he questioned was that the Planning Commission concluded the conditions set with the zone change were a contract with the neighborhood. He believes that things change with time and the fact is that creating conditions such as no access on Foster should be changed when the character on Foster Avenue has changed.

Councilman Kennedy asked if the trucks that access their building would create additional traffic on Foster Avenue. Mr. Amendola responded that they would only access Foster from their curb cut on Foster to 4th Street.

Councilman Edinger asked if trucks such as Waste Management were able to make the right-hand turn onto Foster Avenue. Mr. Amendola responded that he believes Foster Avenue is wide enough to accommodate the right-hand turn onto Foster.

Julie Doty, 940 Armstrong Drive, Coeur d'Alene, expressed her concern of traffic safety for her clients when accessing their parking lot on 4th Street. She also commented that as attorneys they go to the courthouse often and they snake through the residential neighborhood to get to the Courthouse, but if access onto Foster was allowed they could go directly west on Foster. Councilman Edinger asked if the access was allowed, would the law firm be willing to sign an affidavit prohibiting employees from parking on Foster Avenue. Ms. Doty said they would be happy to.

Stan Sieczkowski, 501 E. Foster Avenue, took exception to allowing curb cuts onto Foster which he believes would allow trucks access onto Foster. He suggested that the neighborhood and owners of the building come up with a compromise solution. Councilman Edinger asked if there were a right-turn only exit onto Foster, would that resolve his issue. Mr. Sieczkowski responded that he believes that it would be an improvement.

Glenn Vaughn, 416 Foster Avenue, noted that he lives next to the subject property. He also noted that in the Planning Commission meeting minutes Mr. McCrea's response to the right-turn only condition was it would be difficult to regulate. He believes that if the use of the building were to change to a bank with 24-hour ATM it would adversely affect

the quality of the neighborhood. He noted one thing that really troubles him is that the attorneys are trying to sell the Council that the waste management truck needs to access their parking lot when they use toter bins which everyone else is required to place at the curb. He also noted that when he and Martin Stacy had tried to discuss this issue with Mr. Amendola, Mr. Amendola had told them to get off his property. He cited the comments from the Planning Commission members which indicate that there has not been enough change in this neighborhood to warrant amendments to the existing conditions set on the zone change. Councilman Kennedy asked that even if the right-turn only could not be enforced don't you think the trucks would head toward 4th Street. Mr. Vaughn said he could not respond to Councilman Kennedy's question.

Scott Wenzel, 502 E. Foster, believes that the request to amend the conditions would encroach into the residential nature of the neighborhood. He commented that if the business at this location changes, the requested access would adversely affect the neighborhood. He also noted that the existing parking lot is as wide as Foster Avenue and believes that trucks could turn around in their parking lot with minor changes to their parking pattern. He believes that you cannot compare Foster Avenue between 3rd and 4th Street to Foster Avenue east of 4th Street in that there is only one resident between 3rd and 4th Street on Foster. As for having clients cut across 4th Street to the Alert Microsystems parking lot, signage to require a right-hand turn only onto 4th Street would alleviate that concern.

Susan Snedaker, 821 Hastings, Coeur d'Alene, noted that she originally brought up the issue of lighting from this business and this was a condition of the original zone change. She noted that the different uses that are allowed in the current zoning of this size are many and could adversely affect the residential nature of the neighborhood.

Martin Stacey, 424 Foster Avenue, questioned how good is setting conditions when they can be amended. He noted that when the initial zone change was made the conditions were a collaborative effort between the neighbors and the owner of the property. He believes that this is a placid neighborhood and sees no change in the neighborhood except for improvements to existing homes and the only new construction is that of a single-family home. He believes that changing the conditions previously set would be arbitrary and capricious. He believes that there is less traffic on Foster today than in 1994. He is hoping that the Council will stay with the neighborhood on this issue.

Chris Patterson, 2108 N. 11th Street, applauded the owners of the building for looking at safety; however, when using words such as "darting and racing" across 4th street to the parking lot at Alert Microsystems, he asked what would be the difference in crossing 4th Street at Foster and crossing 4th from their driveway to Alert's parking lot. He believes the neighborhood should not be penalized because the applicant took out an encroachment permit and constructed the curb cuts prior to requesting a change to the conditions. He asked that the request to change the conditions be denied.

Steve McCrea questioned exactly how amending the conditions to the zone change would impact the neighborhood. He believes that we should not be talking about "what if's" –

such as, what if a bank moved into the building - does anyone know how many cars actually access an ATM at a bank. He believes that his clients have demonstrated that they are addressing safety concerns that exist which could be resolved by allowing a curb cut and access onto Foster Avenue. He asked the Council to approve the changes to the conditions of the zone change.

Councilman Edinger asked City Engineer Dobler, if the requested changes to the conditions of the zone change were granted, how could people be prevented from turning east onto Foster. Mr. Dobler noted that signage could be placed. Councilman Kennedy believes that compliance is questionable. City Engineer Dobler noted that the widening of the access onto Foster was at his direction because it would be impossible to restrict access to ingress only.

MOTION: Motion by McEvers, seconded by Hassell to deny the appellant's request to remove the 3 conditions to the zone change and deny locating an ingress/egress onto Foster Ave. for the building located at 701 N. 4th Street and direct staff to develop the Findings and Order and bring them back to the next Council meeting based on tonight's deliberations.

DISCUSSION: Councilman Hassell suggested that the owners remove a few parking spaces in the parking lot to allow vehicles to turn around in the parking lot. He does not believe that the conditions have changed enough to warrant amending the conditions. Councilman Edinger commented that when the original zone change was made that the Council made a commitment to the neighborhood to maintain the residential nature of the area. He said that he might have agreed with the appellants if there were a way to enforce the right-hand turn only onto Foster. Councilman Kennedy asked what would be the possible conditions for a middle-ground compromise. Deputy City Attorney Warren Wilson is not sure what the compromise would be but there is always a possibility that common ground could be found. Councilman Goodlander has a real concern about having trucks back up onto 4th Street. Councilman Kennedy commented that he believes that there are allowed uses in a C-17L zone that would not be compatible with having access onto Foster and thus will be voting for the motion to deny.

ROLL CALL: Goodlander, No; McEvers, Aye; Hassell, Aye; Kennedy, Aye; Edinger, Aye. Motion carried.

EXECUTIVE SESSION: Motion by Hassell, seconded by Kennedy to enter into Executive Session as provided by I.C. 67-2345 Subsection F: To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated; and, Subsection J: To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed.

ROOLL CALL: Edinger, Aye; Hassell, Aye; Goodlander, Aye; Kennedy, aye; McEvers, Aye. Motion carried.

The session began at 9:50 p.m. Members present were the Mayor, Council, City Administrator, and City Attorney.

Matters discussed were those of litigation and claims.

No action was taken and the City Council returned to regular session at 10:20 p.m.

ADJOURNMENT: Motion by Edinger, seconded by Hassell to recess this meeting to October 24th at 9:30 a.m. at the Coeur d'Alene Inn and then to October 25th at 9:30 a.m. at the Coeur d'Alene Inn. Motion carried.

The meeting recess at 10:20 p.m.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, CMC
City Clerk

**MINUTES OF A CONTINUED COUNCIL MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE CITY HALL
OCTOBER 24, 2007**

The Mayor and Council of the City of Coeur d'Alene met in a continued session of said Council at Holiday Inn on October 24, 2007 at 9:30 a.m., there being present upon roll call the following members:

Mayor Sandi Bloem

Ron Edinger)	Members of Council Present
Dixie Reid)	
Mike Kennedy)	
Deanna Goodlander)	
Al Hassell)	
Woody McEvers)	

CALL TO ORDER: The meeting was called to order by Mayor Bloem.

EXECUTIVE SESSION: Motion by Kennedy, seconded by Edinger to enter into Executive Session as provided by I.C. 67-2345, Subsection F: To communicate with Legal Counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated. ROLL CALL: Edinger, Aye; Hassell, Aye; Reid, Aye; Kennedy, Aye; McEvers, Aye; Goodlander, Aye. Motion carried.

The session began at 9:45 a.m. Members present were the Mayor, City Council, City Administrator, City Attorney, Deputy City Attorney, and Legal Counsel Mike Haman.

Matters discussed there those of litigation.

No action was taken and the meeting reconvened into regular session at 5:00 p.m.

ADJOURNMENT: Motion by Reid, seconded by Kennedy that, there being no further business, this meeting is adjourned. Motion carried.

Meeting concluded at 5:01 p.m.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, CMC
City Clerk

RESOLUTION NO. 07-067

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING AUTHORIZING THE DESTRUCTION OF CERTAIN PLANNING DEPARTMENT RECORDS; APPROVAL OF A MEMORANDUM OF AGREEMENT WITH GREENSTONE-KOOTENAI, INC. FOR PUD-2-05M, COEUR D' ALENE PLACE – SORBONNE ADDITION AND APPROVAL OF A GROUND LEASE AGREEMENT FOR WINTON PARK PROPERTY WITH COEUR D' ALENE SCHOOL DISTRICT 271 AND NORTHWEST BOULEVARD INVESTMENTS, LLC.

WHEREAS, it has been recommended that the City of Coeur d'Alene enter into the contract(s), agreement(s) or other actions listed below pursuant to the terms and conditions set forth in the contract(s), agreement(s) and other action(s) documents attached hereto as Exhibits "1 through 3" and by reference made a part hereof as summarized as follows:

- 1) Authorizing the destruction of certain Planning Department records;
- 2) Approval of a Memorandum of Agreement with Greenstone-Kootenai, Inc. for PUD-2-05m, Coeur d' Alene Place – Sorbonne Addition;
- 3) Approval of a Ground Lease Agreement for Winton Park Property with Coeur d' Alene School District 271 and Northwest Boulevard Investments, LLC;

AND;

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreements or other actions; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City enter into agreements or other actions for the subject matter, as set forth in substantially the form attached hereto as Exhibits "1 through 3" and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreements or other actions so long as the substantive provisions of the agreements or other actions remain intact.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such agreements or other actions on behalf of the City.

DATED this 6th day of November, 2007.

Sandi Bloem, Mayor

ATTEST

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER REID Voted _____

COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER HASSELL Voted _____

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

REQUEST FOR DESTRUCTION OF RECORDS

DEPARTMENT: Planning

Type of Record: Semi-permanent Temporary

Dates of Records: FROM: / / '92 THROUGH / / '95

Description of Records:
Public Hearing Files - Scanned into system

Type of Record: Semi-permanent Temporary

Dates of Records: FROM: / / '76 THROUGH / / '07

Description of Records:
Legals, Applications, Correspondance - Scanned into system

Type of Record: Semi-permanent Temporary

Dates of Records: FROM: / / '98 THROUGH / / 02

Description of Records:
Tapes of Planning Commission Meetings

Type of Record: Semi-permanent Temporary

Dates of Records: FROM: / / THROUGH / /

Description of Records:

CITY COUNCIL STAFF REPORT

DATE: NOVEMBER 6, 2007
TO: CITY COUNCIL
FROM: JOHN J. STAMSOS, ASSOCIATE PLANNER
SUBJECT: PUD-2-05m - MEMORANDUM OF AGREEMENT

DECISION POINT

Approve memorandum of agreement for PUD-2-05m "Coeur d'Alene Place/Sorbonne Addition"

HISTORY

The Planning Commission approved PUD-2-05m on February 13, 2007 and the Planning Department approved the Final Development Plan on July 12, 2007.

PERFORMANCE ANALYSIS

It has been past practice to memorialize the Final Development Plan, in accordance with Section 17.09.478 of the Municipal Code, by requiring a memorandum of agreement that is approved by the City Council, signed by the Mayor and property owner and recorded in the Kootenai County Recorder's Office. This request is in keeping with that procedure.

FINANCIAL ANALYSIS

There is no financial impact associated with the proposed memorandum of agreement.

QUALITY OF LIFE ANALYSIS

The memorandum of agreement will provide any future buyers of the property with information on the agreement.

DECISION POINT RECOMMENDATION

Approve the memorandum of agreement for PUD-2-5m.

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT, entered into this _____ day of _____, 2007 by and between the City of Coeur d'Alene, Kootenai County, Idaho, a municipal corporation organized and existing under the laws of the State of Idaho, hereinafter referred to as the "City," and Greenstone-Kootenai Inc., hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, the "Owner" has received approval for a Planned Unit Development, which Planned Unit Development includes certain terms, conditions and agreements, which the parties wish to memorialize as applicable to the real property to which this Planned Unit Development attaches.

NOW, THEREFORE the parties agree as follows:

1. The real property to which the below listed terms, conditions, and agreements apply particularly is described as follows:

Portions of the Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 27, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.

2. The parties agree that the following constituted agreement to which the owner, owner's heirs, assigns, and successors in interest, must comply during and after the development of the aforementioned Planned Unit Development.

- A. Preliminary Planned Unit Development Plan (PUD-2-05m) approved by Planning Commission on February 13, 2007.
- B. Final Planned Unit Development Plan (PUD-2-05m) approved by Planning Department on July 12, 2007.
- C. List of exhibits.

Exhibit 1- Final PUD Site Plan dated July 2, 2007

Exhibit 2- Final PUD Phasing Plan dated July 2, 2007

Exhibit 3- Final PUD Water and Sewer Plan dated July 2, 2007

Exhibit 4- Final PUD Details Plan dated July 2, 2007

Exhibit 5- Final PUD Landscaping Plan dated July 2, 2007

Exhibit 6- Final PUD Typical House Plan dated July 2, 2007

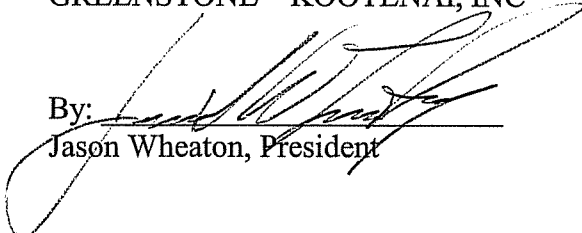
WHEREAS, said terms, conditions, and agreements are on file at City Hall in the Offices the Planning Director, and City Clerk.

IN WITNESS WHEREOF, the Mayor and City Clerk of the City of Coeur d'Alene have executed this contract on behalf of said City, the City Clerk has affixed the seal of said City hereto, and Greenstone – Kootenai, Inc., Owner, has caused the same to be executed the day and year first above written.

CITY OF COEUR D'ALENE,
KOOTENAI COUNTY, IDAHO

By: _____
Sandi Bloem, Mayor
ATTEST:

GREENSTONE – KOOTENAI, INC

By: 
Jason Wheaton, President

Susan K. Weathers, City Clerk

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of _____, 2007, before me, a Notary Public, personally appeared Sandi Bloem and Susan K. Weathers, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene and the persons who executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

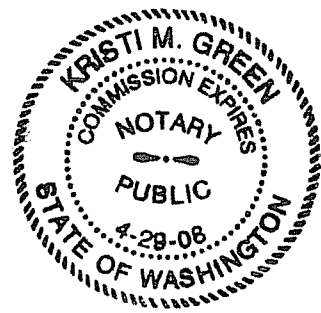
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires:

WASHINGTON
STATE OF ~~IDAHO~~)
) ss.
County of ~~Kootenai~~)
) ~~SPOKANE~~

On this 18th day of October, 2007, before me, a Notary Public, personally appeared, Greenstone-Kootenai Inc, known to me to be the Owner that executed the foregoing agreement, and acknowledged to me that said Greenstone-Kootenai Inc executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.



Kristi M. Green
Notary Public for ~~Idaho~~ washington
Residing at Coeurd'Alene, Idaho
My Commission expires: 4/29/08

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: October 8, 2007
FROM: Doug Eastwood, Parks Director
SUBJECT: WINTON LAND TRADE LEASE AGREEMENT

DECISION POINT:

Does the Parks & Recreation Commission want to enter into a six month lease agreement with Polin-Young to have access onto a parcel of land at Winton Park?

HISTORY:

This stems from a request to trade a contiguous piece of land for a piece of park land at Winton Park. We have met with the developers and the neighbors and all have discussed this trade at previous commission meetings. This is an LWCF park and therefore requires approval from the National Park Service. That is a very long and detailed process. The trade, by all appearances, will likely go through but in the interim the developer needs to access the property. This agreement would allow for that for a period of six months and by the end of the six months the land trade will hopefully have been completed.

FINANCIAL ANALYSIS:

Both pieces of property were appraised and were valued equally. The developer is paying all costs associated with the land trade resulting from surveying and other field and site work necessary for the NPS to approve the trade. Staff time is not being compensated and this is something we will want to discuss and consider for similar requests.

PERFORMANCE ANALYSIS:

The land trade does not have an impact on the park or access within the park. The land that we will ultimately receive sits on higher ground and therefore would serve a better use with regard to the park.

DECISION POINT:

Does the Parks & Recreation Commission want to recommend to City Council to enter into a six month lease agreement with Polin-Young?

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT ("Lease") is made and effective this ____ day of _____, 2007, by and between **CITY OF COEUR D'ALENE, A MUNICIPAL CORPORATION, AND COEUR D'ALENE SCHOOL DISTRICT #271, A BODY CORPORATE AND POLITIC UNDER IDAHO CODE § 33-301** (collectively "Landlord"), and **NW BOULEVARD INVESTMENTS, LLC, AN IDAHO LIMITED LIABILITY COMPANY** ("Tenant"), with reference to the following facts:

A. Landlord is the owner of certain land located in the city of Coeur d'Alene, county of Kootenai, state of Idaho, which land is more fully described in Exhibit "A" attached hereto and incorporated herein by this reference. The land described in Exhibit "A" is hereinafter referred to as Parcel B. A schematic of the property is attached as Exhibit "B".

B. Tenant desires to lease Parcel B from Landlord for the rent and term, and subject to the terms set forth in this Lease.

NOW, THEREFORE, Landlord and Tenant agree as follows:

1. **LEASE OF LAND/RIGHT OF FIRST REFUSAL.** Landlord hereby leases Parcel B to Tenant, and Tenant hereby leases Parcel B from Landlord, for the rent and term, and subject to the terms set forth in this Lease.

2. **TERM OF LEASE.**

2.1 **Original Term.** The term of this Lease shall commence on ____ day of _____, 2007 ("commencement date"), and shall continue for three hundred and sixty-five (365) days from the commencement date.

3. **RENT.** Tenant's basic rental obligation shall consist of the minimum rent described below.

3.1 **Rent.** Tenant shall pay to Landlord rent of sum of One Dollar (\$1.00) for the three hundred and sixty-five (365) day term.

3.2 **Additional Consideration.** As additional rent, the Tenant shall allow the Landlord to use the real property described in Exhibit "C" (Parcel C) for the purpose of an unimproved park.

4. **USE OF LAND.** Tenant shall use Parcel B for parking and any use related to the construction of site improvement on the adjacent property. Specifically, uses necessary to obtain a building permit from the City of Coeur d'Alene.

5. **EXCULPATION AND INDEMNITY OF LANDLORD.**

5.1 **Exculpation.** Landlord shall not be liable to Tenant for any damage to

Tenant or Tenant's property from any cause, and Tenant waives all claims against Landlord for damage to person or property arising for any reason, except that Landlord shall be liable for damage resulting from the acts or omissions of Landlord or its authorized representatives.

5.2 Indemnity. Tenant shall indemnify, defend and hold Landlord harmless from and against all claims and liabilities arising out of any damage to any person or property occurring in, on, or about Parcel B, except that Landlord shall be liable for damage resulting from the acts or omissions of Landlord or its authorized representatives. The indemnity described in this Paragraph shall be limited to the sum that exceeds the amount of insurance proceeds, if any, actually received by the injured party.

6. ASSIGNMENT/SUBORDINATION.

6.1 Voluntary Assignment, Subletting, and Encumbering by Tenant. Tenant shall not voluntarily assign or encumber its interest in this Lease or in Parcel B, or sublease all or any part of Parcel B, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of Parcel B, without first obtaining Landlord's written consent. Any assignment, encumbrance, or sublease without Landlord's prior consent shall be voidable and, at Landlord's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this Paragraph.

6.2 Assignment by Landlord. Landlord shall have the right to sell, assign, hypothecate, pledge, or otherwise transfer or encumber (collectively "transfer") all or any portion of its interest in Parcel B or this Lease, without Tenant's consent, and Tenant shall, upon notice of such transfer, execute a written amendment to this Lease acknowledging and consenting to such transfer. If the entire Parcel B is transferred, and the transferee assumes in writing all of Landlord's obligations under this Lease, Tenant agrees that Landlord shall be released from any further obligations under this Lease.

7. TENANT'S DEFAULT. The occurrence of any of the following shall constitute a default by Tenant:

7.1 Failure to pay rent when due, if the failure continues for ten (10) days after the due date;

7.2 Violation of or failure to perform any other provision of this Lease if the violation or failure to perform is not cured within twenty (20) days after notice has been given to Tenant. If the default cannot reasonably be cured within twenty (20) days, Tenant shall not be in default of this Lease if Tenant commences to cure the default within the 20-day period and diligently and in good faith continues to cure the default.

Notice as given under this Paragraph shall specify the alleged default and the applicable Lease provisions, and shall demand that Tenant perform the provisions of this Lease within the applicable period of time, or quit Parcel B. Such notice may serve both as a notice of the default under this Paragraph and as any statutory notice required as a condition precedent to an action in unlawful detainer or for damages or otherwise. No such notice shall be deemed a

forfeiture or a termination of this Lease unless Landlord so elects in the notice.

8. **LANDLORD'S RIGHT OF ENTRY.** Landlord shall have the right to enter Parcel B at all reasonable times in order to inspect Parcel B or to otherwise insure compliance with the provisions of this Lease.

9. **SURRENDER OF PREMISES.** Prior to expiration or immediately upon termination of the term, Tenant shall surrender to Landlord Parcel B (including Land and Improvements) in good condition.

10. **MISCELLANEOUS AND PROCEDURAL.**

10.1 Time of Essence. Time is of the essence of each and every provision of this Agreement.

10.2 Attorney's Fees. If legal action (including, without limitation, litigation and/or arbitration) is required or deemed necessary to enforce or interpret any of the provisions of this Agreement, the prevailing party shall be entitled to recover its costs of suit, including reasonable attorney's fees, incurred in connection therewith.

10.3 Corporate Authority. Each corporate party to this Agreement, and each individual signing on behalf of a corporate party, hereby agrees that, upon execution of this Agreement, a certified copy of a resolution of such corporation's Board of Directors authorizing the execution of this Agreement by such individual.

10.4 Governing Law; Venue and Jurisdiction. This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho. Jurisdiction and venue in any action to interpret or enforce any provisions of this Agreement shall lie, at the option of the party bringing the action, in Kootenai County, Idaho.

10.5 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provisions unenforceable, invalid, or illegal.

10.6 Waiver. No delay or omission in the exercise of any right or remedy of either party to this Agreement on any default by the other party shall impair such a right to remedy or be construed as a waiver. Either party's consent to or approval of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary the requirement of consent or approval of any subsequent act by either party.

10.7 Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail and, if mailed, shall be addressed to the other party at the appropriate address set forth below:

If to Landlord:
City of Coeur d'Alene Parks Department

Attention: Doug Eastwood
710 E. Mullan Avenue
Coeur d'Alene, Idaho 83814

Coeur d'Alene School District #271
Attention: Henry Amend
311 N. 10th Street
Coeur d'Alene, Idaho 83814

If to Tenant:
NW Boulevard Investments, LLC
Attention: Marshall Chesrown
P.O. Box 3547
Coeur d'Alene, Idaho 83816

Any such notice shall be deemed delivered upon personal delivery or within forty-eight (48) hours from the time of mailing if mailed as provided in this subparagraph.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

LANDLORD:

CITY OF COEUR D'ALENE
An Idaho municipal corporation

By _____
Its _____

COEUR D'ALENE SCHOOL DISTRICT
#271
An Idaho body corporate and politic

By _____
Its _____

TENANT:

NW BOULEVARD INVESTMENTS, LLC
an Idaho limited liability company

By Marshall Chesrown
Its Managing Member

STATE OF IDAHO)
) :ss
County of Kootenai)

On this ____ day of _____, 2007, before me, _____,
a Notary Public in and for the State of Idaho, personally appeared _____,
known or identified to me to be the _____ of the City of Coeur
d'Alene that executed this instrument or the person who executed the instrument on behalf of said
corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public for Idaho
Residing at _____
Commission expires _____

STATE OF IDAHO)
) :ss
County of Kootenai)

On this ____ day of _____, 2007, before me, _____,
a Notary Public in and for the State of Idaho, personally appeared _____,
known or identified to me to be the _____ of the Coeur d'Alene
School District #271 that executed this instrument or the person who executed the instrument on
behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public for Idaho
Residing at _____
Commission expires _____

STATE OF IDAHO)
 :SS
County of Kootenai)

On this _____ day of _____, 2007, before me, _____,
a Notary Public in and for the State of Idaho, personally appeared MARSHALL CHESROWN
known or identified to me to be the Managing Member of NW Boulevard Investment, LLC that
executed this instrument or the person who executed the instrument on behalf of said corporation
and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public for Idaho
Residing at _____
Commission expires _____

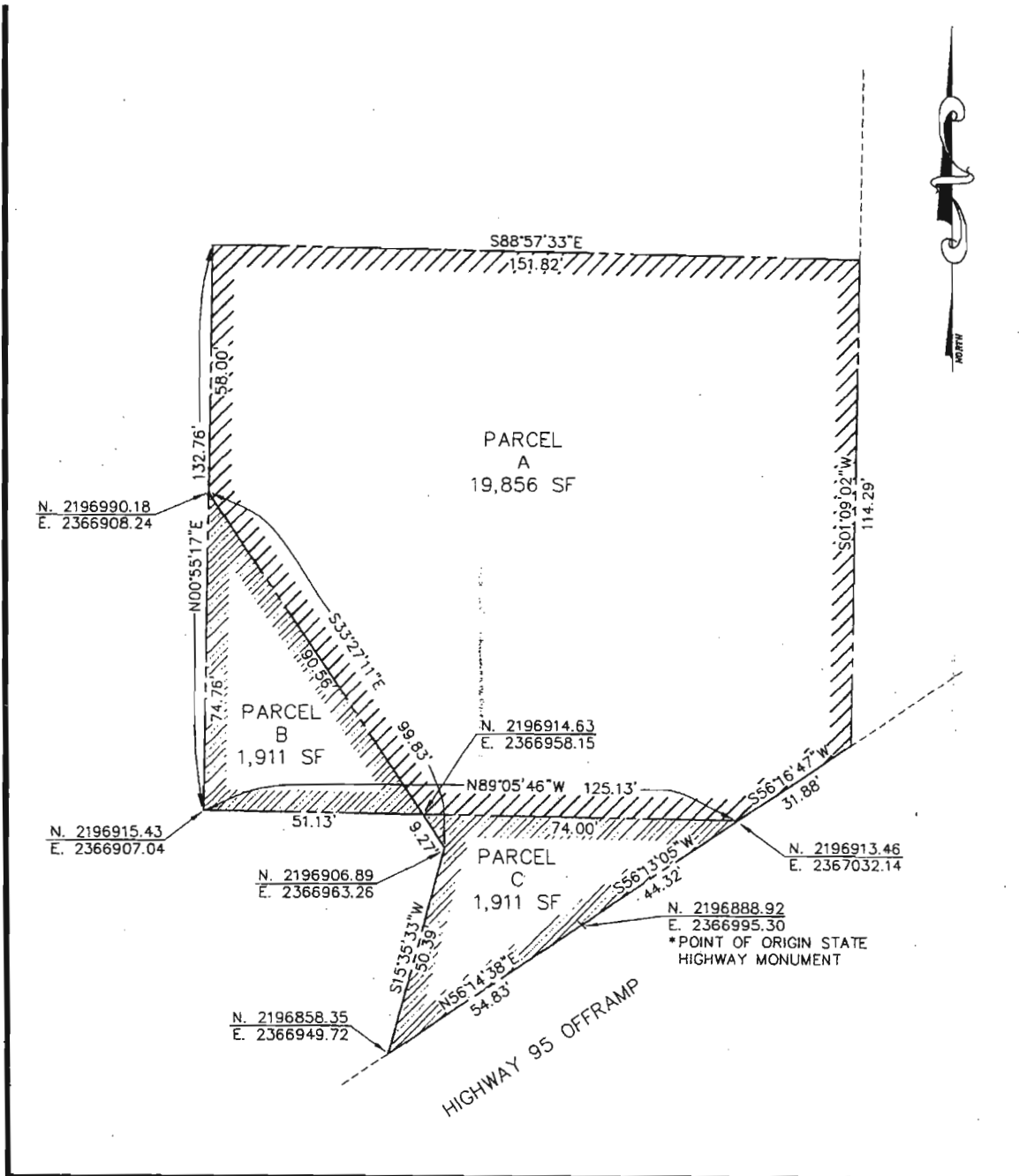
EXHIBIT "A"

LEGAL DESCRIPTION
NORTHWEST PLACE-CITY OF COEUR D'ALENE EXCHANGE
PARCEL B
(EXISTING CITY PARCEL)

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 50 NORTH,
RANGE 4 WEST, B.M., COEUR D' ALENE, KOOTENAI COUNTY, IDAHO, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 11;
THENCE N 13°48'29" E, 681.57 FEET TO A FOUND 5/8" REBAR BEING AN ANGLE POINT
ON THE BOUNDARY LINE OF THE PLAT OF PINES RESORT SUBDIVISION, BOOK I,
PAGE 8, RECORDS OF KOOTENAI COUNTY, SAID REBAR ALSO BEING THE TRUE
POINT OF BEGINNING FOR THIS DESCRIPTION;
THENCE ALONG THE SAID BOUNDARY LINE OF SAID PLAT, N 00°55'17" E, 74.76 FEET;
THENCE LEAVING THE SAID BOUNDARY LINE, S 33°27'11" E, 90.56 FEET TO A POINT
ON THE NORTHERLY BOUNDARY LINE OF THE PARCEL SHOWN ON RECORD OF
SURVEY, BOOK 22, PAGE 472, RECORDS OF KOOTENAI COUNTY;
THENCE ALONG THE SAID NORTHERLY BOUNDARY LINE, N 89°05'46" W, 51.13 FEET
TO THE TRUE POINT OF BEGINNING; CONTAINING APPROXIMATELY 1911 S.F., MORE
OR LESS.

EXHIBIT "B"




TITLE:		NORTHWEST PLACE CITY OF COEUR D'ALENE EXCHANGE GRID COORDINATES		FRAME & SMETANA, PA Consulting Engineers 603 North 4th Street, Coeur d'Alene, Idaho, 83814 Ph. (208)684-2121/Fax: 765-5502/ Email: smetana@adephix.net	 SHEET 1 OF 1
SCALE:	DATE:	FILE:	1"=30' 6/27/07 C340X-EXHIBIT		

EXHIBIT "C"

LEGAL DESCRIPTION
NORTHWEST PLACE-CITY OF COEUR D'ALENE EXCHANGE
PARCEL C
(UNUSED PORTION OF SITE PLAN)

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 50 NORTH, RANGE 4 WEST, B.M., COEUR D' ALENE, KOOTENAI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 11;
THENCE N 21°33'21" E, 683.02 FEET TO A FOUND RIGHT-OF-WAY MONUMENT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE HIGHWAY 95 OFFRAMP TO NORTHWEST BOULEVARD AS SHOWN ON THE PLAT OF PINES RESORT SUBDIVISION, BOOK I, PAGE 8, RECORDS OF KOOTENAI COUNTY, SAID MONUMENT ALSO BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;
THENCE ALONG THE SAID NORTHWESTERLY RIGHT-OF-WAY LINE, S 56°14'38" W, 54.83 FEET;
THENCE LEAVING THE SAID NORTHWESTERLY RIGHT-OF-WAY LINE, N 15°35'33" W, 50.39;
THENCE N 33°27'11" W, 9.27 FEET TO THE NORTHERLY BOUNDARY LINE OF THE PARCEL SHOWN ON RECORD OF SURVEY, BOOK 22, PAGE 472, RECORDS OF KOOTENAI COUNTY;
THENCE ALONG SAID NORTHERLY BOUNDARY LINE, S 89°05'46" E, 74.00 FEET TO A FOUND 5/8" REBAR #4182 AND THE SAID NORTHWESTERLY RIGHT-OF-WAY LINE;
THENCE ALONG THE SAID NORTHWESTERLY RIGHT-OF-WAY LINE, S 56°13'05" W, 44.32 FEET TO THE TRUE POINT OF BEGINNING; CONTAINING APPROXIMATELY 1911 S.F., MORE OR LESS.

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: October 8, 2007

FROM: Monte McCully, Trails Coordinator

SUBJECT: ATLAS TRAIL EXTENSION PROJECT

DECISION POINT:

Recommend approving an additional cost of \$14,000 so we can enter into an agreement with JUB Engineering for the design of the Atlas Trail Extension.

HISTORY:

The Atlas Trail is a class one pedestrian bike trail which runs from just north of Kathleen Avenue to its terminus just north of the I-90 overpass on Atlas Road. The Atlas Trail Extension is a project designed to connect the existing Atlas Trail with Seltice Way including a ramp that will connect the Atlas Trail to the existing Centennial Trail just south under the I-90 overpass. The Project will be in the Highway Development Program for construction in 2010.

FINANCIAL ANALYSIS:

JUB Engineering submitted a final negotiated fee to design the project for \$109,000. This amount is \$14,000 over the STIP budget of \$95,000. The increase in cost came from increase in the cost of materials over the time it has been since we applied for the grant. The Cities portion of the cost is approximately \$21,000. The total cost for the Project is \$555,000. The State will pay for \$500,000 and the Cities match for the project will be \$55,000 and any costs of the project over the \$500,000 federal aid limit. The matching fund grant is 90/9.91, with 9.91% of the project cost coming from the City. The City Council previously set aside \$10,000 for ITD. Our portion of the cost will come from the Bike Path Line Item in the Parks Capital Improvement Fund.

PERFORMANCE ANALYSIS:

The construction of this segment of the Atlas Trail will remove pedestrians and bicyclists along this 1/3 of a mile stretch of shared roadway from the high volume of vehicle traffic, especially under the I-90 overpass where the road narrows and ped/bike use enters the roadway. The route will then be safer and more enjoyable.

DECISION POINT/RECOMMENDATION:

Recommend approving an additional cost of \$14,000 so we can enter into an agreement with JUB Engineering for the design of the Atlas Trail Extension.

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: October 8, 2007

FROM: Doug Eastwood, Parks Director

SUBJECT: PARK USE FEES INCREASE

DECISION POINT:

Recommend to General Services to adopt the attached fee schedule and to forward recommendation on to City Council to set a public hearing date in December.

HISTORY:

Park use fees were amended in 1998 with an occasional adjustment for specific uses. The parks master plan is being updated this year and several revenue ideas are being looked at including the current fee structure. The Master Plan Advisory Committee has reviewed this part of the plan and sends this one forward for implementation prior to the New Year.

FINANCIAL ANALYSIS:

City code required a public hearing whenever fees are raised more than five percent. The attached fee schedule identifies current fees and proposed fee changes. Additionally, there are new fees for items for specific uses. The fees collected go into the Parks Capital Improvement Fund to pay for the coverage of an event and to help offset capital improvements due to long term wear and tear on the facilities.

PERFORMANCE ANALYSIS:

All of our parks receive requests for reservations for special events; some of the parks are booked every weekend all summer long. Our picnic shelters have the majority of reservations. All parks and facility reservations have increased steadily year by year. The reservations are not always with local residents; over 20% of the reservations are out-of-state.

DECISION POINT:

Forward attached fee schedule with recommendation for approval and adoption prior to the first of the New Year.

Coeur d'Alene Park Fees

October 8, 2007

DAILY PARK FEES	<u>CURRENT</u>	<u>PROPOSED</u>
City Park Gazebo	\$ 50.00	<i>delete</i>
Other Park Gazebos	\$ 40.00	<i>delete</i>
Gazebo (<i>Idaho Residents</i>)		\$ 75.00
Gazebo (<i>Out-of-State Residents</i>)		\$ 100.00
City Park Bandshell	\$ 50.00	\$ 100.00
Riverstone Amphitheatre	\$ 100.00	\$ 100.00
Riverstone Chair Rental (<i>per 25 chairs</i>)		\$ 30.00
Monitoring (<i>per hour of event</i>)	\$ 20.00	\$ 20.00
Deposit	\$ 100.00	\$ 250.00
Centennial Trail Permit Deposit		\$ 500.00
Non-Food Booth which is part of an event (<i>not to exceed 10'x10'</i>)	\$ 25.00	\$ 25.00
Food Booth, Cart or Stand which is part of an event (<i>not to exceed 10'x20'</i>)	\$ 50.00	\$ 50.00
Table Use (<i>per table</i>)	\$ 10.00	<i>delete</i>
Bleachers (<i>per bleacher</i>)	\$ 100.00	<i>delete</i>
Volleyball / Key Deposit	\$ 20.00	\$ 50.00

PARK FEES - LARGE EVENTS

Fees for park use:		
1. 200-500 persons	\$ 200.00	\$ 400.00
2. 501-1500 persons	\$ 400.00	\$ 800.00
3. Bond	\$ 3,000.00	\$ 3,000.00
4. Liability Insurance	\$ 500,000.00	\$ 500,000.00

RIVERSTONE ALCOHOL PERMIT FEES

Riverstone Alcohol Permit		\$ 300.00
Riverstone Alcohol Security Permit - <i>No Sales</i> (<i>\$16.67 per hour - 3 hour minimum</i>)		\$ 50.00
Riverstone Alcohol Security Permit - <i>With Sales</i> (<i>\$33.33 per hour - 3 hour minimum</i>)		\$ 100.00
Riverstone Alcohol Security Permit - <i>No Sales</i> (Holiday) (<i>\$23.33 per hour - 6 hour minimum</i>)		\$ 140.00
Riverstone Alcohol Security Permit - <i>Sales</i> (Holiday) (<i>\$46.67 per hour - 6 hour minimum</i>)		\$ 280.00

RESTRICTED USE FEE

Activity That Restricts Normal Use (<i>per day</i>)	\$ 500.00	\$ 1,000.00
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TREE REPLACEMENT FEES

Tree Replacement / In-Lieu Fee	\$ 200.00	\$ 300.00
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RECREATION DEPARTMENT FEES

Sports Tournament Fee (<i>per team</i>)	\$ 20.00	\$ 20.00
Sports Tournament Deposit		\$ 75.00
Light Rental (<i>per hour</i>)	\$ 30.00	\$ 30.00

Weekday Bandshell: 11:00 a.m. - 2:00 p.m.	\$ 25.00	<i>delete</i>
<ol style="list-style-type: none"> 1. Excludes holidays 2. Not to exceed 50 persons 3. No booths or carts 		

"Grandfathered" No Fees

1. Annual Easter Egg Hunt in City Park		<i>no change</i>
2. Mother's Day Concert at Bandshell		<i>no change</i>
3. Bleacher use for Fourth of July Parade		<i>no change</i>

**GENERAL SERVICES COMMITTEE
STAFF REPORT**

DATE: October 22, 2007
FROM: Doug Eastwood, Parks Director
SUBJECT: CEMETERY FEES INCREASE

DECISION POINT:

Forward a recommendation to the City Council to set a public hearing date for Cemetery Fees Increase on December 4, 2007.

HISTORY:

We have not adjusted the cemetery fees since 2003. Forest and Riverview cemeteries have full burial lots, cremain lots and cremain niches. We provide lot showings and opening and closing with set up of the lots and cremain sites.

FINANCIAL ANALYSIS:

Fifty percent of all lot and cremain niches sales go to the perpetual care fund. All other fees go to the daily operation of the cemetery. The cemetery is a special fund and is required to do the best it can to pay its own way with minimal general fund assistance. With the proposed increases we are still slightly below other comparable municipal cemeteries in the region; Lewiston's Normal Hill and Spokane's Riverside cemetery. Cost comparison is also attached.

PERFORMANCE ANALYSIS:

The Forest Cemetery Advisory Board is currently reviewing upgrades to the cemetery and will be bringing those recommendations forward after the first of the year. This is being evaluated as a result of a need for additional cremain niches in both Forest and Riverview Cemeteries. The fee increases will not offset the improvements, however the revenues generated from the improvements can pay for they changes. That review has lead to an evaluation of all current fees. Cemetery Board recommended fee adoption at their September meeting.

DECISION POINT:

Forward a recommendation to the City Council to set a public hearing date for Cemetery Fees Increase on December 4, 2007.

CEMETERY COSTS COMPARISON

October 2006

Municipal Cemeteries

Normal Hill	
Lewiston	
Full Lots	593 + 569 (PC) = \$1,162
Cremain Lots	157 + 157 (PC) = \$314
Infant Lots	157 + 157 (PC) = \$314
Niches	(Sgl) 538 + 496 (PC) (Dbl) 720 + 1040 (PC)
Liners / Vaults	?
<u>Services</u>	
Full O&C - Weekday	\$693
Full O&C - Weekend & OT	\$799
CRE O&C - Weekday	\$410 / \$471
CRE O&C - Weekend & OT	\$577

Other Cemeteries

Riverside Greenwood	
Spokane	
Full Lots	\$1,188
Cremain Lots	?
Infant Lots	\$436 (Pkg includes lot, vault, marker & OC)
Niches	\$2,700 - \$5,200 (Holds 2 cremains-price varies depending on location, includes engraving & vase)
Liners / Vaults	\$462 / \$630
<u>Services</u>	
Full O&C - Weekday	\$610 (Mon-Sat)
Full O&C - Weekend & OT	(Little more on Sun)
CRE O&C - Weekday	\$220 (Mon-Sat)
CRE O&C - Weekend & OT	\$300 (Sun)

Coeur d'Alene Cemetery Fees

September 24, 2007

<u>CEMETERY LOTS</u>	<u>CURRENT</u>	<u>PROPOSED</u>
Adult – Raised Headstone	\$ 650.00	\$ 800.00
Adult – Flat Headstone	\$ 500.00	\$ 650.00
Infant	\$ 100.00	\$ 200.00
Cremain	\$ 300.00	\$ 400.00
Cremain With Tree	\$ 500.00	\$ 800.00
V.F.W. Double Depth (Section B)	\$ 225.00	\$ 225.00
American Legion (Section A)	\$ 50.00	\$ 50.00
 <u>NICHE</u>		
Single	\$ 450.00	\$ 600.00
Companion	\$ 900.00	\$ 1,500.00
Replacement Door	\$ 100.00	n/a
Replacement Door - Single	n/a	\$ 100.00
Replacement Door - Double	n/a	\$ 200.00
 <u>OPENING & CLOSING - FULL</u>		
Adult - Weekday (to 3:00pm)	\$ 300.00	\$ 350.00
Adult - Weekday (after 3:00pm)	\$ 400.00	\$ 450.00
Adult - Saturday	\$ 400.00	\$ 450.00
Infant - Weekday (to 3:00pm)	\$ 175.00	\$ 225.00
Infant - Weekday (after 3:00pm)	\$ 225.00	\$ 275.00
Infant - Saturday	\$ 225.00	\$ 275.00
 <u>OPENING & CLOSING - CREMAIN</u>		
No Attendance - Weekday	\$ 75.00	\$ 150.00
With Attendance - Weekday (to 3:00pm)	\$ 100.00	\$ 200.00
With Attendance - Weekday (after 3:00pm)	\$ 150.00	\$ 250.00
With Attendance - Saturday	\$ 150.00	\$ 250.00
 <u>OPENING & CLOSING - DOUBLE DEPTH (V.F.W. Section Only)</u>		
Bottom - Weekday (to 3:00pm)	\$ 500.00	\$ 600.00
Bottom - Weekday (after 3:00pm)	\$ 600.00	\$ 700.00
Bottom - Saturday	\$ 600.00	\$ 700.00
Top - Weekday (to 3:00pm)	\$ 300.00	\$ 400.00
Top - Weekday (after 3:00pm)	\$ 400.00	\$ 500.00
Top - Saturday	\$ 400.00	\$ 500.00
Double-Depth Liner Delivery	\$ 175.00	\$ 200.00
 <u>OTHER</u>		
Door Removal for Nameplate or Inscription	\$ 30.00	\$ 80.00
Stone Inspection	\$ 30.00	\$ 80.00
Deed Transfer / Lot Repurchase	\$ 40.00	\$ 40.00
Niche Nameplate	\$ 125.00	\$ 150.00
Liner	\$ 350.00	\$ 350.00
Placement of Secondary or Memorial Headstone	n/a	\$ 250.00

Niche vases must be approved by Cemetery

NO SERVICES ON SUNDAYS AND HOLIDAYS

EXCEPTIONS:
 President's Day
 Labor Day
 Veterans Day
 Day after Thanksgiving
 By order of Health Department

CEMETERY LOT TRANSFER/SALE/REPURCHASE PROCEDURE AND ROUTING SLIP

Request received by: Municipal Services Kathy Lewis 09/26/07
Department Name / Employee Name / Date
Request made by: Sally Miles 772-0502
Name / Phone
401 West Dakota Avenue Hayden ID 83835
Address

The request is for: / / Repurchase of Lot(s)
 Transfer of Lot(s) from W.J. Trueblood to Donna Landes

Niche(s): _____
Lot(s): 33, _____, _____, _____, _____, _____ Block: 44 Section: E

Lot(s) are located in / / Forest Cemetery / / Forest Cemetery Annex (Riverview).

Copy of / / Deed or / / Certificate of Sale must be attached.

Person making request is / / Owner / / Executor* / Other* daughter

*If "executor" or "other", affidaviats of authorization must be attached.

Title transfer fee (\$ _____) attached**.

**Request will not be processed without receipt of fee. Cashier Receipt No.: _____

ACCOUNTING DEPARTMENT Shall complete the following:

Attach copy of original contract.

Shere Arnold
Accountant Signature

CEMETERY SUPERVISOR shall complete the following:

1. The above-referenced Lot(s) is/are certified to be vacant: / / Yes / / No
2. The owner of record of the Lot(s) in the Cemtery Book of Deeds is listed as:

3. The purchase price of the Lot(s) when sold to the owner of record was \$ _____ per lot.

RDE 10/2/07
Supervisor's Init. Date

LEGAL/RECORDS shall complete the following:

1. Quit Claim Deed(s) received: / / Yes / / No.

Person making request is authorized to execute the claim: MCG 10/8/07
Attorney Init. Date

I certify that all requirements for the transfer/sale/repurchase of cemetery lot(s) have been met and recommend that that transaction be completed.

Susan K. Weathers 10/30/07
City Clerk's Signature Date

COUNCIL ACTION

Council approved transfer/sale/repurchase of above-referenced Lot(s) in regular session on: _____
Mo./ Day /Yr.

CEMETERY SUPERVISOR shall complete the following:

Change of ownership noted/recorded in the Book of Deeds: / / Yes / / No
Cemetery copy filed / /; original and support documents returned to City Clerk / /

Cemetery Supervisor's Signature Date

Distribution: Original to City Clerk
Yellow copy Finance Dept.
Pink copy to Cemetery Dept.

CEMETERY LOT TRANSFER/SALE/REPURCHASE PROCEDURE AND ROUTING SLIP

Request received by: Municipal Services / Kathy Lewis / 9/26/07
Department Name / Employee Name / Date
Request made by: Sally Miles / 712-0502
Name / Phone
401 West Dakota Avenue / Hayden ID 83835
Address

The request is for: Repurchase of Lot(s)
 Transfer of Lot(s) from WJ Trueblood to Sally Miles
to William G. Mile

Niche(s): _____
Lot(s): 34, 35, _____, _____, _____, _____. Block: 44 Section: E

Lot(s) are located in Forest Cemetery Forest Cemetery Annex (Riverview).
Copy of Deed or Certificate of Sale must be attached.

Person making request is Owner Executor* Other* daughter

*If "executor" or "other", affidaviats of authorization must be attached.

Title transfer fee (\$ 40) attached**.
**Request will not be processed without receipt of fee. Cashier Receipt No.: 307728

ACCOUNTING DEPARTMENT Shall complete the following:

Attach copy of original contract.

Sheri Arnold
Accountant Signature

CEMETERY SUPERVISOR shall complete the following:

- 1. The above-referenced Lot(s) is/are certified to be vacant: Yes No
- 2. The owner of record of the Lot(s) in the Cemtery Book of Deeds is listed as:
- 3. The purchase price of the Lot(s) when sold to the owner of record was \$ _____ per lot.

RDE / 10/8/07
Supervisor's Init. / Date

LEGAL/RECORDS shall complete the following:

- 1. Quit Claim Deed(s) received: Yes No.
- Person making request is authorized to execute the claim: MGG / 10/8/07
Attorney Init. / Date

I certify that all requirements for the transfer/sale/repurchase of cemetery lot(s) have been met and recommend that that transaction be completed.

Susan K. Weathers / 10/30/07
City Clerk's Signature / Date

COUNCIL ACTION

Council approved transfer/sale/repurchase of above-referenced Lot(s) in regular session on: _____ Mo./ Day /Yr.

CEMETERY SUPERVISOR shall complete the following:

Change of ownership noted/recorded in the Book of Deeds: Yes No
Cemetery copy filed ; original and support documents returned to City Clerk

Cemetery Supervisor's Signature / Date

Distribution: Original to City Clerk
Yellow copy Finance Dept.
Pink copy to Cemetery Dept.

CEMETERY LOT TRANSFER/SALE/REPURCHASE PROCEDURE AND ROUTING SLIP

Request received by: Municipal Services Kathy Lewis 10/16/07
Department Name / Employee Name / Date
Request made by: Cara Lynne Ann Finney 714 402-6770
Name / Phone
PO Box 2764 Anaheim CA 92814
Address

The request is for: Repurchase of Lot(s)
 / Transfer of Lot(s) from _____ to _____

Niche(s): CRE, _____
Lot(s): 075, _____, _____, _____, _____. Block: F Section: RIV

Lot(s) are located in / / Forest Cemetery Forest Cemetery Annex (Riverview).
Copy of Deed or / / Certificate of Sale must be attached.
Person making request is Owner / / Executor* / / Other* _____

*If "executor" or "other", affidavits of authorization must be attached.

Title transfer fee (\$ N/A) attached**.
**Request will not be processed without receipt of fee. Cashier Receipt No.: _____

ACCOUNTING DEPARTMENT Shall complete the following:

Attach copy of original contract.

Vonnie J Jensen
Accountant Signature

CEMETERY SUPERVISOR shall complete the following:

- 1. The above-referenced Lot(s) is/are certified to be vacant: / / Yes / / No
- 2. The owner of record of the Lot(s) in the Cemetery Book of Deeds is listed as:

- 3. The purchase price of the Lot(s) when sold to the owner of record was \$ 300.00 per lot.

RDE 10/16/07
Supervisor's Init. Date

LEGAL/RECORDS shall complete the following:

- 1. Quit Claim Deed(s) received: Yes / / No.
- Person making request is authorized to execute the claim: _____ 16-16-07
Attorney Init. Date

I certify that all requirements for the transfer/sale/repurchase of cemetery lot(s) have been met and recommend that that transaction be completed.

Susan K Weather 10-16-07
City Clerk's Signature Date

COUNCIL ACTION

Council approved transfer/sale/repurchase of above-referenced Lot(s) in regular session on: _____
Mo./ Day /Yr.

CEMETERY SUPERVISOR shall complete the following:

Change of ownership noted/recorded in the Book of Deeds: / / Yes / / No
Cemetery copy filed / /; original and support documents returned to City Clerk / /

Cemetery Supervisor's Signature Date

Distribution: Original to City Clerk
Yellow copy Finance Dept.
Pink copy to Cemetery Dept.

**COEUR D'ALENE CITY COUNCIL
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the City Council on October 16, 2007, and there being present a person requesting approval of ITEM ZC-2-94m, a request for removal or modification of conditions one, two and four of Zone Change ZC-2-94 in the C-17L (Commercial Limited at 17 units/acre) zoning district.

LOCATION: +/- 15,769 sq. ft. parcel at 702 North 4th Street

APPLICANT: Amendola, Anderson & Doty, PLLC

**B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA,
STANDARDS AND FACTS
RELIED UPON**

B1. That the existing land uses are residential - single-family, duplex and multi-family, commercial – retail sales, civic and vacant land.

B2. That the Comprehensive Plan Map designation is Stable Established

B3. That the zoning is C-17L (Commercial Limited at 17 units/acre)

B4. That the notice of public hearing was published on September 29, 2007, and October 9, 2007, which fulfills the proper legal requirement.

B5. That the notice of public hearing was posted on the property on October 8, 2007, which fulfills the proper legal requirement.

B6. That 66 notices of public hearing were mailed to all property owners of record within three hundred feet of the subject property on September 28, 2007, and 20 responses were received: 5 in favor, 12 opposed, and 3 neutral.

B7. That public testimony was heard on October 16, 2007 including:

John Stamsos, Associate Planner.

Mr. Stamsos reported that the applicants, Amendola, Anderson and Doty PLLC and 4th Street LLC are requesting removal or modification of conditions one (1), two (2) and four (4) for Zone Change LZC-2-94 in the C-17L zoning district pertaining to access from the existing parking lot to Foster Avenue and buffering of said parking lot along Foster Avenue. He noted that the conditions being requested to be removed are:

1. Provide a six (6') foot sight obscuring fence on the east and north ends of the property and along the frontage of Lot 3 together with a solid, dense vegetative screen, including a minimum of five (5) columnar deciduous trees 2" or more in caliper, planted at a distance between centers as determined by the Urban Forestry Committee.
2. Restrict Lot 3 so as not to allow a curb cut.
3. Restrict signage to 4th Street only.

On August 20, 2007 the Planning Commission voted to deny the request to remove these conditions by a vote of 4 to 0. However, the Planning Commission did approve clarifying condition 3 to reflect the original intent of restricting illuminated signs to 4th street. On August 24, 2007, an appeal of the Planning Commission's decision was filed with the City by the applicant.

Mr. Stamos reported that on September 28, 2007, 66 notices of tonight's public hearing were mailed with a total of 20 responses being received - 5 in favor, 12 opposed and 3 neutral. Written comments were distributed for Council review.

Steve McCrea, 507 W. Lakeshore Drive.

Mr. McCrea testified that of the three requests for amendment, the Planning Commission approved the non-illuminated sign on Foster and that the main issue is the request for a curb cut on Foster. Mr. McCrea further testified that he believes that the request for the removal of conditions is to address the safety issues created by traffic flow. There is only one constricted access into the parking lot for the subject property causing large garbage trucks and trucks from their shredding company to back into the parking lot from 4th street. Also people are cutting across 4th street to go south or west because 4th street is one way north. He noted that the City is going to add access onto Foster for the Fire Administration Building between 3rd and 4th Streets. He also noted that by adding access onto Foster the customers to his client's building can continue west once they leave the building. He also believes that by adding the Foster Avenue access it will allow employees and customers to park in the lot and be able to drive west on Foster without cutting across 4th street. This will also eliminate parking on Foster Avenue because people are now parking on the Foster if they need to drive west. He commented that by adding this access onto Foster it would have very minimal impact of traffic onto Foster Avenue. In response to a question from Councilman Kennedy, Mr. McCrea indicated that he believes that parking on Foster Avenue west of the proposed access could be eliminated if the curb cut was allowed. Steve McCrea questioned exactly how amending the conditions to the zone change would impact the neighborhood. He believes that we should not be talking about "what if's" – such as, what if a bank moved into the building - does anyone know how many cars actually access an ATM at a bank. He believes that his clients have demonstrated that they are addressing safety concerns that exist which could be resolved by allowing a curb cut and access onto Foster Avenue. He asked the Council to approve the changes to the conditions of the zone change.

Clayton Anderson, 10021 N. McCoy Road, Newman Lake Washington.

Mr. Anderson testified that, even if the City had not issued an encroachment permit and subsequent stop work order, they would have needed to go through this process to amend the conditions on the zone change. He further testified regarding safety concerns with drivers being forced to back into traffic on 4th street in order to exit the parking lot. He also testified that the applicant could ask their staff and customers to not exit onto Foster and then drive through the neighborhood to the east. Mr. Anderson testified that the applicant has responded to neighborhood concerns regarding parking lot lighting and screening of trash cans and that they will continue to be good neighbors. He promised the neighbors that if this curb cut causes any adverse effects on Foster Avenue he would pay to replace the curbing and fencing.

Gary Amendola, 3852 Palmer Drive, Coeur d'Alene.

Mr. Amendola questioned the Planning Commission finding a trend towards residential development in the area based on one commercial project being stopped. However, 2 ½ blocks east and just south is the Social Security Administration Building that has curb cuts and Stepping Stones Day Care is being converted to 6 - 8 businesses housed in that structure. Another Finding by the Planning Commission that he questioned was that the Planning Commission concluded the conditions set with the zone change were a "contract" with the neighborhood. He testified that planning and zoning is not that inflexible and must change with the times. He noted that none of the Cities studies indicated that there would be any negative impacts on the neighborhood. He further testified that the curb cut, if allowed, would result in a very nominal increase in truck traffic coming out of the parking lot and returning to 4th street.

Julie Doty, 940 Armstrong Drive, Coeur d'Alene.

Ms. Doty testified of her concern about the safety of her clients when leaving their parking lot onto 4th and shooting across the street into a parking lot across 4th in order to drive west on Foster. She also commented that as attorneys they go to the courthouse often and must snake through the residential neighborhood to get to the courthouse because they cannot exit directly onto Foster and drive directly to the courthouse. She further testified that their employees often park on Foster so that they can drive directly to the courthouse on Foster. Ms. Doty indicated that they would agree to require their employees to not park on Foster if the curb cut was allowed.

Stan Sieczkowski, 501 E. Foster Avenue.

Mr. Sieczkowski testified in opposition to allowing the curb cut onto Foster because he believes it would allow trucks access onto Foster. He has lived on Foster for some time and has noted significant truck traffic on Foster and thinks any increase would be too much. He suggested that the neighborhood and owners of the building come up with a

compromise solution. He also felt that having the exit onto Foster as a right turn only would help.

Glenn Vaughn, 416 Foster Avenue.

Mr. Vaughn noted that he lives next to the subject property and that a right-turn only condition would be difficult to regulate. He believes that if the use of the building were to change to a bank with 24-hour ATM and there was an exit onto Foster that it would adversely affect the quality of the neighborhood. He further testified that they use wheeled carts for their trash, which could be wheeled to the curb for pick up. He also noted that when he and Martin Stacy tried to discuss this issue with Mr. Amendola, they were told to leave the property.

Scott Wenzel, 502 E. Foster.

Mr. Wenzel believes that the request to amend the conditions would encroach into the residential nature of the neighborhood. He commented that the traffic studies do not take into account a possible change in the business. The building was previously a credit union and if it became a bank, the requested access would adversely affect the neighborhood with traffic and noise. He also noted that the existing parking lot is as wide as Foster Avenue and believes that trucks could turn around in their parking lot with minor changes to their parking pattern.

Susan Snedaker, 821 Hastings, Coeur d'Alene.

Ms. Snedaker testified that she attended the original hearing when this property was given commercial zoning in 1994 and that the City's comprehensive plan, specifically policy 51A5 is intended to protect stable established residential neighborhoods from the intrusion of incompatible land uses and their effects.

Martin Stacey, 424 Foster Avenue.

Mr. Stacey testified that when the initial zone change was made the conditions were a collaborative effort between the neighbors and the owner of the property. He believes that this is a placid neighborhood and sees no change in the neighborhood except for improvements to existing homes. He testified that there hasn't been enough of a change to warrant changing the conditions. In fact he feels that there is less traffic today than there was in 1994.

Chris Patterson, 2108 N. 11th Street.

Mr. Patterson testified that there is little difference between crossing 4th Street at Foster and crossing 4th from their driveway to the parking lot across the street. If the curb cut was allowed trucks could enter the parking lot from Foster, which could increase the truck traffic on Foster.

Gordon Dobler, City Engineer.

Mr. Dobler indicated that right turn only signs could be placed on any exit onto Foster Avenue but it is difficult to enforce and compliance is probably less than 50%.

B8. That this proposal **is not** in conformance with the Comprehensive Plan policies.

We find that the proposal is not in conformance with the Comprehensive Plan. The Comprehensive Plan's designation for the subject property is stable established. One of the goals of a stable established area is to discourage uses that are detrimental to neighboring uses. Here the long term residential uses directly abut a commercially zoned property that could be incompatible with the residential neighborhood. In order to protect the residential neighborhood, conditions were placed on the initial zone change in 1994. The primary concern of this request is the limitation on vehicular access from the property directly onto Foster Avenue and the required fencing on the property along Foster Avenue to screen the parking lot from the neighbors.¹ The applicant's base their request on safety concerns about the only access to their parking lot on 4th Street and argue that any increased impact to the residential neighborhood would be negligible. The majority of the parties who spoke in opposition to the request, feel that the proposed changes will negatively impact their neighborhood by allowing additional traffic and the related noise to encroach into this stable established neighborhood. We heard testimony that prior to the applicant's moving into the subject property that it housed a credit union, which is an allowed use in this zone. As such, it is entirely plausible that this type of financial institution or other allowed used may once again occupy this location. Many of the allowed uses in this zone would create impacts above those poised by the applicants business. Given that, and the fact that we think that the safety issues identified can be addressed through either changes to the layout of the parking lots to accommodate turning vehicles around or operational changes, such as wheeling the garbage to the curb, we find that this request is not in conformance with the Comprehensive Plan. Specific polices that are relied on in reaching this conclusion are: 4C (New growth should enhance the quality and character of existing areas * * *), 51A (Protect and preserve neighborhoods both old and new.), 51A5 (Residential neighborhood land uses should be protected from intrusion of incompatible land uses and their effects.).

B9. That public facilities and utilities **are** available and adequate for the proposed use.

Because this is a request to amend conditions relating to the decision to rezone this parcel in 1994 and because those conditions do not address public facilities and utilities, this finding is largely irrelvant to this request. The staff report indicates that there are not

¹ The applicant's have also sought clarification of a condition regarding signage on Foster Ave. In 1994, the Planning Commission placed a condition on the zone change request that restricted illuminated signage to 4th street only. The adopted minutes of the May 17, 1994 City Council meeting indicates that the Council adopted this finding. However, due to a scrivener's error, the Findings adopted by the Council indicate that all signage was restricted to 4th Street. When the Planning and Zoning Commission addressed this request, they denied the application but restated the condition as restricting only illuminated signs to 4th Street. We agree with this conclusion that the intent of the original condition was to restrict illuminated sign only to 4th Street.

issues regarding water, sewer, storm water or public safety facilities and these conclusions are un rebutted. However, there has been testimony regarding additional truck traffic on Foster Avenue. The staff report indicates that Foster Avenue is constructed to the standards for as a collector street and no changes are anticipated. As such, we find that public facilities and utilities are available and adequate for this request.

B10. The physical characteristics of the site **do** make it suitable for the request at this time.

Because this is a request to amend conditions relating to the decision to rezone this parcel in 1994 and because those conditions do not address the physical characteristics of the site, this finding is largely irrelevant to this request. However, the staff report indicates that the subject property is level with no significant topographic features that would interfere with further development of the site. Given that, and the fact that there was no testimony refuting this point, we find that the physical characteristics of the site do make it suitable for the request at this time.

B11. That the proposal **would** adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, **and** existing land uses because

As discussed above at B8, if this request were granted, the surrounding established residential neighborhood would be negatively impacted by increased traffic and noise on Foster Avenue including additional trips by commercial and garbage trucks on Foster Avenue. While this increase may not be severe while the current business is in place, the zoning of the property would allow many additional types of uses by right that would clearly create adverse impacts on the neighborhood. Additionally, we find that the reasons for placing the conditions at issue on this property in 1994 are still present since the residential neighborhood is still a viable and thriving neighborhood that warrants protection from the encroachment of commercial uses. While traffic may have increased through out the area, this neighborhood has also seen revitalization as testified to by Mr. Stacey. We continue to feel that both uses can co-exist and complement each other so long as the commercial impacts on the neighborhood continue to be mitigated.

In reaching this decision we have relied on the following ordinances and standards:

Comprehensive Plan - Amended 1995.

Municipal Code.

Idaho Code.

Wastewater Treatment Facility Plan.

Water and Sewer Service Policies.

Urban Forestry Standards.

Transportation and Traffic Engineering Handbook, I.T.E.

Manual on Uniform Traffic Control Devices.

C. ORDER: CONCLUSION AND DECISION

The City Council, pursuant to the aforementioned, finds that the request of **AMENDOLA, ANDERSON & DOTY, PLLC**, for a zone change, as described in the application should be **denied**

Motion by _____, seconded by _____, to adopt the foregoing Findings and Order.

ROLL CALL:

Council Member Hassell	Voted _____
Council Member Edinger	Voted _____
Council Member Goodlander	Voted _____
Council Member McEvers	Voted _____
Council Member Reid	Voted _____
Council Member Kennedy	Voted _____

Mayor Bloem Voted _____ (tie breaker)

Council Member(s) _____ were absent.

Motion to _____ carried by a ____ to ____ vote.

MAYOR SANDI BLOEM

ANNOUNCEMENTS

Memo to Council

DATE: October 18, 2007

RE: Appointments to Boards/Commissions/Committees

The following re-appointment is presented for your consideration for the November 6th Council Meeting:

LINDA FALK CHILD CARE COMMISSION

A copy of the data sheet is in front of your mailboxes.

Sincerely,

Amy Ferguson
Executive Assistant

cc: Susan Weathers, Municipal Services Director
Kathy Lewis, Child Care Commission Liaison

OTHER COMMITTEE MINUTES
(Requiring Council Action)

**GENERAL SERVICES COMMITTEE
MINUTES**

Monday October 22, 2007
4:00 p.m., Council Chambers

COMMITTEE MEMBERS PRESENT

Deanna Goodlander, Chairman
Ron Edinger
A.J. "Al" Hassell, III

STAFF PRESENT

Jon Ingalls, Deputy City Administrator
Mike Gridley, City Attorney
Monte McCully, Trial Coordinator
Terry Machado, Parks Department
Scott Dinger, Code Enforcement
Jim Greensides, Police Department
Doug Eastwood, Parks Director
Wendy Gabriel, City Administrator

**Item 1. Code Amendment / Ban on Burning.
(Council Bill No. 07-1043)**

Monte McCully, Trail Coordinator, is requesting an amendment to Municipal Code Section 8.06.020 to amend restrictions from 'during a fire emergency' to a 'permanent ban' on smoking and all activities capable of generating an open flame on all publicly owned natural/open space areas within the city limits including Tubbs Hill, Cherry Hill Park, Canfield Mountain area and the Veteran's Centennial Park on Fernan Hill. Monte reported that, in the past, open smoking and activities having an open flame were only banned during a fire emergency. Every year, there are several small fires that occur in areas such as these and many occur when the fire danger is not high. The ban will decrease the chance of fire and increase public safety in these areas.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1043 amending Municipal Code Section 8.06.020 – to allow for Permanent Fire Restrictions in Natural Areas.

**Item 2. Additional Funding / Atlas Trail Extension.
(Consent Calendar)**

Monte McCully, Trail Coordinator, is requesting an additional \$14,000.00 for the design of the Atlas Trail Extension project. The Atlas Trail Extension project is designed to connect the existing Atlas Trail with Seltice Way and to the existing Centennial Trail just south under the I-90 overpass which will include a ramp. Monte reported that the City applied for and received a \$500,000 T-grant from ITD 2-3 years ago for this project. Monte noted that JUB Engineering submitted a final negotiated fee to design the project in the amount of \$109,000. This amount is \$14,000 over the STIP budget of \$95,000 which is a result of an increase in the cost of materials since the time the city applied for the grant. The \$14,000 will come from the Bike Path line item in the Parks Capital Improvement Fund.

Councilman Hassell declared a conflict of interest on this item and recused himself from the vote.

MOTION: THE COMMITTEE is recommending that the City Council authorize an additional cost of \$14,000.00 for the Atlas Trail Extension Project.

**Item 3. Proposed Fee Amendments/ Cemetery and Parks Fees.
(Set Public Hearing December 4th)**

Terry Machado, Parks Department, presented various Cemetery Fee increases and is requesting a public hearing on December 4, 2007. Terry noted that cemetery fees have not been adjusted since 2003. The proposed increases are still slightly below other comparable municipal cemeteries in the region; Lewiston's – Normal Hill and Spokane's – Riverside Cemetery. Terry added that the Cemetery Board recommended the fee increases at their September meeting.

Doug Eastwood, Parks Director, reported that the Park use fees were amended in 1998 with an occasional adjustment for specific uses. The fees collected go into the Parks Capitol Improvement Fund to pay for the coverage of an event and to help offset capital improvements due to long term wear and tear on the facilities. The Parks Master Plan Advisory Committee is forwarding the proposed increases for implementation prior to the New Year.

Doug went on to justify certain fee increases and discussion ensued regarding 'for profit' events held at city parks.

MOTION: THE COMMITTEE is recommending that the City Council set a public hearing date for December 4th to increase the Cemetery and Parks Fees as presented.

**Item 4. Code Amendment / Alcohol Permit for Certain Parks.
(Council Bill No. 07-1044)**

Doug Eastwood, Parks Director, is requesting an amendment to Municipal Code Section 5.08.160 to allow for a site specific – event specific alcohol permit at the Riverstone Park. Doug noted that the city currently does not allow the use of alcohol on any public property. The City held several workshops the past year as a result of soliciting information for the update to the Parks Master Plan. The request to allow alcohol at specific events was brought up at most of the meetings and workshops. The thought at this point is to issue a permit for a site specific event with associated fees, including security. They met with the Police Department and they concurred that the Riverstone Park would be a fair test area to evaluate the request. The Police Department did say that areas such as the City Park and other sports fields would be too difficult to patrol and they would not recommend issuing permits at those sties. Doug added that they do not know if this will be successful and that is why it is recommend to restrict the permit to one particular area and take at least two seasons of use before the concept is re-evaluated to determine if it should continue to be allowed and/or expanded to other sites.

MOTION: THE COMMITTEE is recommending that the City Council adopt Council Bill No. 07-1044 to allow a site specific / event specific alcohol permit at the Riverstone Park.

Item 5. Land Trade / Winton Park Property.
(Consent Resolution No. 07-000)

Doug Eastwood, Parks Director, is requesting authorization to enter into a six-month ground lease agreement with Polin-Young to have access onto a city parcel of land at Winton Park. Doug reported that this stems from a request to trade a contiguous piece of land for a piece of park land. The trade will have no impact on Winton Park or access within the park. The land that the City will ultimately receive sits on higher ground and therefore will serve a better use with regard to the park. The City met with the developers and the neighbors and all have discussed the trade at previous Parks Commission meetings. The parcel is a LWCF park therefore, requires approval from the National Park Service. The trade, by all appearances, will likely go through but in the interim the developer needs to access the property. The agreement will allow the access for the six-month period and then hopefully the land trade will be completed.

MOTION: THE COMMITTEE is recommending that the City Council adopt Resolution No. 07-000 authorizing a six-month ground lease agreement with Polin-Young to have access onto a city owned parcel of land at Winton Park.

The meeting adjourned at 4:45 p.m.

Respectfully submitted,

Juanita Van Cleave
Recording Secretary

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: October 8, 2007

FROM: Monte McCully, Trails Coordinator

SUBJECT: PERMANENT FIRE RESTRICTIONS IN NATURAL AREAS

DECISION POINT:

Recommend that the Commission send to Council approval for a change in Ordinance 8.06.020 from restrictions during a fire emergency to a permanent ban on smoking and all activities capable of generating an open flame on all publicly owned natural/open space areas within the city limits including Tubbs Hill, Cherry Hill Park, Canfield Mountain area and the Veteran's Centennial Park on Fernan Hill.

HISTORY:

In the past, open smoking and activities having an open flame were only banned during a fire emergency. Every year, there are several small fires that occur in areas such as these and many of them occur when fire dangers are not high.

FINANCIAL ANALYSIS:

The only cost incurred by this action will be the minimal cost of making and installing the new signs. The cost savings by preventing wildfires is immeasurable.

PERFORMANCE ANALYSIS:

Changing the ordinance to a permanent ban can only decrease the chance of fire and increase public safety in these areas.

DECISION POINT RECOMMENDATION:

Recommend that the Commission send to Council approval for a change in Ordinance 8.06.020 from restrictions during a fire emergency to a permanent ban on smoking and all activities capable of generating an open flame on all publicly owned natural/open space areas within the city limits including Tubbs Hill, Cherry Hill Park, Canfield Mountain area and the Veteran's Centennial Park on Fernan Hill.

COUNCIL BILL NO. 07-1043
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 8.06.020 TO DEFINE FIRE RESTRICTIONS AT CITY OWNED NATURAL OPEN SPACES; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

WHEREAS, after recommendation by the General Services Committee, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

SECTION 1. *That Coeur d'Alene Municipal Code Section 8.06.020, is hereby amended to read as follows:*

8.06.020: ~~ADDITIONAL RESTRICTIONS DURING A FIRE EMERGENCY~~ FIRE RESTRICTIONS IN CITY OWNED NATURAL OPEN SPACES:

~~Whenever Stage I Fire Restrictions or a higher level of restriction is declared by the Director of the Idaho Department of Lands, s~~Smoking and all activities capable of generating an open flame are prohibited on all publicly owned natural/open space areas within the City limits ~~including~~specifically: Tubbs Hill, Cherry Hill Park, Canfield Mountain area and the Veteran's Centennial Park on Fernan Hill. This restriction will remain in effect until the Director of the Idaho Department declares that the risk of fire has fallen below a Stage I level.

SECTION 2. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

SECTION 4. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the

legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION 5. After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

APPROVED, ADOPTED and SIGNED this 6th day of November, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending 8.06.020 Fire Restrictions

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTION 8.06.020 TO DEFINE FIRE RESTRICTIONS AT CITY OWNED NATURAL OPEN SPACES; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith AND PROVIDING A SEVERABILITY CLAUSE. THE ORDINANCE SHALL BE EFFECTIVE UPON PUBLICATION OF THIS SUMMARY. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Susan K. Weathers, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Michael Gridley, am City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending 8.06.020 Fire Restrictions, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 6th day of November, 2007.

Michael Gridley, City Attorney

**PARKS AND RECREATION COMMISSION
STAFF REPORT**

DATE: October 8, 2007

FROM: Doug Eastwood, Parks Director

SUBJECT: SITE SPECIFIC – EVENT SPECIFIC ALCOHOL PERMIT

DECISION POINT:

Recommend to General Services to approve a site specific – event specific alcohol permit at Riverstone Park.

HISTORY:

We currently do not allow the use of alcohol on any public property. Even though it is not allowed we do have occasional problems at certain locations that are alcohol related: Tubbs Hill, Third Street Boat Ramps and Ramsey Park Softball Fields. We held several workshops this past year as a result of soliciting information for the update to the Parks Master Plan. The request to allow alcohol at specific events was brought up at most of the meetings and workshops. The thought at this point is to issue a permit for a site specific event with associated fees, including security. We met with the Police Department and they concurred that the Riverstone Park would be a fair test area to evaluate the request. The Police Department did say that areas such as the City Park and other sports fields would be too difficult to patrol and they would not recommend issuing permits at those sites.

FINANCIAL ANALYSIS:

Fees for an alcohol permit at Riverstone Park would vary depending on the length of the event and whether or not the event was catered and the alcohol was made available for sale. Issuing a permit was also discussed by the Parks Foundation; they actually came up with the idea to charge a fee for the permit. Part of that fee, \$250.00 can be transferred to the Foundation for further enhancement of the CDA Parks system. All other associated fees would pay for park staff time, reservation of the facility and rental of certain amenities.

PERFORMANCE ANALYSIS:

This is a request that is restricted to one site because that site can be controlled better than most other locations. We do not know if this will be successful and that is also why it is recommended to restrict the permit to one particular area and take at least two seasons of use before we re-evaluate this concept and determine if it should continue to be allowed and/or expanded to other sites.

DECISION POINT:

Recommend that adoption of a site specific – event specific alcohol permit with associated fees as identified on the attached fee schedule and authorize the Parks Department to transfer \$250.00 per permit to the CDA Parks Foundation.

COUNCIL BILL NO. 07-1044
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING SECTION 5.08.160 AND REPLACING IT WITH A NEW SECTION 5.08.160; GENERALLY PROHIBITING OPEN CONTAINERS OF OR CONTAINING ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS; PROVIDING SPECIFIC EXCEPTIONS TO THAT GENERAL PROHIBITION; FURTHER PROHIBITING CONTAINERS OF OR CONTAINING ALCOHOLIC BEVERAGES WHETHER OPEN OR NOT FROM PUBLIC PARKS AND OTHER PUBLIC PROPERTY AND PROVIDING EXCEPTIONS THERETO; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

WHEREAS, after recommendation by the General Services Committee, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

SECTION 1. *That Coeur d'Alene Municipal Code Section 5.08.160, entitled BEER, WINE OR LIQUOR ON CITY PROPERTY PROHIBITED; EXCEPTIONS: is hereby repealed.*

SECTION 2. *That a new Section 5.08.160, entitled BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY ; EXCEPTIONS: is hereby added to the Coeur d'Alene Municipal Code as follows:*

5.08.160: BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY; EXCEPTIONS:

- A. No person shall consume any beer, wine or other alcoholic beverage or possess an open container of or containing any beer, wine or other alcoholic beverage on any public property, including public streets and alleys, within the city, or at any other place in the city, including any motor vehicle moving or stationary, with the following exceptions:
1. the premises of a private residence;
 2. premises licensed for the sale of on-site consumption of the particular type of alcoholic beverage involved;
 3. a certified forensic laboratory when the alcoholic beverage is possessed for evidentiary purposes and/or for testing and research purposes;
 4. a public law enforcement facility possessing alcoholic beverages for evidentiary purposes or for training purposes;
 5. within the indoor premises of a private business when served free of charge to customers or patrons of the business in conjunction with a specific event then taking place inside the business premises;
 6. on a public sidewalk and/or other public right-of-way when such sidewalk or right-of-way is contiguous to a permitted outdoor eating facility, but only after issuance of and pursuant to the terms of a permit authorized by the city council. Criteria that must be met for a permit to issue shall be set forth by resolution of the city council.

- B. Furthermore, no person shall possess any container, whether open or not, of or containing any beer, wine or other alcoholic beverage in any public park or other public property, with the following exceptions:
1. a certified forensic laboratory;
 2. a public law enforcement facility; or
 3. pursuant to a permit issued by the city for such purpose at the gazebo/amphitheater area of Riverstone Park only.

SECTION 3. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

SECTION 5. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION 6. After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

APPROVED, ADOPTED and SIGNED this 6th day of November, 2007.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending Municipal Code Section 5.08.160 entitled
BEER, WINE OR LIQUOR ON CITY PROPERTY PROHIBITED; EXCEPTIONS

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING SECTION 5.08.160 AND REPLACING IT WITH A NEW SECTION 5.08.160; GENERALLY PROHIBITING OPEN CONTAINERS OF OR CONTAINING ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS; PROVIDING SPECIFIC EXCEPTIONS TO THAT GENERAL PROHIBITION; FURTHER PROHIBITING CONTAINERS OF OR CONTAINING ALCOHOLIC BEVERAGES WHETHER OPEN OR NOT FROM PUBLIC PARKS AND OTHER PUBLIC PROPERTY AND PROVIDING EXCEPTIONS THERETO; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING A SEVERABILITY CLAUSE. THE ORDINANCE SHALL BE EFFECTIVE UPON PUBLICATION OF THIS SUMMARY. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Susan K. Weathers, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Michael Gridley, am City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending Municipal Code Section 5.08.160 entitled BEER, WINE OR LIQUOR ON CITY PROPERTY PROHIBITED; EXCEPTIONS, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 6th day of November, 2007.

Michael Gridley, City Attorney

OTHER BUSINESS

HUD Action Plan
Powerpoint
Presentation