

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

March 2, 2021

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room March 2, 2021, at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

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

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

**INVOCATION:** Pastor Jon Anderson with Peace Lutheran Church provided the invocation.

**PLEDGE OF ALLEGIANCE:** Councilmember McEvers led the Pledge of Allegiance.

**MUSEUM OF NORTH IDAHO UPDATE-** Museum of North Idaho Executive Director Britt Thurman noted that the Board is looking forward to creating a premier regional museum. They hope that the new facility provides a public gathering place, state of the art exhibit technology, an educational experience and many programs. She described the public spaces interior and exterior to the new facility. They will have ADA accessible outdoor space and look forward to placing the Big Hank cabin, that has been stored at the North Idaho College campus, onto the new facility property. She noted that they are within Phase 1 of the property development, which includes the site development and finishing the interior of the White House. Phase 2 will include the finishing of the basement level and design and install of the new exhibits. She noted that they intend to have a 2023 Grand Opening, with year-round services thereafter. She noted that they will have a program at the current location beginning April 1, 2021, entitled Hollywood of the North and encouraged the community to attend. Councilmember McEvers asked about fundraising. Ms. Thurman noted that they need to raise another \$4 Million to complete the project. She noted that there is a large grant request due in May for \$500,000, which requires a \$1.5 Million match.

**PUBLIC COMMENTS:**

David Lyons, Coeur d'Alene, spoke in regards to Council Biii 21-1001. He noted that the ordinance expands the R-34 zone to include increased height from 45' to 60'. He asked the Council to reject this section of the proposed ordinance. He believes that R-34 has been its own

zoning district since the 1980s. The main R-34 section notes that it is intended for a high-density zone offered through a Special Use Permit (SUP). He believes from that point in time until today the City could have created the R-34 zoning district as a separate zone, which would then allow the 60' height. All the R-34 apartments that exist have been done through the SUP option, rather than a zone change. The language notes that the district allows for 34 units per gross acre and that the City has the option of granting through the SUP. He reviewed the planning zoning options for SUP's in each zone. At some point the City made a mistake regarding the SUP option, which didn't have an issue with height; however, that is an issue now. He believes section 3 of the ordinance is a substantial change and asked that the Council reject that section.

**COUNCIL COMMENTS:**

Councilmember Miller noted that the Library will open on the 15<sup>th</sup> of March and will continue to offer curbside service. She noted that the Library is working with the Idaho digital book alliance to provide E-book services. She noted that over the past several years the regional planners have been working together regarding growth and the housing market. She has asked for a current taskforce to be formed and Coeur d'Alene, Post Falls, Rathdrum, Hayden, and Kootenai County have agreed to work together.

Mayor Widmyer asked for the confirmation of the following appointments: Mike Ward to the Planning Commission and Tom Messina to the Design Review Commission.

**MOTION:** Motion by Evans, seconded by McEvers to appoint Mike Ward to the Planning Commission and Tom Messina to the Design Review Commission.

**DISCUSSION:** Councilmember Gookin noted that he will be opposing the appointment, as he is not happy with the direction of the Planning Commission and Mr. Messina has been on the Committee for 20 years. Councilmember Miller asked if there were other people who have applied for these positions. Mayor Widmyer noted there was not. Councilmember Miller noted that there needs to be a certain skill set for the members of these committees and these people fill those roles. Councilmember Gookin feels that it is the same people serving year over year, so people do not apply for the committee positions.

**Motion carried with Gookin voting in opposition.**

**CONSENT CALENDAR:**

1. Approval of Council Minutes for the February 8, and February 16, 2021, Council Meetings.
2. Approval of General Services/Public Works Committee Minutes for the February 22, 2021, Meeting.
3. Approval of Bills as Submitted.
4. Setting of General Services/Public Works Committee meeting for Monday, March 8, 2021, at 12:00 noon.
5. **Resolution No. 21-012** - A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, APPROVING A CONTRACT WITH LARIVIERE,

INC., FOR THE 2021 OPEN TRENCH PROJECT FOR THE WASTEWATER DEPARTMENT.

**MOTION:** Motion by McEvers, seconded by Evans, to approve the Consent Calendar as presented, including **Resolution No. 21-012**.

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

**UPDATE ON ALCOHOL VIOLATIONS:** Police Chief White provided an update on the actions taken since the last Council meeting. He noted that several downtown bars voluntarily agreed to close at midnight; however, that is expected to end this weekend. It did make a significant impact compared to the violations from previous weekends. He noted that there were 11 over service reports, including one that gave a .395 blood alcohol content (BAC) test. Due to the emphasis downtown, some calls were delayed on the other side of town. In the past the City has meet with the bar owners in the spring and have encouraged training for servers and bartenders. The Police Department is continuing to strictly enforce alcohol codes. The City Clerk's office recommends strict enforcement of the outdoor seating codes for violations, once the season starts. Chief White noted that our City code does not include a suspension of a license only an option for revocation. He noted that the City of Nampa has a point system model and it is very staff intensive. The intoxication in public ordinance could be adopted that would not simply be that someone is intoxicated but be cited based on the behavior associated with being intoxicated. Another code to consider would be a code adoption of not allowing bartenders/servers to drink while on the job.

**DISCUSSION:** Councilmember McEvers noted that he thought the City had an intoxication in public law. Chief White explained that they have to have an underlying behavior in order to arrest, not just being intoxicated. He noted that it takes about 30 minutes to get to the jail and more to book a person into jail and more time to get back downtown. Councilmember McEvers asked about the bus booking and doing a mass transport. Chief White confirmed that they have used mobile booking on the 4<sup>th</sup> of July; however, doing that every weekend would be problematic. Councilmember Evans asked about the cost savings from not having special events over the past year. City Administrator Troy Tymesen noted that the City has rolled over to a new fiscal year and those funds do not roll over. Chief White noted that one of the biggest expenses over the past year has been filling in for sick leave. Councilmember Wood noted that there has been discussion about a downtown police sub-station and asked how that would help. Chief White noted that over the past several months the entire sworn staff has been downtown, since that is where the problems are, and if they go up north to handle a domestic it causes a delayed response. Having a substation downtown would help with logistics, such as getting evidence bags or going to the restroom. Councilmember Wood would like Council to discuss this item for a solution for this summer. She noted that the Chief has stated that the Nampa ordinance is intensive, causes additional paperwork and follow-up, and questioned if that would require another body for its enforcement. Chief White noted that he does not have a body to put to that right now and clarified that it is everything the Idaho State Police (ISP) does for the City and is some duplication of efforts. Councilmember Wood thinks the public intoxication ordinance would be something to look at. She also stated that if bar staff is drinking, they can't

determine if they are over serving others. She noted that the curfew might be a long-term fix, maybe three to five years down the road, so that is why she is interested in the Nampa ordinance. She also felt that cameras and additional lighting should be looked at. Chief White felt that would be very important as well.

Councilmember Gookin noted that he recommends strict enforcement, and asked why is it not happening now. Chief White explained that they typically warn someone first, then if it continues, they take action. They enforce as strong as they can with the manpower they have. Councilmember Gookin asked how to stop someone from blowing a BAC of .395. Chief White noted that it would be to not serve them as much, and it is on the bartenders, wait staff, and security to take on that responsibility. Councilmember Gookin asked why not park a mobile command center in the Ironhorse parking lot. Chief White noted that he has considered it, but on City owned property, usually at Independence Point. Councilmember Gookin noted that the command center has a camera and lights, so it would be good to use.

Mayor Widmyer asked Chief White what two things they could do right now to help the police enforce the laws. Chief White thought that enacting an ordinance prohibiting bartenders from drinking at work may not be the biggest impact; and maybe the Legal Department would agree with crafting an ordinance to impact behavior with things associated downtown. He explained that the disturbing the peace ordinance requires a victim in order to go to court and that is not always easy at 2:00 a.m. Other ordinances such as the one from Boise, might help officers. City Attorney Mike Gridley has talked to the chief prosecuting attorney and felt the existing disorderly conduct code could be reviewed and clarified. Councilmember English noted that public safety is at the top of the Council's priority list for the allocation of resources. He would support the cutting back of bar operating hours in the short term, maybe through the summer. Councilmember McEvers asked if you can arrest someone for just being intoxicated, as the issue is overserving. Mr. Gridley clarified that police have to have an associated behavior like getting into a fight, going out to the street, or DUI. Mayor Widmyer asked if the bartender get in trouble for the over service or is it the bar owner. Chief White noted that it would be a civil process by ISP against the bar as a whole. Councilmember Wood asked about the outdoor seating authority. City Clerk Renata McLeod explained that the outdoor seating permits are for use of the City right-of-way, and that the permit includes the authority to suspend or revoke for violations of the City code, specifically related to the service of alcohol. She noted that the permits are issued starting March 16. Chief White noted that they will continue to staff the weekends to do enforcement. Councilmember Miller asked for clarity regarding the number of calls to each bar. Chief White clarified that the number he provided was for reported incidents in total. He noted that the last couple of weekends were significantly different with the early closures, less fights, and this is a temporary solution to institute a curfew. Councilmember Miller asked what has resulted in the conversations with owners and what solutions are they interested in. Chief White noted that he spoke with two bar owners last week and they would consider passing information along to staff about being more vigilant to look for intoxicated individuals. Councilmember Miller asked how the Police Department was working with ISP on the citation and monitoring issues. Chief White noted that they conducted in service training in February, where they received training on what to include in the report to help ISP with the administrative actions. They have jointly conducted a few nights of enforcement within the bar. He concurred it is a group effort and last weekend they had ISP troopers doing additional DUI enforcement.

Councilmember Miller said that she agreed with enhancing the disorderly conduct ordinance and using the outdoor seating as a leverage and expressed concern that the warmer weather will make this worse. Councilmember Evans asked about the substation, and if they use Fire Station 1 for use of facilities. Chief White noted that the station is currently used only by fire staff due to COVID. Mayor Widmyer wondered if ISP needs to increase their resources to our community since we have grown in population. Chief White noted that they have two detectives assigned to our area now but one originally. Councilmember Wood offered to do a ride along as a Councilmember to get eyes on the downtown and thought other Councilmembers should too. Councilmember English noted that the City has increased the number of fire stations and maybe now is the time to increase the police sub-station to include the holding cell capacity. Councilmember McEvers asked for clarification as to why we are having these issues that traditionally occur in the summer. Chief White noted that historically there is a break in the winter and believes this is largely caused by Spokane being closed down and that the level of violence is higher than we see in the summer. He explained that during the summer the School Resource Officers are utilized and they alter the patrol rotation and a number of officers are on overtime during the daytime.

**MOTION:** Motion by Wood seconded by McEvers to direct legal staff to craft an ordinance that adopts a disorderly conduct code based on behavior and explore the necessary equipment and lighting upgrades.

**DISCUSSION:** Councilmember English asked if the motion would include a curfew. Councilmember Wood noted that the motion would not include a curfew. Councilmember Miller clarified that she would like to see the use of the outdoor seating permit rules and maybe something to do with ABC partnership, so that the facility that is in violation would take this more seriously. Ms. McLeod explained that the current outdoor seating policy has a very detailed policy for suspensions and revocation of the outdoor seating permits and should not need to be rewritten. Councilmember Gookin noted that the City is a tourist town and people are going to go downtown to drink, he explained that he did do a ride along about four weeks ago. He felt that the issue stems from Washington State shutting down businesses and the solution is that Washington needs to open up. He noted that he would not support a disorderly conduct code, as he feels it is ripe for abuse and thinks the Downtown Association should take care of the lighting upgrades. Councilmember Wood explained that she thinks they need to give law enforcement tools to deal with this, and they are constantly in a mode of trying to control the out-of-control people and she trusts their discretion. Mr. Gridley explained that there already exists a disturbing the peace statute and they could work to clarify how to define it and the behavior that the police see and what can be enforced in Court. Councilmember Wood noted that the current ordinance requires a victim and there needs to be something to change that. Mayor Widmyer noted that disorderly conduct could include behavior such as breaking a window and kicking over signs and garbage cans, and the property owner can be a part of the process. Mr. Gridley also noted that people can be trespassed. Mayor Widmyer asked for an update in May.

**ROLL CALL:** Evans Aye; Miller Aye; McEvers Aye; Gookin No; English Aye; Wood Aye.  
**Motion carried**

Councilmember English noted that they have not addressed the curfew issue. Councilmember Wood noted she would only like to consider it if it were tied to the pandemic.

**MOTION:** Motion by English, seconded by Wood that the City institute a curfew for the downtown bars to close at 12:00 midnight and to begin Friday the 12<sup>th</sup> of March and run through the end of April and reviewed thereafter.

**DISCUSSION:** Councilmember McEvers asked if this was intended to be applicable to all bars in the City. Councilmember English noted that he would define it to the downtown area, essentially from 7<sup>th</sup> Street to 1<sup>st</sup> Street on Sherman Avenue. Mayor Widmyer noted that he appreciates what he is trying to do but this is a huge step. Councilmember Wood believes Washington will move into another phase soon, so she hesitates to set a curfew just for that specific area as there are other areas that are also a part of the problem. Councilmember Evans noted that she appreciates the thought behind the motion, but believes she needs more information on how it impacts the other businesses and areas outside of Sherman Avenue. Councilmember Miller noted that she doesn't think we are there and hopes the current work will encourage the owners to voluntarily do so.

**Motion failed with English voting in favor.**

#### **RESOLUTION NO. 21-013**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, APPROVING A CONTRACT WITH DG&S COMPANY FOR THE US-95/NORTHWEST BOULEVARD SWALE PROJECT FOR THE STREETS AND ENGINEERING DEPARTMENT.

**STAFF REPORT:** City Engineer Chris Bosley explained that the Drainage Utility has determined that it would be beneficial and prudent to install stormwater infrastructure beneath US-95 and has received an encroachment permit from the Idaho Transportation Department (ITD Permit #1-20-172) to allow for the diversion of current stormwater flows to a newly constructed swale and drywell area, effectively removing the direct injection of stormwater to the Spokane River from a drainage area of approximately 215 acres. The utility is currently constructing the swale that will accommodate the stormwater flow from the newly placed manhole and storm line. Bids were received for the pipe installation with the low bidder being DG&S Company at \$106,000.00.

**DISCUSSION:** Councilmember McEvers noted that this is an awesome project.

**MOTION:** Motion by McEvers, seconded by Miller to approve **Resolution No. 21-013**, approving a contract with DG&S Company for installation of a manhole and storm line for the US-95/NW Boulevard Swale Project.

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

## COUNCIL BILL NO. 21-1003

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE FOLLOWING SECTIONS OF THE COEUR D'ALENE MUNICIPAL CODE: 13.20.2.2, 13.20.3.13, AND 13.20.4.6 ADDING LANGUAGE REQUIRED BY IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

**STAFF REPORT:** Wastewater Superintendent Mike Anderson explained that an inspection of the City's Wastewater Pretreatment Program in 2020 by the Idaho Department of Environmental Quality indicated some changes are required to our Sewer Use Municipal Code (MC) to align with industrial user permits. The following amendments to the code are being recommended for approval: MC 13.20.2.2, to add language allowing concentration limits (mg/L) or mass limits (lbs); MC 13.20.3.13, to delete language which extends a wastewater permit beyond its expiration date; MC 13.20.4.6 to add language requiring a 5-day notification to the City of any discharge that could cause a problem to the Publicly Owned Treatment Works (POTW). This amendment also requires Significant Industrial Users to notify the City of any changes to their process which could produce a slug discharge. He noted that this will only impact two businesses.

**DISCUSSION:** Councilmember Miller asked if there was an event that caused this action. Mr. Anderson noted that the administrative review was the event, not an unexpected discharge. Councilmember McEvers asked if there were any costs to making these changes. Mr. Anderson confirmed there were not costs, just cause to monitoring like they are currently doing. Councilmember Gookin asked for clarification regarding the slug process. Mr. Anderson noted that it is pollutant we are concerned about such as metals and PH, if there was a slug of high PH we would be required to be told. At that time, they would continue with measurements and some recycling in the plant.

**MOTION:** Motion by McEvers, seconded by Miller, to dispense with the rule and read **Council Bill No. 21-1003** once by title only.

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

**MOTION:** Motion by McEvers, seconded by Miller, to adopt **Council Bill No. 21-1003**.

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

**APPROVAL OF STAFF TO ENTER INTO CONTRACT NEGOTIATIONS FOR CDBG AGREEMENTS WITH NORTH IDAHO COLLEGE, TESH, LAKE CITY CENTER, AND HABITAT FOR HUMANITY FOR PLAN YEAR 2020, AND CDBG-CV AGREEMENTS WITH IDAHO YOUTH RANCH, UNITED WAY, LOVE INC., AND LAKE CITY CENTER.**

**STAFF REPORT:** CDBG Specialist Chelsea Nesbit explained the first four requests are related to the 2020 CDBG funds and the next three requests are for the use of the COVID funds. Ms. Nesbit noted that the Volunteer Ad Hoc Grant Review team met on February 23, 2021 to review and rate the applications. The group included the following participants: Councilmember Woody McEvers, Pamela Bates (Volunteer Senior Service Coordinator), Jon Ingalls (Planning and Design Review Commission member), Maggie Lyons (Charity Reimagined) and Nicole Kahler (CDA's 2030 Executive Director). The 2020 total allocation from HUD was \$339,375. Of that amount, \$206,500 was allocated to the Community Opportunity Grant in the 2020 Annual Action Plan. Funding requests for the 2020 grant cycle totaled \$330,000. The Volunteer Ad Hoc Grant Review team recommends the following CDBG PY 2020 allocations: NIC in the amount of \$30,000 for a pilot program of a Venture Fund Microgrant; Tesh in the amount of \$42,500 for an ADA bathroom and kitchen remodel; Lake City Center in the amount of \$10,000 for the annual Meals on Wheels program and \$2,500 for an automatic external defibrillator device; Habitat for Humanity in the amount of \$120,000 for project planning of a 20-unit affordable housing facility. The Committee also recommended the following CDBG-CV grants: Love INC in the amount of \$20,000 for the Rental and Utility Assistance Program, Idaho Youth Ranch in the amount of \$28,000 for their Case Manager Position, and United Way of North Idaho in the amount of \$52,000 for the Childcare Scholarship Program Extension. These projects total \$100,000. She noted that there is currently \$166,386 in CARES Act funds to spend on COVID-19-related needs that meet the HUD requirements for funding, and if this grant is awarded, \$66,386 will remain.

**DISCUSSION:** Councilmember Evans noted that she is employed by one of the organizations and will recuse herself. Councilmember McEvers noted that he would like to recuse himself as well, as he serves on the Lake City Center Board. Councilmember Wood noted that she could recuse herself as well, as she serves on the North Idaho College Board. Mr. Gridley encouraged Councilmembers McEvers and Wood to not recuse themselves but to disclose the connection, and as long as they are not receiving a financial benefit, they should vote as they see fit.

**MOTION:** Motion by Gookin, seconded by Miller, to authorize staff to enter into contract negotiations for CDBG Agreements with North Idaho College, TESH, Lake City Center, and Habitat for Humanity for Plan Year 2020, and CDBG-CV Agreements with Idaho Youth Ranch, United Way, Love Inc., and Lake City Center.

**DISCUSSION:** Councilmember McEvers noted that he was on the committee, and expressed that there are so many great things to fund. He explained that it is hard to fund jobs and housing fully, as there isn't enough money, but it helps with the design and such for Habitat, and NIC is trying an economic development and the committee tries to balance old with new.

**ROLL CALL:** Gookin Aye; English Aye; Wood Aye; Miller Aye; McEvers abstained.  
**Motion carried.**



## COUNCIL BILL NO. 21-1001

AN ORDINANCE AMENDING THE FOLLOWING SECTIONS OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO: 16.05.050, 16.25.050(A), 17.05.330(A), 17.05.455, 17.05.560(C), 17.06.015, 17.06.660, 17.06.830, 17.07.320, 17.07.810, 17.07.945(A), 17.08.945(B), 17.08.955, 17.09.120(D), 17.09.125, 17.09.215(C), 17.09.235, 17.09.340(A), 17.09.472, 17.09.615(A), 17.09.710, 17.44.050, 17.44.090, 17.44.170, 17.44.220, AND 17.44.225, TO CLARIFY THE APPEALS PROCESS, AND TO MAKE VARIOUS TECHNICAL CHANGES FOR CONSISTENCY AND CLARIFICATION; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

**STAFF REPORT:** Community Planning Director Hilary Anderson explained that she has amended these codes based on Council's feedback on January 19, 2021. These amendments to Title 16 and Title 17 are housekeeping edits that will clean up inconsistencies and clean up old references to a male planning director. There are also proposed amendments to clarify performance standards in some of the zoning districts. There are also inconsistencies between the Zoning Ordinance and the Commercial Design Guidelines with regard to landscape buffering when adjacent to a residential use versus a residential zone. Staff is bringing forward updates to clean up these sections of the Municipal Code and the Commercial Design Guidelines. Title 16 and 17 amendments include the appeal timing will be 15 days based on the date of decision rather than date of publication, based on calendar days. Title 17 amendment highlights included the aggrieved or affected party definition is being clarified using language from the State Statutes related to standing for an appeal; clarifying the R-34 zoning district to make it clear that it is only available through the special use permit process and that it does provide the increased height in addition to the increased density; and clarifying that schools are not relevant if it is an adult only apartment complex, but park proximity would be a consideration; clarifying the maximum height for a single-family home built in an MH-8 zoning district. Several clarifying site performance standards for C-17 including side and rear setbacks and allowing for horizontal mixed-use projects to have setbacks associated with the various uses. Additional clarifications to height standards for Accessory Dwelling Units (ADU) and buffer yard regulations were made. Commercial Design Guideline amendments include Residential/Parking Lot screening that the buffering is required when a site abuts a residential district or residential use. Ms. Anderson noted that the code approved in 1982 referenced the multi-family height allowance, which was not clearly noted in the code and this will make it clear within the special use permit (SUP) process. She clarified that the R-34 designation goes back to 1982 and that R-34 was through a SUP not intended to be its own zoning district, that it is referenced as allowed through R-34. The height limit was around 63' height, the underline zoning was 45' but once they get the SUP for R-34 they automatically were allowed the 63' in height.

**DISCUSSION:** Councilmember McEvers asked if every R-34 approved has a SUP on it. Ms. Anderson confirmed that is correct. Councilmember McEvers asked if Council could request conditions through a SUP, such as open space or affordable housing. Ms. Anderson noted that the Council would not be able to, as the Planning Commission hears the SUP requests, but they can place conditions on the property, if it is justifiable. She noted that through the

comprehensive plan and if they want to change the zoning code, they could make those changes at that time. Councilmember McEvers asked if the R-34 was appealed would it come to Council. Ms. Anderson confirmed that the check and balance is that the appeals come to City Council. Councilmember Gookin asked if staff would be making the determination regarding if the appeal language is descriptive enough. Ms. Anderson noted that in the past they have asked the appellant to give more explanatory language as to why it didn't meet the findings. Councilmember Gookin felt that the reason for the appeal could be vague and the Council would make the decision if it is good enough. Mr. Gridley noted that this came up a few years back with an appeal and they just said they don't like the development and the party that is being appealed has to bring evidence forward for the case without the information to respond to, which is unfair. Councilmember Gookin noted that people have to pay to appeal, and he thinks its valid for someone to appeal because they don't like the project. Councilmember Gookin asked for additional information regarding R-34 topic and section 3, and increased height. Ms. Anderson noted that this is to add clarity that it automatically allows the height. Councilmember Gookin felt that it was redundant and the new language regarding appeal is a concern for him. Councilmember Wood noted that it appears that Ms. Anderson's response is just trying to make it crystal clear. Councilmember Miller noted that she doesn't understand how it was misinterpreted, as the planner who wrote the code was the one who implemented the code. Councilmember Wood asked what are other cities doing. Ms. Anderson noted that most jurisdictions hear the SUP through the Planning Commission, but State Statues don't require it. Many cities are trying to streamline the process so that it expedites the process. Councilmember McEvers noted that there have not been many R-34 densities constructed here. Councilmember Wood would like to keep the appeal language as originally written, as it should not be a burden to people coming forward.

**MOTION:** Motion by Gookin, seconded by McEvers, to dispense with the rule and read Council **Bill No. 21-1001** once by title only.

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

**MOTION:** Motion by Gookin, seconded by Wood, to adopt **Council Bill No. 21-1001**, removing all newly proposed appeal language requiring an explanation of the appeal, while keeping the 15-day timeline upon which an appeal can be made, included in Sections 2, 15, and 21.

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

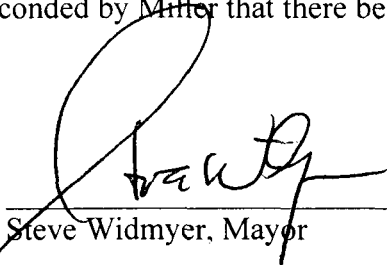
**MOTION:** Motion by Gookin to modify to remove the modification from Section 3A which is the increased height and reduce the redundant language. Motion died for a lack of second.

**EXECUTIVE SESSION: MOTION:** Motion by McEvers, seconded by Evans to enter into Executive Session pursuant to Idaho Code 74-206 (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:** Wood Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin Aye; English Aye.  
**Motion carried.**

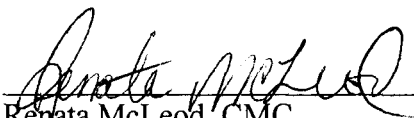
The City Council entered Executive Session at 8:38 p.m. Those present were the Mayor, City Council, City Administrator, Deputy City Attorney, outside Counsel Peter Erbland, and City Attorney. Council returned to regular session at 9:12 p.m.

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



\_\_\_\_\_  
Steve Widmyer, Mayor

ATTEST:



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Renata McLeod, CMC  
City Clerk