

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM,
APRIL 15, 2008

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, April 15, 2008 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)	
Mike Kennedy)	
John Bruning)	
Deanna Goodlander)	

Loren Ron Edinger)	Members of the Council Absent
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CALL TO ORDER: The meeting was called to order by Mayor Sandi Bloem.

INVOCATION was led by Pastor Ron Hunter, Church of the Nazarene.

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

PRESENTATIONS:

PROCLAMATION - FAIR HOUSING MONTH: On behalf of Mayor Bloem, Councilman Kennedy read the Mayor's proclamation announcing the month of May as Fair Housing Month. Amy Drepps from the Disability Action Center accepted the proclamation.

PRESENTATION - STUDENT ALTHETE RECOGNITION: School Superintendent Harry Amend introduced the coach from the two teams who had 100% participation in the random drug testing program at the two high schools. This evening the teams recognized were the Lake City High School Varsity Girls Softball Team with Assistant Coach Kelly Knowles and Lake City High School Varsity Basketball Team with Assistant Coach Chris Knowles. Coach Chris Knowles introduced J. C. Estes, a senior on the Varsity Basketball Team who went to Utah for a short period of time and is now back and is an integral part of his team.

PRESENTATION - GRANT VENTURE - 5 YEARS OF ACCOMPLISHMENTS: Elaine Smith presented a review of the grants received as part of the Grant Venture team which is comprised of the City of Coeur d'Alene, Lake City Development Corporation, the City Library, North Idaho College, the City of Pinehurst and Panhandle Area Council.

Almost \$66,000,000 has been received in grants over the past five years. On behalf the Mayor, Council and City, the Mayor presented Elaine Smith, grant writer, a plaque expressing their appreciation for all the work she has done over the past five years in obtaining grants for the City.

PROCLAMATION - ARBOR DAY: On behalf of Mayor Bloem, Councilman Goodlander read the proclamation proclaiming the week of April 21st through 25th, 2008 as Arbor Day Celebration Week in the City. Urban Forestry Student Representative Brittany Riordan accepted the proclamation. Miss Riordan announced that on Saturday, April 26th at Ramsey Park, the City will celebrate their 24th year as a Tree City USA.

PRESENTATION - BASIN COMMISSION UPDATE: Terry Harwood, Executive Director of the Basin Commission, provided a power point presentation regarding the foundation, organization and progress made on the Basin Cleanup efforts.

PUBLIC COMMENTS:

SIDEWALK REPAIRS: Dan Gookin, 714 W. Empire Ave., commented on the need to improve city sidewalks to bring them up to ADA standards and suggested that the City follow the leadership of the City of Post Falls and pay for the improvements to sidewalks that need repair. Mayor Bloem noted that the City is aggressively pursuing the issue of sidewalk repairs.

Wendy Gallegos, 740 N. 3rd Street, believes that sidewalks should be paid for by all citizens and not the property owner.

Bob Green, 733 3rd Street, commented that many residents are senior citizens and that he believes it is not fair to have the City require residents to pay for the repair of their sidewalks. He believes that each person who receives a utility bill from the City should pay an additional \$1.00 to pay for repairs of sidewalks. Mayor Bloem noted that the City's Legal Counsel has noted that this would be considered a hidden tax and is not allowed by law.

Wayne Pivanuras, 736 3rd Street, was offended that he received a letter informing him that he must pay for the repair to his sidewalks. He believes that this is a burden on individual residents and that this is the City's responsibility not the homeowners. He noted that if the City of Coeur d'Alene does not pay for sidewalks he will remember that at the next election.

Kathy Kincel, 621 Foster, believes that sidewalks are the responsibility of all citizens and the City Council and not the homeowner.

Nora Rambo, 732 N. 23rd, commented that she had attempted to improve her sidewalks; however, she has not been able to get a true estimate from a contractor who after she has asked for a specific dollar amount, had threatened her that if she did not sign up right away, her cost would increase.

Councilman Kennedy noted that the City had met for over 2 hours yesterday to try and resolve this issue. Yesterday, they learned that they cannot legally create a utility, they cannot legally add \$1.00 to the utility bill, and there are several legal issues regarding waiving permit fees. He noted that the City is trying to be proactive on this issue and the Council will be meeting again next Monday at 12:00 noon to continue to try and find solutions for this issue. Councilman Hassell noted that one of the problems is that Idaho Law does not make any allowances for cities to provide reasonable solutions to issues such as sidewalk repairs.

Roger Tanner, 2211 N. 9th, opposes having to be responsible for sidewalks and believes the City has to come up with a fair solution.

Greg Johnson, 808 N. 3rd would like to see the City come up with a fair solution to the sidewalk repair issue.

Tim Altevers, 1119 N. 3rd Street, commented that he is a recent transplant from Ohio and believes that having residents pay for the City's sidewalks is not right. He also noted that the Council was elected to represent the residents and they, not the citizens, are responsible for changing State laws to accommodate a solution for these types of issues.

Dave Sheridan, 754 N. 4th Street, representing the American Legion, asked what the Lake City Development Corporation is doing for the citizens. LCDC paid for putting brick on a condo so he believes that LCDC could find money to pay for the replacement of sidewalks in the Midtown area. Councilman Goodlander noted that this Wednesday at 3:00 p.m. in the Library Community Room, LCDC will be meeting and Midtown is on their agenda. She invited Mr. Sheridan to this meeting.

John Coutts, 1016 E. Lakeside Avenue, noted that the Council has the ability and the compassion to make tough decisions and believes that Council will change the ordinance and challenged the Council to walk the areas where dying trees have broken up concrete. He does not believe that the disruption of sidewalks was caused by the lack of responsibility of the homeowners. He believes that the law is unjust and illegal and needs to be repealed. He reminded Council that in most civilized areas of the world sidewalks are the responsibility of the City, town or shire. He believes that there needs to be a tax implemented so that every resident pays equally for the repairs for sidewalks. He believes that the current law is poorly written, and insidious. He wants the Council to make decisions not on fiscal responsibility but by their hearts and to remember the elderly citizens of our community. Councilman Kennedy noted that the City's legal Council has reviewed the case in Sacramento and noted that it is not illegal to make homeowners responsible for sidewalk repairs. One of the issues of changing the law, and having the city take over the responsibility for the repair of sidewalks, would be that the City then would be responsible for snow removal or sweeping of all sidewalks due to liability.

Susan Snedaker, 821 Hastings, believes that maintenance seems to be an issue in the downtown area and needs to be a part of this picture and believes that the Council needs to find a solution for this issue.

POCKET DEVELOPMENT: Paul Kramer, 3152 N. 9th Street, voiced his concern on the pocket development that is being constructed at 3160 Honeysuckle Drive. He submitted a petition from approximately 30 citizens opposing this development as they feel the builder is overbuilding this property with low-income rental structures. He believes that this development will lower the value of his property and that the proposed structures do not meet the requirements for setbacks. He requested that the Council direct that there are no more than 5 homes constructed, that they are constructed within the necessary building regulations, setback requirements and make it blend into the existing neighborhood. Wendy Gabriel, City Administrator, responded that Planning Director Dave Yadon and Planner Tami Stroud met with Mr. Kramer and confirmed that this project does meet code. Mayor Bloem informed Mr. Kramer that the City Administrator will review Mr. Kramer's concerns with Mr. Yadon and Mrs. Stroud and contact Mr. Kramer with her findings.

Councilman Goodlander commented that the Council is not uncaring regarding the sidewalks and have listened to citizens. This law has been in place for 100 years and other cities in Idaho are dealing with the same issues. She explained that the General Fund is used for all non-enterprise funds and if the Council pays for sidewalks out of those funds then they will need to take from other areas such as foregone taxes. She believes that the Council continually balances all the needs of the City but must make fair and equitable decisions. She noted that the Council had asked the very same questions expressed here tonight of staff regarding repair of sidewalks. She assured the residents that Council is addressing this issue and asked residents to please be patient. Councilman Hassell noted that one of his grave concerns is that the issue of sidewalk repairs will bring every contractor from outside the City into town who will try to stampede innocent residents into irresponsible repairs and increased costs.

LANDINGS PARK: Lou Soumas, 3900 Long Meadow, believes that the representative form of government has been working well and in particular noted the Council's funding for the development of the Landings Park. He thanked the Council for their responsiveness to their needs and also thanked Doug Eastwood and The Parks Department. He noted that they are looking forward to collaborating with the City. Cassie Soumas thanked the City for providing the opportunity of creating a park in her neighborhood.

RECESS: Mayor Bloem called for a 5-minute break at 7:55 p.m. The meeting continued as 8:05 p.m.

CONSENT CALENDAR: Motion by Kennedy seconded by McEvers to amend Consent

Calendar Item 2 to remove the General Services Committee from the setting time and date and then to approve the Consent Calendar as presented.

1. Approval of minutes for March 25 and April 1, 2008.
2. Setting ~~General Services Committee~~ and Public Works Committee for Monday, April 21st at ~~12:00 noon~~ and 4:00 p.m. respectively.
3. RESOLUTION 08-019: 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 APPROVAL OF A CONTRACT WITH TML CONSTRUCTION, INC. FOR THE TUBBS HILL BOOSTER STATION PROJECT; AUTHORIZING THE TRANSFER OF RECORDS TO THE STATE ARCHIVES OF VARIOUS PLANNING DEPARTMENT RECORDS FROM 2001 THROUGH 2005; APPROVAL OF BID AWARD AND CONTRACT WITH AUTO RAIN SPRINKLER CONTRACTING FOR PHASE II CONSTRUCTION OF THE SUNSHINE MEADOWS PARK; APPROVAL OF A TRAINING AGREEMENT WITH THE INSTITUTE FOR ADVANCE DEVELOPMENT; APPROVAL OF AN AUCTIONEERS AGREEMENT – SURPLUS AUCTION WITH MR. AUCTION; APPROVAL OF A WAIVER OF PROTEST TO ANNEXATION WITH LOUSE WEED; PRAIRIE TRAIL CROSSING AT KATHLEEN AVENUE AND ATLAS ROAD: A) CONTRACT WITH INLAND NORTHWEST CONSULTANTS FOR CROSSINGS DESIGN AND B) LETTER OF AGREEMENT WITH NORTHWEST SIGNAL FOR INSTALLATION OF SIGNALS; APPROVAL OF BID AWARD AND CONTRACT WITH ACCELERATED CONSTRUCTION AND EXCAVATION, LLC FOR THE 2008 CATCH BASIN REPLACEMENT PROJECT AND APPROVAL OF A RIGHT OF WAY ENCROACHMENT AGREEMENT FOR THE PARKSIDE TOWERS PROJECT.
4. Approval of bills as submitted and on file in the Office of the City Clerk.
5. Setting of public hearings: O-4-08 (Off-Street parking regs) for May 6, 2008; O-6-08 (parks by right) for May 6, 2008; O-1-07d (infill overlay regs.) for May 20, 2008; O-5-08 (zoning performance standards) for Mayo 20, 2008; ZC-2-08 (Zone Change at 3285 Fruitland Lane) for May 20, 2008; and, A-1-08/ZC-1-08/PUD-1-08/S-1-08 - appeal - 418 Lilac Lane and 2310 Pennsylvania Ave. for June 3, 2008.
6. Cemetery lot transfer from Jon and Charlott LaFrenz to Pat W. Arney and Jo Marie Arney.
7. Approval of beer/wine/liquor license for Ellie's Saloon at 2065 W. Riverstone Dr., Suite 207 and for Aubrey's House of Ale at 2065 W. Riverstone Dr., Suite 205.
8. Acceptance of water-line easements from Dalton Square, LLC and Interstate Concrete and Asphalt Co.
9. RESOLUTION 08-021: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A PURCHASE AND INSTALLATION AGREEMENT WITH CXT INCORPORATED FOR THE PUBLIC SAFETY BUILDING TO BE LOCATED IN THE CITY PARK.

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

COUNCIL COMMENTS:

COUNCILMAN BRUNING: Councilman Bruning announced that the photos displayed in the Library hallway were taken by children up to age 5 and that there will be a reception and exhibit on April 20th.

COUNCILMAN GOODLANDER : Councilman Goodlander noted that the Bike to Work Week celebration is May 16th.

APPOINTMENT - CEMETERY ADVISORY BOARD: Motion by Hassell, seconded by McEvers to appoint Victoria Roberge to the Cemetery Advisory Board. Motion carried.

VOLUNTEER PROGRAM FOR THE FIRE DEPARTMENT: Deputy Chief Washko reported that the Fire Department is requesting the Council reinstate its Volunteer program to assist the Fire Department with their Canine Search and Rescue Team. Motion by Goodlander, seconded by Kennedy to approve the creation of a volunteer program for the Fire Department. Motion carried.

SEARCH DOGS FOR FIRE DEPARTMENT: Firefighter Jeff Sells introduced Kodie, one of the Search and Rescue canine team members. He explained the Canine Search and Rescue program. Motion by Goodlander, seconded by Hassell to approve using canines as part of the Fire Department's Search and Rescue Team. Motion carried.

RESOLUTION NO. 08-020

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING A SERVICE ORDER AGREEMENT FOR TELEPHONE AND LONG DISTANCE SERVICES, WITH XO COMMUNICATIONS SERVICES, INC.

Finance Director Troy Tymesen reported that XO Communication has completed an audit of the City usage that resulted in an estimated \$27,000 that they believe the City owes XO Communication. With the changes to the City's new VOIP phone system the new contract would allow for a \$17,000 credit on the audit and a \$5,700 monthly savings to the existing system.

Motion by Goodlander, seconded by McEvers to adopt Resolution 08-020.

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

ORDINANCE NO. 3330
COUNCIL BILL NO. 08-1006

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING SECTIONS 12.28.180 AND 12.28.200 TO CLARIFY ASPECTS OF STREET, SIDEWALK, CURBING, CURBS & GUTTER PAVEMENT INSTALLATION REQUIREMENTS AND ESTABLISH IT AS A COMPONENT OF THE BUILDING PERMIT PROCESS FOR NEW CONSTRUCTION OR IMPROVEMENTS AND ADDING A NEW SECTION 12.28.260 TO ESTABLISH REQUIREMENTS FOR ALLEY ASPHALT PAVING FOR NEW CONSTRUCTION AND IMPROVEMENTS; 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 Kennedy to pass the first reading of Council Bill No. 08-1006.

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

Motion by Kennedy, seconded by McEvers to suspend the rules and to adopt Council Bill No. 08-1006 by its having had one reading by title only.

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

PUBLIC HEARING - RCA-9-08 - REQUEST TO CONSIDER ANNEXATION OF EAGLE VIEW ESTATES: Mayor Bloem read the rules of order for this legislative public hearing. John Stamos, Senior Planner, gave the staff report.

Mr. Stamos reported that Larry Fluet is requesting approval of a request to consider annexation of an approximate 21.3 acre parcel into the City. The subject area has some areas of greater than 15% slopes so it would be required to comply with the City's Hillside Development Regulations. He noted that the County has this zoned as an Urban Reserve Area. These areas represent lower priorities for city growth due to natural constraints such as topography, soils, and wetlands. They also have City service constraints such as water, sewer and police and fire protection. Any future development will require infrastructure and hillside development and will present tree and open space preservation challenges. The area is generally envisioned to continue to develop as a lower density, single-family area with care taken to preserve the natural vegetation, views and open space on steeper slopes.

Mr. Stamos noted that there is one proposed condition for Council to consider:

1. At the time the applicant submits a formal request for annexation, the applicant must present clarification from the appropriate court that the 68' private road and utility easement will allow the City to install, maintain and replace our public utility lines in substantially the same manner as a public utility easement. Alternatively, the applicant can present evidence that the owner of Frosty Pine Trail (the servient estate) will grant a public utility easement to the City.

Councilman Hassell asked if Frosty Pine Trail would be the only access to this property. Mr. Stamosos responded that it is.

PUBLIC COMMENTS:

Brad Marshall, 7825 Meadowlark Way, Senior Planner for JUB Engineers, represented the applicant. He noted that the subject property has been presented to the City Council before. In 1992 the Council denied the annexation of the property due to lack of access to the subject property. There is now a judgment that provides for a 60' access easement with an approximately 5% grade to the roadway. As recommended by City staff the applicant has received clarification from the judge that this easement applies to the placement of city utilities. He believes that this property is a natural addition to the City. In regard to the pocket of land that is still in the county, he believes that it would eventually become a part of the City. He noted that there is City sewer and water in the roadway at Frosty Pines Road and Fernan Hill Road. He reported that the developer is proposing to construct the street to City standards along Frosty Pines Road with a sidewalk along one side of the roadway. He believes that the City, in the future, could require that the existing easement be granted as a public right-of-way. In regard to development of the property the applicant envisions 20-30 lots with approximately ½-acre sized lots. In summary he believes that this is a logical annexation into the City, it is within the Area of City Impact, and it is in the Urban Reserve zoning.

Michelle Fulgham, attorney with Lukins and Annis, noted that the easement issue was litigated in order to enforce the easement included in the neighboring property owner's title for the proposed roadway. Judge Hosack determined that it was a valid easement and was meant for development of the subject property. She noted that Deputy City Attorney Warren Wilson is the one that recommended the applicant work the issue out since the neighboring property owner is using his attorney to block the use of this easement to allow annexation of the subject property.

Rita Webb, 881 Frosty Pine Trail, does not oppose development of this property but opposes the density of this property. Her concern is that if the applicant is allowed to develop at the proposed level of density, it will affect traffic flow in her neighborhood.

Warren Wilson, Deputy City Attorney, clarified for the Council that the purpose of this hearing is not so much about density and hillside development but whether or not it makes sense to annex this property. In regard to the easement issue, the City is requesting clarification so the City does not end up in litigation and the City has the ability to provide utilities to this property.

Bruce Meyer, 3361 Fernan Hill Road, asked if the annexation request has the support of the adjacent property owners, he responded the answer is no, as he has 23 signatures opposing this annexation that was signed in 2006. The homeowners' concerns are traffic, fire and police response. He asked if the annexation request has any legal questions on this property, and he responded yes, there are questions as to the easement. He reported that Mr. Hancock, who owns the property including the Frosty Pines Road, has been misrepresented by the applicant's attorney tonight. They do not have opposition to the development of the subject property but the density to which the applicant plans to develop it and the question of maintaining the roadway. He noted that the court order noted that this easement does not have to be dedicated as a public right-of-way roadway. Mr. Meyer also believes that a high density development on this hillside would have a negative impact on Fernan Lake.

Scott Reed, 401 Front Street, representing Mr. and Mrs. Hancock who own the property that Frosty Pines Road exists in and who oppose the annexation of the subject property. This property is currently in the County that requires 5-acre parcels. He noted that a large portion of the subject property is extremely steep and that the Fire Department cannot meet their 4-minute response time to the subject property which could affect the overall fire rating for the City. Contrary to Mrs. Fulgham's statements, Mr. Reed believes there was not a title report that gave access of the roadway to the adjacent property by right and that the easement served a home on the property and did not extend to a roadway and that the easement is an implied easement and the easement, as recorded, does not allow for a public right-of-way. He recommended that the Council deny their request for consideration of annexation.

Deputy City Attorney Warren Wilson responded that the issue before the City today is whether the City has the ability to install and maintain city utilities in this roadway.

Ms. Fulgham rebutted that there was an express easement from Fernan Hill Road up to Frosty Pines Road. However, there is a gap in the roadway to the applicant's property in which the applicant obtained an implied easement from the courts.

COUNCIL DISCUSSION: Councilman Goodlander asked if the Fire Department currently serves the other homes on adjacent property and if so, what is their response time. Deputy Fire Chief responded that the Fire Department currently serves the residents along Victorian Lane with a response time of 5 minutes.

Councilman Hassell commented that with the information provided, he does not see this as a benefit to the community to bring this property into the City at this time.

Councilman Kennedy does not see this request to annex as a benefit to the residents of this city.

Councilman Goodlander does not see this as a benefit to the City with the extended response time of the Fire Department, and she has a substantial concern due to the legal issues involved in the roadway.

Motion by Hassell, seconded by McEvers to deny the applicant proceeding with the formal application process for annexation. ROLL CALL: Bruning, Aye; Goodlander, Aye; Hassell, Aye; Kennedy, Aye; McEvers, Aye. Motion carried.

PUBLIC HEARING - O-3-08 - MODIFICATION OF CIVIC USE PARKING REGULATIONS: Mayor Bloem reiterated the rules of order for a legislative public hearing. Sean Holm, Associate Planner, gave the staff report.

Mr. Holm reported that the purpose of this amendment is to modify the existing civic use parking requirements used to determine the number of stalls required for a courthouse. The request is a private party request received from Marian Kessell on behalf DJL Enterprises, LLC. The request is that the Planning Commission should determine the required number of spaces needed for a courthouse, rather than apply current code, in which the civic administrative standard governs. The current code requires one parking stall per 300 feet of structure. He noted that written comments from Mr. John Manning were distributed for Council review.

He noted that if the Council approves this amendment as requested the applicant will amend their building permit application.

PUBLIC COMMENTS: John Manning, ACLS Architects, Spokane Washington, reported that as part of the project, parking was part of the design of the Federal Courthouse. However, the use of the building is considerably different from a commercial office building. The current courthouse on a daily basis has 43 visitors per day with a total of 33 employees. The current code requires that they construct a parking structure that contains at least 184 stalls.


Councilman Kennedy noted that the size of the courthouse being constructed is considerably larger than the existing courthouse and asked if additional offices with other departments would be added to the new Federal building in the future. Mr. Manning reported that no further usage will be added to this building other than the existing courts.

Councilman Kennedy noted that if the savings for this code amendment was going back to the taxpayers, he would be in favor it; however, since the savings is going to the developer, he has a concern that by eliminating the number of parking spaces the taxpayers may be burdened with adding a parking garage in the future.

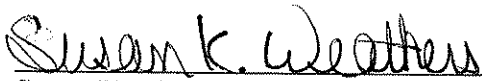
Motion by Hassell, seconded by McEvers to approve the proposed amendments to the Civic Use Parking Requirements and to direct staff to prepare an ordinance amending the current regulations. ROLL CALL: Bruning, Aye; Goodlander, Aye; Hassell, Aye; Kennedy, No; McEvers, Aye. Motion carried.

ADJOURNMENT: Motion by Goodlander, seconded by Kennedy to recess this meeting to April 17th at 5:00 p.m. in the Library Community Room for a City Council/SD 271 Board joint meeting and then to April 21st at 12:00 noon in the Library Community Room for a 2nd workshop on sidewalks. Motion carried.

The meeting recess at 9:53 p.m.


Sandi Bloem, Mayor
Mayor Pro Tem

ATTEST:


Susan K. Weathers, CMC
City Clerk