

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM,
JANUARY 20, 2009

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene Library, January 20, 2009 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

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

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

INVOCATION was led by Pastor Tim Remington, The Altar Church.

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

PRESENTATION – ANNUAL DISABILITY RIGHTS ADVOCATE AWARDS:
Amy Drepps from the Disability Action Center presented their organization's annual awards recognizing those in the community that promote advocacy for the disabled.

PUBLIC COMMENTS:

PERSON'S FIELD: Jody Teter, 1320 Pennsylvania Ave, asked the City to purchase the School District's half of Person's Field and asked the Council to add park benches and trash cans. Mayor Bloem noted that the City is on record with the School District that they wish to purchase the property if the school chooses to sell it.

SCHOOL IMPACT FEES: Harold Hocker, 1413 E. Spokane Avenue, asked what has been done with past material that he had distributed to the Council asking for help for the citizens since contractors do not pay the taxes for schools that other property tax owners do. Councilman Kennedy noted that some of the City based fees had recently been reviewed by the Council; however, some of the fees Mr. Hocker proposed are California-based and are not applicable in Idaho. Mr. Hocker also believes that the Impact Fees are unconstitutional. He believes that a proposition needs to be placed on the ballot to get contractors to start paying taxes for schools since they bring in children that the rest of the tax payers foot the bill for and thus we need to throw out the Impact Fee laws. Councilman Edinger noted that the State Legislature and the School Districts are the ones that need to enact laws for impact fees for schools. Mr. Hocker requested a copy of the list of fees that the Council recently approved. Councilman Goodlander noted that the

packet that Mr. Hocker presented was from the Engineering Division of the City of West Sacramento, California.

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

1. Approval of minutes for January 6, 2009.
2. Setting General Services Committee and Public Works Committee meetings for January 26th at 12:00 noon and 4:00 p.m. respectively.
3. RESOLUTION 09-003 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 DECLARATION OF SURPLUS PROPERTY – CITY'S OLD ANALOG PHONE SYSTEM; APPROVAL OF THE TERMINATION OF CONTRACT WITH TLM CONSTRUCTION FOR REFURBISHMENT OF WWTP DIGESTER #4; APPROVAL OF AN IDAHO TRANSPORTATION DEPARTMENT - LOCAL PROFESSIONAL SERVICES AGREEMENT WITH WELCH COMER & ASSOCIATES, INC. FOR THE GOVERNMENT WAY PROJECT – DALTON TO HANLEY AVENUE; REQUEST FOR DESTRUCTION OF CERTAIN TEMPORARY RECORDS – POLICE DEPARTMENT AND LEGAL DEPARTMENT; APPROVAL OF SS-1-08 ACCEPTANCE OF IMPROVEMENTS WITH A MAINTENANCE / WARRANTY AGREEMENT FOR RIVERSTONE WEST, 2ND ADDITION; APPROVAL OF A CONTRACT WITH STEEL STRUCTURES AMERICA, INC. FOR THE REPLACEMENT OF THE PARKS MAINTENANCE SHOP STORAGE SHED AND AWARD OF BID AND APPROVAL OF AN AGREEMENT WITH FKC, CO. LTD. FOR THE WWTP SECONDARY SLUDGE THICKENER.
4. Approval of Downtown Horse Drawn Carriage rides on February 14, 2009.
5. Approval of pre-purchase of WWTP low phosphorus pilot study equipment.
6. Approval of bills as submitted and on file in the City Clerk's office.
7. SS-4-08 – Final Plat approval of Laue Lane Estates

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

COUNCIL COMMENTS:

COUNCILMAN MCEVERS: Councilman McEvers commented that he has served over the past seven years on the Council and the amount of time it takes to serve and he extended a Happy Anniversary to his wife.

COUNCILMAN BRUNING: Councilman Bruning announced that registration for indoor swimming lessons will be held on January 31st from 12:00 noon to 3:00 p.m. and the fee is \$36.

COUNCILMAN KENNEDY: Councilman Kennedy announced that the World Winter Special Olympics Torch Run will be held next week on January 29th at 8:30 a.m. The ceremonial run will begin at the 3rd Street docks and invited the public to attend. He also

welcomed the newest member of his family, Ronan James Kennedy, who is 10 days old today.

ADMINISTRATOR'S REPORT: City Administrator Wendy Gabriel announced that the World Winter Special Olympics Torch Run has three key locations for the public to support the run – Sherman Avenue between 2nd and 7th Streets, 2nd Street between Sherman Avenue and Front Avenue and at 7th Street between the Library and Sherman Avenue. She announced that the Special Needs Recreation Program is 2,700 participants strong and their next event is Kids Day Off Camp All Stars. The City is accepting applications for Police Officers. The Police are looking for an older white full size van that was involved in a child enticement incident. The 4th Annual Lego-Rama will be held on January 24th from 1-3 p.m. at the Library. The North Idaho Mayor's Coalition meets quarterly to discuss area issues and this past week they met with the Executive Director from the Association of Idaho Cities to review proposed state legislation. Mrs. Gabriel thanked the Idaho Dept. Transportation and Damon Allen for assisting the City with snow removal by lending the City their rotary snow blower. She read a note of gratitude to EMS Chief Tom Greif from Post Falls EMS for teaching their First Aid class.

RESOLUTION 09-004

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO APPROVING A CODE OF ETHICS, CODE OF CONDUCT AND OATH OF OFFICE FOR MEMBERS OF THE PLANNING AND ZONING COMMISSION.

Motion by Goodlander, seconded by Hassell to adopt Resolution 09-004.

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

ORDINANCE NO. 3351 COUNCIL BILL NO. 09-1003

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING MUNICIPAL CODE SECTION 2.48.020 TO DELETE A PROVISION CONCERNING ATTENDANCE BY PLANNING COMMISSION MEMBERS AT REGULARLY CALLED PLANNING COMMISSION MEETINGS; 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 Edinger to pass the first reading of Council Bill No. 09-1003.

DISCUSSION: Councilman McEvers asked why they are removing the attendance requirement from the Planning Commission. City Attorney Mike Gridley responded that the attendance requirement has been added to the Planning Commission's Code of Conduct and they therefore removed the vague code regarding attendance. Councilman Hassell noted that with the new makeup of the Planning Commission, not all Commissioners are required to attend all meetings. John Stamos clarified that the Regular Planning Commission meetings are on the 2nd and 4th Tuesdays of the month and all Planning Commission members are expected to attend. Councilman Bruning noted that in the past, you could miss two meetings in a row without incident and with the new proposal he believes it is stronger in that the Commissioners shall attend all regularly scheduled meetings. Councilman Kennedy asked if we run the risk of running volunteers off with the new requirement. Councilman Bruning commented that he does not believe so. Mayor Bloem believes that the Code of Conduct as created by the Planning Commission is a valuable set of guidelines.

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

Motion by Edinger, seconded by Goodlander to suspend the rules and to adopt Council Bill No. 09-1003 by its having had one reading by title only.

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

RESOLUTION NO. 09-005

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO DIRECTING THE CITY TREASURER/FINANCE DIRECTOR TO SEGREGATE FUNDS TO SERVE AS SECURITY FOR THE COMPLETION OF SUBDIVISION IMPROVEMENTS FOR THE BRAUNSEN SUBDIVISION, WHICH IS BEING COMPLETED BY THE CITY.

Motion by Hassell, seconded by Kennedy to adopt Resolution 09-005.

DICUSSION: Councilman McEvers asked where the funds are coming from. City Engineer Gordon Dobler noted that is it a joint effort and that the City will be using Impact Fees.

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

SS-2-08 – FINAL PLAT – BRAUNSEN SUBDIVISION: Motion by Goodlander, seconded by Kennedy to approve the final plat for Braunsen Subdivision. Motion carried.

PUBLIC HEARING – ZC-4-08 – ZONE CHANGE AT 4921 AND 4971 DUNCAN DRIVE (CHARTER ACADEMY): Mayor Bloem read the rules of order for this public hearing. John Stamsos, Senior Planner gave the staff report. Councilman Kennedy noted that he has a son who attends the Charter Academy and noted that he had discussed the public hearing process with the principal Daniel Nicklay and the Business Director for the Charter Academy. Councilman Goodlander noted she has a grandchild that attends the Charter Academy as well as Mayor Bloem noting she too has a grandchild that attends that school. City Attorney Mike Gridley in response to Councilman Kennedy’s inquiry regarding a conflict of interest noted that as long as he (Councilman Kennedy) had not already made a decision on this hearing, he does not see a conflict of interest.

Mr. Stamsos gave the applicant’s name as the Charter Academy, the location as an approximate 1.03 acre parcel at 4921 and 4971 Duncan Drive, and the request as a zone change from LM (light manufacturing) to C-17 (commercial at 17 units per acre).

Mr. Stamsos presented the staff analyses for zoning, shoreline regulations, city utilities and services. He reported that the Planning Commission recommended approval of this request on December 9, 2008 by a 5 to 0 vote with the following conditions:

1. Construction of a designated off street drop off/pick up site for students. The site will be required to be paved and striped to allow for the orderly movement of traffic during the time that students are arriving and departing the school property. The adjoining street will not be allowed to be used as a loading zone for students. Also, “No Standing” signage (MUTCD R7-4) will be required to be installed by the applicant along the property frontage. Construction of this drop off/pick up area will be required as part of any overall building or tenant improvement permit for the subject property and completion will be required prior to the issuance of any temporary or final certificate of occupancy for the site.
2. Construction of City standard approaches will be required to access the drop off area and design will adhere to the standards set forth in the City Code Section 17.44. Design submittal will be required with any building permit application for the subject property. Paving of the site will be required, as well as stormwater drainage facilities for all new on-site impervious areas.

Mr. Stamsos reported that 11 notices of this public hearing were mailed to all property owners of record within 300 feet of the subject property on January 2, 2009 with 2 responses being received, both with neutral comments.

Councilman Edinger noted that none of the respondents to the mailed notice objected to the zone change. He asked where the vehicles would exit. Mr. Stamsos responded that they would exit onto Kathleen Avenue. Councilman Edinger recalled that they had requested a traffic light at that intersection and wanted to know if there have been any further plans for placing a signal at that intersection. City Engineer Gordon Dobler responded that signalization at that intersection is in the 5-year plan and Impact Fees are

planned to be used for this project. Councilman Hassell noted that they can also exit from Clayton onto Dalton Avenue. Councilman Edinger asked if that intersection could have right-turn-only access onto Kathleen Avenue. Mr. Dobler responded that there is not a lot of traffic coming from Howard onto Kathleen Avenue except two times a day when school opens and lets out.

PUBLIC COMMENTS: Jeff Child, 212 S. 11th Street, Coeur d'Alene, spoke as applicant and noted that while they are expanding their footprint, they are not expanding their enrollment at this time. He also spoke in opposition to the proposed pick-up, drop-off zone as part of the zone change but would prefer to review this matter at the time of the building permit. Dan Nicklay, 11960 N. Pine Tree Road, Hayden, Idaho, principal of Charter Academy also spoke in opposition to the condition of having the school provide an off-street pick-up/drop-off zone but requested that the city vacate Duncan Drive and have it revert back to Charter Academy.

Councilman McEvers asked about the signage requirement. Mr. Dobler responded that the issue of no-parking signage will come back to the Council at a later time to adopt a resolution to prohibit parking.

Councilman Goodlander commented that the City's requirements for a drop-off/pick-up site is unreasonable and would like the City to change Duncan Drive to a one-way street to accommodate parents in dropping off and picking up students. John Stamos noted that the Planning Commission makes recommendation to the Council for them to make a decision, so Council can amend conditions if they so choose.

Councilman Hassell believes that there is a safety issue if the signage is not included with this zone change.

Councilman Kennedy noted that with the zone change the land could change uses in the future and believes that the Council can approve the zone change without the conditions. Mr. Dobler responded that the zone change request is for the expansion of the school and the conditions are a means of mitigating a safety situation. Councilman Kennedy noted that he has children that he drops off every day and sees the problems so he too would like to have Duncan Drive changed to a one-way street. Mr. Dobler responded that the congestion on Duncan Drive has been around for several years and so the drop off would be a solution to this congestion which requirement is consistent with other schools.

Mayor Bloem noted that the condition does not dictate the size of the drop off/pick up site and signage could come back at a later time.

Councilman Edinger noted that the Holy Family Catholic School on Kathleen Avenue was required to supply a drop-off site. Mr. Dobler noted that they were, as well as other schools in the area.

Councilman Goodlander commented that the City cannot compare other schools to this one.

Mr. Nicklay commented that he believes that if Duncan Drive was given to the school that would become their pick-up/drop-off zone. Councilman Kennedy asked if the other businesses in the industrial park objected to making Duncan Drive a private street. Mr. Nicklay said the area businesses have no problem with doing that. Mr. Dobler noted that a public street cannot be vacated in which lots would be landlocked such as on Duncan Drive.

Harold Hocker, 1413 E. Spokane St., Cd'A, believes that people are going to stop anywhere regardless of what the City does and no matter what signage is placed which would not bother him.

MOTION: Motion by Kennedy, seconded by Edinger to approve the requested zone change for 4921 and 4971 Duncan Drive, to adopt the Findings and Order of the Planning Commission including the recommended conditions excluding the statements "The adjoining street will not be allowed to be used as a loading zone for students. Also, "No Standing" signage (MUTCD R7-4) will be required to be installed by the applicant along the property frontage," contained in the first condition.

COUNCIL DISCUSSION: Councilman McEvers believes that the Engineering Department needs the recommended conditions in order to work in good faith with the school.

Councilman Kennedy noted that as a parent the school has made it clear that they will be limiting the number of students allowed at their school. He noted that he picked up and dropped off his children at both Skyway Elementary and the Charter Academy and he believes that the City needs to provide some flexibility to Charter Academy.

Councilman Goodlander believes that although she has not actually picked up her granddaughter at Charter Academy the City needs to give the school more leeway. She believes that the Charter Academy wants to make Duncan Drive a more effective way for safely picking up and dropping off students.

Councilman McEvers noted that Charter Academy should not be given any special treatment and that they should have the same conditions as all other schools.

Councilman Kennedy commented that Charter Academy is different from other schools in that they are not tax supported and the school is trying to maintain a school that is not bound by all the regulations that other schools are required to adhere to. Councilman Kennedy further commented that from a policy standpoint he does not believe that one individual staff person should have the ability to impose conditions such as this. Therefore, he believes that staff needs to work with this school and be flexible, and that the School not the City should determine the needs for their students.

Councilman Hassell disagrees in that he believes that these conditions are safety issues and feels that some Council who have a special interest in this school believe they should

allow special privileges for this school. Councilman Kennedy does not see this as a special case for this school but that the City needs to give the benefit of the doubt.

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

EXECUTIVE SESSION: Motion by Hassell, seconded by to Bruning enter into Executive Session as provided by I.C. 67-2345 § 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; Goodlander, Aye; Kennedy, Aye; McEvers, Aye; Bruning, Aye. Motion carried.

The Council entered Executive Session at 8:00 p.m. Members present were the Mayor, City Council, City Administrator, City Attorney and Deputy City Administrator.

Matters discussed were those of litigation. No action was taken and the Council returned to their regular session at 8:10 p.m.

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

The meeting adjourned at 8:10 p.m.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, CMC
City Clerk