

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

January 3, 2017

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 January 3, 2017 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

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

Loren Ron Edinger) Member of Council Absent

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

INVOCATION: Pastor Paul Van Noy with Candlelight Church provided the invocation.

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

PRESENTATION: ROAD SCHOLAR AWARDS: Laila Kral, Deputy Administrator of LHTAC (Local Highway Technical Assistance Council), explained the Road Scholar program as part of the training and technical assistance for the State of Idaho. She noted that it take 80 hours of additional education to reach the Road Master Certification level. She presented the Road Master Awards to Street Department employees Michael Jaecks, Douglas Sheldon, Jon Broemmeling, Robert Royce, and Susan Wolf.

CONSENT CALENDAR: Motion by McEvers, second by Miller to approve the consent calendar.

1. Approval of Council Minutes for the December 20, 2016 Council Meeting.
2. Approval of Bills as Submitted.
3. Setting of General Services and Public Works Committees meetings for January 9, 2017, at 12:00 noon and 4:00 p.m. respectively.
4. Setting of a Public Hearing for January 17, 2017 for fee changes to the Administration Department, Finance Department, Municipal Services Department, Parks and Recreation Department, Planning Department, and Water Utility Department.

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

COUNCIL ANNOUNCEMENTS:

Councilmember English noted that he will miss the next Council meeting.

Councilmember Gookin thanked the Street Department for doing such a great job clearing snow from the streets. He noted that a dead tree would be removed from Rosenberry Drive this week.

Councilmember Miller said that in a recent newspaper article it was noted that getting a library card is a popular New Year's resolution. She encouraged citizens to get their library card this year.

RESOLUTION NO. 16-067

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING THE CLASSIFICATION AND COMPENSATION PLAN TO PROVIDE A TITLE CHANGE FOR THE POSITION "INFORMATION SYSTEMS AND TECHNOLOGY ANALYST (POLICE DEPARTMENT)" TO "INFORMATION SYSTEMS AND TECHNOLOGY (IT) ANALYST COORDINATOR (POLICE DEPARTMENT)", AND A CLASSIFICATION CHANGE FOR SAID POSITION FROM PAY GRADE 14 TO PAY GRADE 15.

STAFF REPORT: Human Resource Director Melissa Tosi explained that this position was reviewed and leveled by BDPA in 2013 and at that time the position was placed under Municipal Services. This fiscal year, the position was approved in the current budget and placed under the Police Department with duties updated to reflect current needs and additional responsibility. With the additional responsibilities, increased accountability of the job and change in the scope of responsibility and diversity of duties related to supervisory duties as well as additional police specific equipment such as mobile data equipment and surveillance systems, BDPA recommends the pay grade of 15. The reclassification of the position (9% increase from a pay grade 14 to a pay grade 15) will not increase wage expenses for the Police Department for fiscal year 2016-2017, due to already incurred wage savings since the position has been vacant since October 1, 2016.

DISCUSSION: Councilmember Gookin asked if this position would be competitively advertised. Ms. Tosi confirmed it would be advertised by the end of the week if approved. Councilmember Gookin asked for clarification regarding the supervisory and surveillance equipment additions. Police Chief White explained that mobile data is continuously evolving and this position will need to insure hardware and software compatibility. He noted that he does not intend to purchase new equipment for surveillance and that might be a reference to the license plate reader technology. Ms. Tosi clarified that this person will be also be responsible for long-range planning and software research duties.

MOTION: Motion by Evans, seconded by English to approve **Resolution No. 16-067**, approving an addition to the Classification and Compensation Plan to include the position of Police Information Systems and Technology Analyst Coordinator and to place it at a pay grade 15.

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

RESOLUTION NO. 16-068

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AMENDMENT NO. 1 TO THE AGREEMENT WITH HDR ENGINEERING FOR THE AWTF TERTIARY TREATMENT PHASE 2 PROJECT.

STAFF REPORT: Wastewater Capital Program Manager Jim Remitz explained that Amendment No.1 to the Agreement with HDR would provide construction administration services during the construction of the Tertiary Treatment Phase 2 Improvements. Tertiary Treatment Phase 2 is the second phase of improvements that will construct tertiary treatment facilities and provide capacity for plant flows up to 5 million gallons per day (MGD). The project will ‘dovetail’ with the previously constructed improvements in Phase 1 that were completed in January 2015 and will provide treated wastewater effluent of a quality to meet the final discharge limits of the December 2014 National Pollutant Discharge Elimination System (NPDES) permit issued by the U.S. Environmental Protection Agency. Planning and Design Engineering Services were approved at \$1,710,810; this amendment will add \$2,113,441 in construction phase services for a new total of \$3,824,251, which is budgeted in the current FY 2016/2017 Financial Plan in the Wastewater Operating Fund. He reviewed the timeline for the project and noted that completion is estimated to be December 2018.

DISCUSSION: Councilmember McEvers expressed concern that the design and engineering is approximately 20% of the \$20,000,000 budget. Mr. Remitz confirmed that is a normal percentage for the industry. Councilmember Miller asked for clarification regarding how HDR was awarded the project. Mr. Remitz explained that HDR has been involved in various phases of the plant throughout many years and staff felt that it was in the best interest to utilize them for the construction phase services as they design the project. Councilmember Miller asked who the owner representative would be for this project. Mr. Remitz stated that he will be the owner’s representative and clarified that he will oversee the consultant and the construction project. He noted that the consultant would do the day-to-day construction oversight to assure that what is constructed is what was designed and that it works. Additionally, DEQ requires the City to have construction engineering services on these projects. He noted that the startup at the end of the project is the most important phase, which will ensure the design works. DEQ will attend construction meetings, will do periodic inspections, and perform a detailed final inspection.

MOTION: Motion by McEvers, seconded by Evans to approve **Resolution No. 16-068**, approving Amendment No. 1 to Agreement with HDR Engineering for the AWTF Tertiary Treatment Phase 2 project.

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

(QUASI-JUDICIAL HEARING) ZC-3-16 - APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY THE ZONE CHANGE REQUEST FROM R-12 TO NEIGHBORHOOD COMMERCIAL. APPELLANT: BRENNY ROSS ON BEHALF OF ARVID LUNDIN.

STAFF REPORT: Planner Tami Stroud noted that this is an appeal of the Planning Commission's decision to deny a zone change request. She reviewed the previous commercial uses held on the property since 1963 such as floral shop, radiator repair, and currently a violin repair shop. At the time it was annexed in 1963, it had a commercial use, and then the city rezoned the property in 1982, changing it to an R-12 zone, which created a legal non-conforming use. In 2006, the owner at the time requested it to be C-17L, the lowest available commercial zone to make it legally conforming. That request was denied, but caused the Planning Commission to request another zone be created that would be compatible with residential zoning. This moved the development of the Neighborhood Commercial and Community Commercial zone forward. She noted that the findings required are: that this proposal is, or is not in conformance with the Comprehensive Plan policies; that public facilities and utilities are or are not available and adequate for the proposed use; that the physical characteristics of the site do or do not make it suitable for the request at this time; that the proposal would or would not adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and/or existing land uses. She presented photographs of the existing conditions, current utility connections, area uses, and uses allowed within the Neighborhood Commercial (NC) zone.

DISCUSSION: Councilmember Gookin asked if the new owner would be required to pave the parking area. Ms. Stroud explained that it would be dependent upon use. She explained the legal non-conforming use was created when the property was annexed in from the County, as it did not conform to the city code at that time. Councilmember Evans asked if the change in ownership would make the use no longer allowable. Ms. Stroud explained that the use would be allowable until the use stopped. Councilmember English asked for confirmation that a 4,000 sq. ft. building would be allowed on the site. Ms. Stroud explained that a retail use would be based on the property size and the floor area ratio of one. Different uses could provide the opportunity for a large structure; however, parking would be a challenge. Councilmember English asked for clarification regarding the required buffer areas. Ms. Stroud clarified that buffer would only be required on Ichabod Avenue if parking is located there. She reiterated the allowable uses within the NC zone and explained that without a zone change the owner could build a triplex or two single-family homes, but no other commercial uses would be allowed. Discussion ensued regarding other NC zone changes throughout the City.

APPLICANT: The City Clerk swore in the applicant's representative Brenny Ross. Mr. Ross reiterated that the owner is in the process of selling the property and it is hard to obtain financing until the zone lines up with the commercial use. In 2006 the owner did request a zone change and was denied based on the C17L being too intense. The new zoning districts were created based on that request so he believes that this is a fit intended for the new zones.

DISCUSSION WITH THE APPLICANT: Councilmember Gookin asked what the applicant intends to build on the lot. Mr. Ross said the applicant would most likely put in professional offices with the existing buildings.

PUBLIC TESTIMONY: The City Clerk swore in Brian Donnell. Brian Donnell resides at 414 Ichabod, Coeur d'Alene, and explained that his house is two doors down from the subject property and he opposes the zone change. He noted that he would want a buffer on 4th street as the visibility is difficult due to the current use of parking. He has lived in the neighborhood since 1993 and expressed concern that the zone change will open up opportunities to build new, larger buildings, and require parking lot to have large lights. He would like to keep the area residential. Mr. Donnell noted that this building has been vacant three times with different commercial uses recently. He expressed concern that this opens the door for other neighboring properties to request zone changes away from residential. He also expressed concern about future uses and their effect on the residential neighborhood.

DISCUSSION WITH MR. DONNELL: Councilmember McEvers explained that the current zoning allows for a triplex or duplex, which would include additional lighting and more people abutting his property and asked Mr. Donnell if he would prefer that use. Mr. Donnell said that since it is a residential use he would prefer that more than setting a precedent for commercial uses.

APPLICANT REBUTTAL: Mr. Ross reiterated that this property has not been a residential use over the past 60 years, and with the NC commercial zoning, the impact to the neighborhood would not change. The property faces 4th Street, not the residential zone and 4th Street seems like a transitional zone. The parking has been an issue in the past and the zone change would address that, as well as set hours of operation restrictions.

Public testimony was closed.

DISCUSSION CONTINUED: Councilmember Gookin asked if there was egress onto Ichabod Avenue and what the lighting restrictions are with the NC zone. Ms. Stroud confirmed the egress onto Ichabod and explained that the code would regulate lighting, including location, and that the lighting would need to be of residential character with no spillover. Councilmember Gookin asked if there were other NC zones that had experienced a domino effect of other properties requesting zone changes. Ms. Stroud explained that out of the past seven requests, the City has not experienced side-by-side requests and any future request would need to be heard before the Planning Commission and City Council. Councilmember McEvers said that he would like to have staff review this use, since 6 years has passed and there are different administrative interpretations today. Councilmember Miller agreed with Councilmember McEvers in that it seems like something changed with the grandfathering in of this property. City Attorney Mike Gridley explained that the code has not changed, and that maybe an interpretation of the code has changed. He noted that the City Council could look at the code and make changes.

Councilmember Evans noted that while she served on the Planning Commission there was a lot of discussion about pocket zones to avoid the patchwork zoning affect, and asked if this is a pocket zone. Ms. Stroud clarified that in 2006 the owner requested C17L zone, and at that time the Planning Commission felt that there should be a zone district that would be less intense than a C17L and allow limited neighborhood commercial uses. Councilmember English reiterated that this specific zone has been used a few times, and believes that if approved it is likely that a neighboring property may want that zone too and at a point in time it starts change. He noted

that when he thinks of 4th Street he sees it as mostly commercial use, and this property has had heavy commercial use such as the radiator store. He believes that part of growth is trying to balance between residential and commercial uses. Councilmember Gookin reiterated that the NC zone was created due to this property but was never applied to this property.

Councilmember Miller requested clarification regarding the allowable building square feet. Ms. Stroud confirmed allowable use square footage and clarified that the parking requirement is three stalls per 1,000 square feet, which would limit the building size on this property.

Councilmember Gookin noted that the Council has the option to conditionally approve the zone request and could attach conditions such as, a requirement to keep the existing building and/or remove the egress onto Ichabod. Mr. Gridley noted that the requiring the building to remain as is on the property into perpetuity would be an extreme condition.

MOTION TO DENY: Motion by McEvers, seconded by Evans to deny the Appeal of the Planning Commission's decision to deny the Zone Change request from R-12 to Neighborhood Commercial. Appellant: Brenny Ross on behalf of Arvid Lundin.

DISCUSSION: Councilmember Gookin said he would not support the denial of the appeal as he sees it as not supporting businesses and believes that NC zone was created for this property with the neighborhood in mind. Councilmember English noted that he would not deny the appeal as it has already been one form of commercial use or another for so many years.

Councilmember McEvers explained that he feels it will cause a domino effect and he does not believe the legal nonconforming use make sense. He would like staff to try to find a way to do business on the property without affecting the neighborhood, as he is concerned with what this change will do to the residential uses existing on 4th Street. Councilmember Gookin clarified that the NC zone allows the business to keep going. Councilmember McEvers felt that the NC zone was developed for new areas, like Ramsey Road, near Coeur d'Alene Place. Ms. Stroud clarified that in some of the newer subdivisions, the developer carved out areas zoned C-17 to allow those area stores. She reviewed the locations of the previously approved NC zones.

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

MOTION TO APPROVE: Motion by Gookin, seconded by English to approve the Appeal of the Planning Commission's decision to deny the Zone Change request from R-12 to Neighborhood Commercial. Appellant: Brenny Ross on behalf of Arvid Lundin.

DISCUSSION: Councilmember Gookin reiterated that the NC zone was created to solve this type of problem. If the property were developed under the NC zone it would interfere less with the neighborhood than it currently does, as the code would require residential style lighting and parking. He noted that he believes this will better protect the neighborhood in the future and that there is no evidence of a domino effect with past NC zones. He feels this would be business-friendly and the commercial impact is already there. Councilmember Evans confirmed that this is a difficult decision; however, she is uncomfortable with the isolated zone on the east side of 4th Street, and agrees that the NC zone is appropriate and was formed for this property.

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

(LEGISLATIVE HEARING) FRANCHISE AGREEMENTS WITH AVISTA CORPORATION FOR ELECTRICAL AND NATURAL GAS.

STAFF REPORT: City Attorney Mike Gridley explained that this essentially a renewal of existing franchise agreements with Avista for electrical and gas services. These agreements provide the right to use the city's right-of-way for electricity and gas piping. The City is allowed to charge up to a 5% fee and Avista has agreed to that percentage. Additionally, the City negotiated the ability to use Avista poles for fiber cable if needed in the future.

DISCUSSION: Councilmember McEvers asked why this Agreement is a 25-year term. Mr. Gridley explained that the statute allows 10 –50 years for franchise agreements. Additionally, Avista agrees to maintain capacity to accommodate the estimated future growth for the community.

PUBLIC TESTIMONY: Mayor Widmyer called for public comments; with none being received, public testimony was closed.

ORDINANCE NO. 3555
COUNCIL BILL NO. 16-1025

AN ORDINANCE GRANTING AVISTA CORPORATION, d/b/a AVISTA UTILITIES, A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO LOCATE, CONSTRUCT, INSTALL, OWN, OPERATE, MAINTAIN, REPAIR, AND REPLACE POLES, ELEVATED AND UNDERGROUND WIRES, CABLES AND APPURTENANCES FOR THE TRANSMISSION, CONTROL AND DISTRIBUTION OF ELECTRICITY WITHIN THE CITY.

MOTION: Motion by McEvers, seconded by Miller, to pass the first reading of **Council Bill No. 16-1025**.

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

MOTION: Motion by McEvers, seconded by Gookin, to suspend the rules and to adopt **Council Bill 16-1025** by its having had one reading by title only.

DISCUSSION:

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

**ORDINANCE NO. 3556
COUNCIL BILL NO. 16-1026**

AN ORDINANCE GRANTING AVISTA CORPORATION, d/b/a AVISTA UTILITIES, A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO LOCATE, CONSTRUCT, INSTALL, OWN, MAINTAIN, REPAIR, REPLACE, EXTEND, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF THE TRANSMISSION, DISTRIBUTION AND SALE OF GAS.

MOTION: Motion by Miller, seconded by Gookin, to pass the first reading of **Council Bill No. 16-1026**.

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

MOTION: Motion by McEvers, seconded by Gookin, to suspend the rules and to adopt **Council Bill 16-1026** by its having had one reading by title only.

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

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

The meeting adjourned at 7:33 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk