

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

September 20, 2016

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 September 20, 2016 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

Dan Gookin)	Members of the Council Present
Kiki Miller)	
Woody McEvers)	
Amy Evans)	
Dan English)	
Loren Ron Edinger)	

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

INVOCATION: Pastor Pace Hartfield, One Place Church, gave the invocation.

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

AMENDMENT TO AGENDA: There were none.

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

1. Approval of Council Minutes for the September 6, 2016 Council Meeting.
2. Approval of Bills as Submitted.
3. Approval of Minutes for the General Services and Public Works Committee Meetings held September 12, 2016.
4. Setting of General Services and Public Works Committees meetings for September 26, 2016 at 12:00 noon and 4:00 p.m. respectively.
5. **Resolution No. 16-048:** 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 APPROVING THE DESTRUCTION OF RECORDS IN THE FIRE, WATER, FINANCE AND MUNICIPAL SERVICES DEPARTMENTS; APPROVING EMPLOYEE VOLUNTARY SEPARATION INCENTIVE AGREEMENTS WITH RAYMOND KENDALL, GLENN LAUPER, JAMIE MCDANIEL, RICH CARNES, KEVIN JOHNSON, DIANE MELCHIORE, STEVE CHILDERS, SCOTT TENEYCK, SHARON SIMON, AND JAYNE MORSE; APPROVING AMENDMENT NO. 1 TO THE AGREEMENT (ADOPTED PER RESOLUTION NO. 12-014) WITH WELCH COMER &

ASSOCIATES, INC. FOR ADDITIONAL PROFESSIONAL ENGINEERING SERVICES FOR THE GOVERNMENT WAY PROJECT; APPROVING SUPPLEMENT NO. 3 TO THE AGREEMENT (ADOPTED PER RESOLUTION NO. 15-058) WITH J-U-B ENGINEERS, INC. FOR ADDITIONAL PROFESSIONAL ENGINEERING SERVICES FOR IRONWOOD – US 95 INTERSECTION IMPROVEMENTS; APPROVING AN AGREEMENT WITH LAKE CITY ENGINEERING, INC. FOR CITY OF COEUR D'ALENE 2016 PROFESSIONAL ENGINEERING SERVICES AND APPROVING COEUR D'ALENE PLACE 27TH ADDITION FINAL PLAT APPROVAL, ACCEPTANCE OF IMPROVEMENTS, MAINTENANCE/WARRANTY AGREEMENT AND SECURITY (S-3-12).

ROLL CALL: Edinger, Aye; Miller, Aye; McEvers, Aye; Gookin, Aye; Evans, Aye; English, Aye. Motion carried.

PUBLIC COMMENTS:

There were none.

MAYOR AND COUNCIL COMMENTS: There were none.

APPOINTMENTS: Motion by Evans, seconded by Edinger, to approve the appointment of Denise Jeska, Mike Fuller, and Tom Morgan to the Pedestrian Bicycle Committee and Kathleen Sayler to the Library Board. Motion carried.

RESOLUTION NO. 16-049

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, APPROVING A RECIPROCAL ACCESS AGREEMENT WITH THE USDA FOREST SERVICE FOR NURSERY ROAD EASEMENT GRANTED TO THE FOREST SERVICE AND A PUBLIC PARKING LOT EASEMENT GRANTED TO THE CITY, TOGETHER WITH SEPARATE EASEMENTS FROM THE UNITED STATES TO THE CITY AND FROM THE CITY TO THE UNITED STATES, WITH THE EXACT LOCATION OF THE EASEMENTS TO BE DETERMINED.

Staff Report: Hilary Anderson, Community Planning Director, presented a request for council approval of a reciprocal agreement with the United States Forest Service (USFS) so a trailhead parking lot with access to the Prairie Trail can be built. In return, the City would grant an access easement to the Forest Service for a future paved access road to their future development.

Ms. Anderson said that the Forest Service is planning to build a facility on Kathleen Avenue. The Forest Service will provide access to, and an area for, a trailhead parking lot with an easement to the City for public parking and access to the Prairie Trail. The city will be responsible for constructing the small, 8 car parking lot at a later date. The Forest Service is expected to begin work in the Fall of 2017. The city will be responsible for maintenance of the parking lot and the area around the lot. The city already mows and picks up trash in this area so the additional labor will not be a significant cost increase. The two easements will be of

approximately equal value. The addition of trailhead at this area will provide a much needed amenity to the Prairie Trail. From this trailhead walkers and bikers will be able to access the vast and growing network of trails in Northwest Coeur d'Alene, as well as neighborhoods, parks, schools and the Kroc Center.

Ms. Anderson commented that when this item was presented to the General Services Committee on August 22nd, concerns with the impact of lighting and use within the 80 foot buffer were expressed. She noted that the Forest Service has hosted one planting party, with the second one coming up on September 24.

Councilmember Gookin asked if it was a typical U.S. Government contract because it seems very one-sided. Ms. Anderson said the agreement is reciprocal because the city is granting access and the Forest Service is granting an easement. Both parties feel like they are covered under this agreement.

MOTION: Motion by Gookin, seconded by Evans, to approve **Resolution No. 16-049**, Agreement with the Forest Service for Reciprocal Access and Two Easements between the United States and the City for Public Parking and Access.

ROLL CALL: Miller, Aye; McEvers, Aye; Gookin, Aye; Evans, Aye; English, Aye; Edinger, Aye. Motion carried.

RESOLUTION NO. 16-050

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A JOINT POWERS SUBSCRIBER AGREEMENT WITH ICRMP TO FULLY INSURE THE CITY OF COEUR D'ALENE FOR LIABILITY AND PROPERTY DAMAGE AND REJECTING THE ADDITIONAL TERRORISM COVERAGE.

Staff Report: Troy Tymesen, Finance Director, presented a request for council renewal of the ICRMP insurance program to fully insure the city of Coeur d'Alene for liability and property damage and to reject the offer of terrorism coverage.

Mr. Tymesen stated that ICRMP is a pool insurance and risk management program established by the Idaho Code to provide liability insurance and property damage insurance for the mutual benefit of political subdivisions of the State of Idaho. The cost to the city of Coeur d'Alene to be a member of ICRMP for fiscal year 2016-2017 will be \$363,445, which is a 4% increase over last year. The increase in the ICRMP premium is due to the increase in payroll costs and an increase in building valuation and contents. The city has been pleased with the service and claims accountability. ICRMP offers many and varied resources for employee training and sample policies to educate and reduce risk. The premium for terrorism coverage would be approximately an additional \$174,490. The ICRMP Board has acquired a fifty million dollar excess benefit at no additional cost to members which is shared as a benefit in the event of a terrorism act during a policy year.

Mr. Tymesen said that customer service with ICRMP has been excellent and staff supports the program.

MOTION: Motion by McEvers, seconded by Edinger, to approve **Resolution No. 16-050**, Renewal and approval of amendment to the 2016-2017 Policy with ICRMP for insurance coverage for liability and property damage and reject the terrorism coverage.

ROLL CALL: McEvers, Aye; Gookin, Aye; Evans, Aye; English, Aye; Edinger, Aye; Miller, Aye. Motion carried.

ORDINANCE NO. 3548
COUNCIL BILL NO. 16-1020

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, SECTION 10.27.050, REGARDING THE PROCEDURES FOR THE APPEAL OF A CIVIL PARKING INFRACTION WITHIN THE CITY OF COEUR D'ALENE; PROVIDING REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

Staff Report: Sam Taylor, Deputy City Administrator, presented a request for council approval of modifications to the City Code providing for making the City Administrator or their designee the appeals officer for parking tickets. Mr. Taylor said that when a person appeals a parking ticket to the City, the existing City Code provides that a random Parking Commission member will hear the appeal. Recently, Parking Commissioners have expressed concern with reviewing the appeals. The commissioners would like to provide for increased consistency and professionalism of the appeals process for tickets, to provide better service to the community. The code language will make the City Administrator the main appeal officer, though it is likely that it will be designated to the Deputy City Administrator, who manages parking issues in the community. Staff believes that this will not be a major increased burden on staff time as there do not appear to be a significantly overwhelming number of appeals filed. Should that change, the proposed code language provides flexibility to designate this work to more staff or even back to the Parking Commission as a "designee."

Mr. Taylor explained that prior to 2005 parking ticket appeals were undertaken by city staff. Now, on a monthly basis, a parking commissioner is notified of the appeals and they have to provide a written response within 15 days of receiving the appeal. Staff has worked to enhance customer service related to the process, and that process would not change. Mr. Taylor noted that the commission expressed concern that as volunteers it is very time consuming for them to do appeals, and they are also concerned because they don't necessarily have training related to administrative law. In the past, staff was heavily participating in the process in that the Legal Department was processing the appeals and doing the leg work. Now the appeals are processed by the Downtown Association, and so now a lot of the leg work has fallen back on the commissioners. The commissioners' other concern is because the commissioners do the appeals on a rotating basis, each commissioner might have their own perception and it might not be

consistent. The Parking Commission has unanimously recommended modification of the appeal procedure back to the way that it used to be done, and staff believes that the change is appropriate. Mr. Taylor said that he believes that he can effectively manage the appeals since he manages parking for the city. If it was too burdensome, they would probably have the City Attorney's office assist.

Mr. Taylor said that the Parking Commission has many duties, including receiving feedback from the community. Each member of the commission represents a different stakeholder and each provides perspective and recommendations and works with staff. Doing the appeals would no longer be a part of their mission, but if it is a burden for staff, the language in the ordinance amendment related to a designee would still allow for the appeals to go back to the commission.

Councilmember English said that it is a tough thing to ask community volunteers to serve in a quasi-judicial role and the consistency is a real factor so he thinks he makes a lot of sense.

Councilmember Gookin asked why parking tickets can be appealed. Mr. Taylor said that it is about due process and he thinks it is appropriate to provide for an appeals process.

Councilmember Gookin asked Mike Gridley, City Attorney, if a one step appeals process is legal. Mr. Gridley said that he thinks that if someone wanted to take the time and expense, they could challenge some aspect of the enforcement or regulation of parking in the city.

Councilmember Gookin asked Mr. Taylor what would happen if the parking ticket appellant was someone that he knew. Mr. Taylor said that in that event he would recuse himself and send the appeal to the city attorney's office for review.

Councilmember Miller said that in her opinion, there is a financial impact to the city. She also asked Mr. Taylor what training he would go through in order to adequately respond to the appeals. Mr. Taylor said that he has a Masters Degree in Public Administration with emphasis in administrative law so he feels that he has the adequate training. He also noted that he is salaried, so there would be no additional cost to the city.

MOTION: Motion by Edinger, seconded by McEvers, to pass the first reading of **Council Bill No. 16-1020**.

ROLL CALL: Gookin, Aye; Evans, Aye; English, Aye; Edinger, Aye; Miller, Aye; McEvers, Aye. Motion carried.

MOTION: Motion by Edinger, seconded by McEvers, to suspend the rules and to adopt **Council Bill 16-1020** by its having had one reading by title only.

ROLL CALL: Gookin, Aye; Evans, Aye; English, Aye; Edinger, Aye; Miller, Aye; McEvers, Aye. Motion carried.

EXPENDITURE OF FUNDS FROM THE PARKING FUND FOR THE COLLECTION OF PARKING TICKETS.

Staff Report: Sam Taylor, Deputy City Administrator, presented a request for council approval of an expenditure of Parking Fund monies for the collection of unpaid parking fines and to gather vehicle owner data in order to pursue said collections. Mr. Taylor stated that the city has a back log of more than 30,000 unpaid parking infractions over the last three years. The City Council at its September 6, 2016 meeting approved an agreement with Chapman Financial Services in order to begin collecting said unpaid parking infractions. It is estimated that approximately \$350,000 in unpaid parking fines has gone uncollected during this time, and the City previously lacked proper systems in order to collect on these fines. Staff has now devised a system for collection of unpaid tickets and continues work to expand the ability to gather data for vehicles registered in other states. As of now, data needed for collection is only available for Idaho plates.

State law requires that the City send out an initial letter requesting that the person pay the ticket. There is explicit language in state law the city must use in the letter, and the city must clarify that it will add an additional 33 percent collection service fee to the amount owed before sending the account to collections. Once the letter is sent out and the person does not pay, they will be sent to collections. Those with \$40.00 or more in fines will receive a 25% discount if they pay prior to December 31. Those who do not pay by December 31 will be sent to Chapman Financial Services for collection.

Because the city must send out the letter, funds are needed for postage, the letters, and envelopes. Funds are also needed to pay other states to receive data on registered vehicle owners outside of Idaho. The City's IT staff has merged the Idaho records, and of the 24,949 outstanding tickets, only 8,415 letters need to be sent because most people who haven't paid have multiple fines. Staff has also set up a new computer program that will allow other staff to directly input future lists, merge the data, and auto-populate letters.

Staff is seeking expenditure approval in the amount of \$6776.04 from Fiscal Year 2016-17. It is estimated that up to \$90,000 could be received in collections of unpaid fines, which would easily recoup the necessary process costs; however, collections can take time and revenues may trickle in. This is a crucial part of the city's enforcement system in order to change the paradigm as it exists today.

Councilmember English said that at the Parking Commission meeting there was discussion about how the council has apparently looked at enforcement before and there is a feeling that council hasn't taken it seriously. Besides the practical aspect, Councilmember English said that he thinks that it sends the message that council is serious.

MOTION: Motion by McEvers, seconded by Edinger, to approve the expenditure of approximately \$6,776.04 from Fiscal Year 2016-2017 for the parking ticket collection letters/processing.

ROLL CALL: Evans, Aye; English, Aye; Edinger, Aye; Miller, Aye; McEvers, Aye; Gookin, Aye. Motion carried.

PUBLIC HEARING: (Quasi-judicial) **A-4-16:** Marina Yacht Club, LLC., located at 1000 N. Marina Drive, for a proposed annexation and zone request from County Commercial to City C-17.

Staff Report: Mike Behary, Planner, presented a request on behalf of the Marina Yacht Club, LLC for approval of an Annexation of +/- 172.24 acres in conjunction with zoning approval from County Commercial to city C-17 (Commercial at 17 units/acre) and NW (Navigable Waters) zoning districts.

Mr. Behary presented a description and background information on the history of Blackwell Island and noted that the subject property has been used as a marina for over 50 years and is in the City's designated Area of City Impact. He discussed recent annexations over the years in the area. Discussed existing zoning of the area. He discussed the allowed uses in the C-17 zoning district, and the required findings for annexation, which are that the proposal is or is not in conformance with the Comprehensive Plan policies; that public facilities and utilities are/are not available and adequate for the proposed use; that the physical characteristics of the site do/do not make it suitable for the request at this time; that the proposal would/would not adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and/or existing land uses; and the recommendations for items to include in the annexation agreement.

No conflicts of interest were declared. Mr. Behary said that public notice was published on September 3, 2016 and all required notifications have been made.

Mr. Behary said that a limited PUD was submitted to the Planning Commission on August 9, 2016, and the Planning Commission voted to conditionally approve pursuant to the annexation of the subject property. The commission recommended 25 items to be included in the annexation agreement, including two from the Idaho Transportation Department (ITD). Mr. Behary noted that the ITD notified them that their two items are no longer needed in the annexation agreement.

DISCUSSION:

Councilmember Gookin asked about the allowed uses in the area. Mr. Behary said that the uses are anything water-related. Councilmember Gookin asked if navigable waters exist in other areas of the city, why can't they put in their own docks. Mr. Behary said that they would have to apply to get them. Councilmember Gookin said that his concern is for other areas that are navigable waterways in that it doesn't allow anyone next to any navigable waterway to build a marina, for example.

Councilmember Gookin asked about recommended Item #3, that the Cedars Restaurant and the marina would be required to connect to the public water system at a private system. Terry Pickel, Water Superintendent, said that they talked about installing a water meter at the 12 inch main in case the applicant wants to relocate infrastructure to suit their needs.

Councilmember Gookin asked about recommended Item #11, the requirement to transfer potable water rights to the city, and questioned why the city was not requiring the applicant to transfer the well to the city. Mr. Pickel said that it is a small well and they are concerned about influence from the water. The city is just wanting the water rights.

Councilmember English asked if the annexation is approved, what practical or functional difference is it going to make that that portion of waterway is now in the city versus not? Mr. Behary said that right now it just makes the city boundary more homogenous and ties into the existing city limits.

Councilmember English said that most of the request is actually for the water surface and he wondered why the private owner included that and if it is normal. Mr. Behary said that the city doesn't own the surface water, they just have jurisdiction over it. Mr. Gridley said that it gives the city the right to enforce their ordinances in that area – jurisdiction on the surface. The State still owns the lake bed and would issue encroachment permits.

Mayor Widmyer called for public comments.

John Barlow, said that he lives in Harrison, Idaho, and in Coeur d'Alene occasionally. His mailing address is P.O. Box 1180, Coeur d'Alene, 83816. He is representing the Marina Yacht Club LLC in regard to their request to annex the Blackwell Island property.

Mr. Barlow said that Blackwell has been a part of Coeur d'Alene's history since the 1880s. It served as the area's largest sawmill for decades, and then the city's landfill, and then there was a transition to marina uses. It has always been the most accessible and well protected marina in the Coeur d'Alene area. The Cedars restaurant has been in operation since the 1960s.

Mr. Barlow presented information regarding the history of the area and noted that dredging occurred during the sawmill operation in order to enhance access to logs. He said that significant investment has been made in securing permits, storm drainage, marina parking, service buildings and marina operations. Mr. Barlow discussed and explained the improvements made to the marina and noted that the marina and restaurant business have been very successful and growing, and they have basically outgrown their utilities and feel it is time to annex and be a part of the city. They also obtained permits from the Army Corps of Engineers and State of Idaho, valid through March of 2021, to dredge and work the waterways.

Mr. Barlow said that the city's Comprehensive Plan base map designates the property as "Stable Established." This implies that the area's neighborhood character has largely been established and should be maintained. The development is consistent with the use of the land in the past and consistent with the neighborhood and established comp plan. Stormwater, streets, water, sewer and fire have been reviewed by staff. They have gone through in detail the requirements that would be necessary and all have been accomplished and are agreed upon. In order to effectuate the annexation of the property they requested a limited PUD dealing with existing and planned marina access and seasonal activity and boat storage. Mr. Barlow reviewed the PUD request and uses of the property. He noted that the key points to consider are that the zoning request is consistent the Comprehensive Plan, and marinas and restaurants are listed in the

Comprehensive Plan as acceptable uses. All existing Blackwell Island property presently in the city is already zoned C-17. The zoning uses are well established and the businesses are uses for the area. Mr. Barlow said that the businesses that you see are the businesses they will operate under the PUD. The areas requested for the PUD fully respect the 40 foot shoreline ordinance and the only exceptions are items necessary to access the marina and restaurant. They have met with every department and the conditions of approval are all acceptable to them as part of their annexation. The investments that they have made in the last two years prove that their commitment is real.

Councilmember McEvers asked if the 35" of open space is part of the PUD agreement. Mr. Barlow confirmed that it was and noted that any boat can go through there and access to that open space is from the lake.

Councilmember McEvers asked about access to the slough. Mr. Barlow said that when the lake level goes down a portion of the slough dries up, but the marina is still there.

Councilmember McEvers asked about the ped/bike easement and the payment of \$13,000 in lieu of the easement, and asked where that number came from. Mr. Barlow said the number came from staff. He noted that there is an existing bike trail easement that came when Blackwell Island RV park came in as a PUD. There is also a bike trail easement that goes along highway 95. Staff said that it was not likely that the bike trail would ever be built because it doesn't go anywhere and it would be better to receive money for improvements on the trail system somewhere else. Mr. Barlow noted that the city's water line would continue and they can't build over it.

Councilmember Edinger said that it is quite an improvement in the area and he commented that he thinks that if this presentation would have been presented to the council a few years ago, it might have stood a good chance of passing. Mr. Barlow said they are proud of the fact that they started the ball rolling on their own and when they spent the money for the infrastructure improvements, it was a pretty big commitment. He noted that you develop the property for its highest and best use for the economy you are in.

Mayor Widmyer asked what is involved in shoreline stabilization. Mr. Barlow said that the bank is somewhat stable with the existing vegetative growth, but during higher or lower water events, the bank has some disruption. There are also remnants of foundation from the old mill which enhance erosion, so it needs some maintenance or otherwise it can degrade to a condition where nobody can fix it. He noted that there are no structures at all in the 40 feet shoreline area, but they are requesting a transformer to be permitted with access to the Cedars, and are asking to keep their flag poles and light poles.

Gerald Mathes, 1006 E. Lakeside, Coeur d'Alene, said that he listed on the sign-in sheet that he was opposed to the annexation and needed to clarify. He is not opposed to the annexation, but just has some questions. He noted that he grew up in Coeur d'Alene and is not opposed to development. He is very impressed with many of the things that Mr. Hagadone has been able to accomplish for the community. In regard to the C-17 designation, he asked whether even though the applicant has stated that the highest structure will be 60 feet, will they be able to build higher

structures than 60 feet? He said that he is impressed with what the applicant has been able to do with the marina and cleaning up the area, but a 60 foot building is somewhat of a different structure with a different skyline. Mr. Mathes asked if an impact study has been done about the amount of noise that will arise from the mechanical operations of the building and light pollution.

Roger Smith, 810 Bancroft Street, Coeur d'Alene, said that when the old Atlas Mill site was approved for annexation, there was a lot of concern about the fact that we have a jewel on the river that is worth preserving as noted in the Comprehensive Plan. At the time of the annexation, the city wrote a resolution to that effect and established an ad hoc committee that was called an advisory group to the council. When that ad hoc committee was disbanded, they established a group called Friends of the Spokane River Corridor involving people from organizations like the Bike Trail Foundation, Kootenai Environment Alliance, and the Mill River Homeowners Association. They are a coalition group of people that have a strong interest in riverfront issues and preserving riverfront. Mr. Smith said that he doesn't have any specific strong objections to what is being proposed, but they do have some concerns. He didn't see much in the proposal in regard to the preservation of public access and public viewscape along the river. Their biggest concern is setting some precedents that would then apply to other areas of the riverfront that are yet to be developed such as the two big mill sites. He noted that there aren't many special rules for the river district and no teeth to really enforce them, and suggested that maybe a new zoning district is needed to avoid some of the piecemeal development. Mr. Smith recommended that a workshop be held and that the city take the lead on that to look at what can be done to guarantee that some of the visions of the Comprehensive Plan are standardized and imposed on future development along the river.

Chuck Gaede, 4465 Greenchain Loop, Coeur d'Alene commented that as judges, the council needs to make findings and recommendations. He noted that tucked in the PUD there is open space that counted against the 10% open space required by the PUDs. He thinks it is a terrible precedent to set, and thinks that the council needs to make a finding that water doesn't count as open space. He commented that if that 10% comes out of the water which is already public, what is to prevent development down the river on both the north and south shore from saying that the river is our open space. He asked the council to make a finding that the river or the lake cannot be used for the open space offset. He also commented that the city really needs zoning for a river district and not just a comprehensive plan with dreams since the Comprehensive Plan is not enforceable. Mr. Gaede commented that he thinks the city needs the marina and it is a good project.

Mayor Widmyer asked Mr. Gridley to clarify the open space issue. Mr. Gridley said that staff has discussed it in a fair amount of detail because they are concerned about the river and don't want to set precedents and want to be consistent in their treatment of everyone. He thinks that this is a unique piece of water, in that the water to be used as open space is contained within the development. There is no other space where that will occur. Mr. Gridley commented that encroachments into the river are controlled by the Department of Lands and then once they are annexed into the city, then the shoreline ordinance does apply unless there is a PUD that allows a trade off. The proposed open space in this development is unique but it fits within the requirements of their PUD for a variance. In regard to the definition of open space, there is no

requirement that someone can walk on it, and it doesn't even have to be accessible to the public, just accessible to users of the development. Mr. Gridley said that he doesn't feel like there is a precedent being set that will affect the rest of the development down the river.

Julie Delsaso, 743 Fairmont Loop, Coeur d'Alene, thanked staff for answering her many questions. She noted that she has spent a lot of time reading public records about this project because it involves a lot of agencies. She is very concerned about the exemptions to the shoreline ordinance, and noted that the exempted transformer by the Cedars fell into the water about 5 years ago and caused a PCB violation. After that incident the pole should have been moved but was put back into the same place. Ms. Delsaso said that she doesn't think that the transformer is a good reason for having an exemption for protected shoreline at the Cedars. She also doesn't think that having 60 feet of stacked boats along the canal is a good idea either. She commented that navigable water zoning creates a lot of confusion about who has authority for construction on the waterway. One thing that the designation was used for was annexing around Tubbs Hill, but Tubbs Hill is native vegetation and there is not a lot of soil disruption. Ms. Delsaso said that the navigable water zoning needs to be updated to include new best management practices (BMPs) recommended based on 30 years of lake studies. She also expressed concern about impacts from multiple open-ended phases of development and it is her understanding that the dredging may take place over several years and the canal may be closed. There might be condos – she doesn't know what it is going to look like. It will create some navigational concerns that are usually addressed through the Department of Lands, and will push all of the boat construction towards NIC. Ms. Delsaso said that looking at how the shoreline affects a number of things is more of a comprehensive look and that downstream from where the dredging is proposed are gravels and silts that affect how the aquifer runs. It will be important to determine the effects of stored mining toxins and they will have to be careful that contaminants don't leach during flooding periods. The city could use some written quality assurances. Ms. Delsaso said that the permits from the Army Corps and DEQ have been extended for 7 more years so she doesn't think there is a big hurry. She thinks that the annexation does not fit the Comprehensive Plan. Ms. Delsaso said she is not against the project, but just wonders why, when the property was bought in 2004 that the shoreline destruction has still continued. Ms. Delsaso expressed concern regarding tribal artifacts and said that interdependent agency coordination helps with truth finding in a real democracy. There are unanswered questions about quality assurances related to the aquifer and the leaking of toxins. She also said that foreseeable orderly growth should be more gradual going from rural residential to industrial/commercial with 24/7 operations.

Pat Behm, 743 Fairmont Loop, Coeur d'Alene, said that he is not against this project and the eventual annexation of the property, but asked what set of rules are in place to guide the development and submerged lands included in the annexation. He recommends that the city postpone annexation until they have a firm handle on the scope of the projects. There are uncertainties about impingement, view shed and the aquifer that should cause close examination of all particulars. Mr. Behm noted that the stretch of river included is the busiest stretch on the lake and he is deeply concerned for public use. The shoreline shaded trees and shallows on the island shore provide cool paddling which is safe from motorboat traffic. He also said that industrial development up to the shoreline is a concern. When we keep the tree shoreline, our

view shed from the Dike Road and NIC will not be so sullied from the high rises that will surely emerge from the island.

Mr. Behm said that new construction of a 60 foot structure within the setbacks and additional requests for work on the Cedars are new uses, and not marine business as usual. He hasn't seen the boat stacks and doesn't know what they look like. There is no construction plan submitted to the Army Corps of Engineers. The plan is supposed to contain scores of repairs and improvements prior to construction, but there is no construction plan to the Corps yet. The 60 foot boat stacks should be added to the construction plan and managed by state and federal agencies involved in negotiation and planning. There is no mitigation included with the request for variances of city setbacks. Mr. Behm said it is important to study the history of planning if you are planning for the future, and this annexation should not be rushed, and to let the Army Corps and DEQ deal with the marina construction and then consider annexation when we know what we are in for.

Dr. Lisa Manning, 5858 W. Cougar Gulch Road, said that she represents the Kootenai Environmental Alliance "Waterkeeper" program, and she is the Lake Coeur d'Alene "Waterkeeper." She thanked everyone and staff for their hard work. There are a litany of studies supporting upholding shoreline protection, some of which she provided to the council. Shoreline protection is very important and should be upheld. Vegetation shoreline buffers play a critical role in protecting the ecological function of water quality. She urged the city not to consider a variance of the 40 foot shoreline setback. It is important to remember that the lake water quality is sensitive to human lake-related activities. She noted that recently the Wastewater Treatment Plan underwent expensive upgrades to reduce phosphorus and meet water quality standards. The majority of phosphorus pollution is coming from non-point sources including sediment generated by logging in the watershed, development in the lake, septic systems, stormwater runoff, fertilizers, ashes from fires, pet and livestock waste and bank erosion. The simplest and most effective Best Management Practice (BMP) for the protection of water quality is a 50 foot to 200 native vegetation buffer. She encouraged the council to enforce the existing code regarding shoreline regulations and to not grant a variance for the Marina Yacht Club. The annexation should have language requiring re-vegetation from an approved plant list after any instances of soil disturbance. She asked that her handouts to council also be provided to staff, and agrees that a workshop is an excellent idea for everyone, as the precedent set will affect future development and construction practices

Ed Morsen 5864 Harcourt Drive, Coeur d'Alene, said that "these guys" do quality work and some great projects in the city. With respect to annexation, when that happens the residents of the city bear the burden in that their taxes go to provide services for anyone that gets annexed. As a citizen of Coeur d'Alene, he pays a lot of taxes and likes the services that he receives, but wants to make sure that citizens get benefits back. He noted that there are other people that like to use the area – not only paddlers, but other folks and it seems to him that as citizens of this city they should be able to get some access to the area. The easement for the bike path should be retained. Bike paths are getting used and he thinks it is a wonderful attribute to the community. Mr. Morsen said that he is a professional engineer and sees a diminishing ecosystem as we infringe on the water and remove our riparian areas. It is important that we retain that buffer and vegetation, and enhance the vegetation with native species. One of the things he has come to

learn in his profession is that the beds and banks of these rivers are owned by the citizens of the state of Idaho. The Idaho Department of Lands administers the beds and banks on our behalf. Calling open water open space doesn't work for him because we already have that right. He asked what the citizens of the city are getting in return for the annexation.

Mayor Widmyer called for a five minute recess at 7:47 p.m. The meeting resumed at 7:54 p.m.

John Magnuson, 1250 Northwood Center Court, said that a concern was expressed about the possibility of establishing a precedent by allowing the applicant to use open space through the marina property. He commented that it would be of absolutely no precedential value and said that the level of the lake is maintained by a dam that was put in in 1906. He showed that the present marina location was actually dredged out of private property located above the ordinary high water mark, and the applicant is the only one in the city of Coeur d'Alene of which he is aware that actually owns the lake bed within their own property over which the water is located. The land is taxed as submerged land. He also responded to the comment about the people of the state of Idaho having title to the beds and banks of the lakes, and said that applies to beds and banks that weren't artificially created on private property through a dredge. This situation is a factually unique circumstance of no precedential value. The applicant has guaranteed that if the PUD is approved the strip of open space will remain unobstructed in perpetuity, or the applicant can make application as it has done and apply for encroachment within its internalized lagoon for additional permits, etc. The open space requirements were found to have been met in 2005 upon the same argument presented today.

Councilmember Evans asked if the open space requirement was not applied to the canal, would there then be the option to apply for it to be closed? Mr. Magnuson said that it has been a marina operation for over 50 years and there is always an opportunity to go to the Department of Lands to amend the permit for additional locations, etc. It could change internally with the constitution or complexion of the marina and the PUD insures that it will not happen.

Councilmember English asked about the property tax rate for submerged land. Mr. Magnuson said the county has a category called submerged lands, but this is the only one in the context of a marina.

Mr. Barlow said that open space comes from the precedent set 10 years ago where the marina was the open space and council approved it then. The other aspect is that in a marina operation they have security issues for people's boats that involve gates and ramps, etc. and it is difficult to introduce an access point in the middle of a secure marina. He noted that the city does have a piece of property that could easily use the open space.

Councilmember Evans asked Mr. Barlow to address the comment about the canal being closed for dredging. Mr. Barlow said that if they were to engage the permits that they have the canal would be closed and they would have to come to the city to get some kind of approval to do that. At this point in time they don't have that scheduled. They have been granted a 7 year extension on those permits, and they are extendable beyond that, if necessary. Everything is driven by the economy of the day and time.

Phil Boyd, 350 E. Kathleen, Coeur d'Alene, the applicant's engineer, said that when they started looking at the project, it was just to repave the Cedars parking lot and make some improvements to the gravel parking lots. As they started looking at it they saw an opportunity to do something better – an opportunity to prevent the stormwater from running off into the river. The conclusion of the county is that the current configuration is much better. One of the main features is retaining the ability to maintain the encroachments that are currently there. In regard to shoreline stabilization, there is considerable erosion in areas due to old log structures that have eroded over time. The sole purpose of the PUD variance is to do shoreline stabilization.

Mayor Widmyer asked if the property is served by a septic system now. Mr. Boyd confirmed that it was and said that the plan is to hook into city sewer.

Councilmember English asked if there was a plan to get rid of the trees and vegetation? Mr. Boyd said that the PUD variance for working the shoreline setback is for erosion control. If a tree fell and was creating an erosion situation, they would remove the tree, but other than that, cutting trees doesn't qualify as erosion control.

Councilmember McEvers asked Mr. Barlow to discuss the impact of mining waste and aquifer cleanup. Mr. Barlow said that had addressed the shoreline stabilization and stormwater runoff issues before coming before the council today. In regard to mining waste issues, those are questions that will come if and when they do the dredging project. The testing that they did for five years showed that the sediment is what the heavy metals cling to and that is one of the reasons they don't want anyone to disturb the lake bottom without the proper environment. Mr. Barlow noted that their permits are extensive and involve a lot more work that would still have to be done to start, but at this point it is not a project they are even contemplating.

Mr. Barlow said that the annexation will result in a new source of property tax for the city and a new expense for them, but they do gain the sewer and water and they are paying for the extensions. He noted that they have already met with water, sewer, fire, etc. and basically wanted the department issues resolved before they came to council so they didn't have a problem like they had last time.

Councilmember Miller commented that dry stack boat storage is new to the community. There is a high concentration of fuel, boats, and flammable material. In regard to the request to have the stacked building moved closer to the water, she wants to be ensured that the catastrophic issue would be addressed. Mr. Barlow said that every building they need to build has to go through a building permit process. Every permit is reviewed by every department. They currently have 38 boat storage buildings at their Stateline facility with about 1,500 boats stored and they are all permitted under code. He commented that it is no different than a dry stack. The buildings they are proposing would be significantly less dense than what they have at Stateline. It would be a lot easier to control a fire here than it would be at Stateline. Dry stack buildings are more common in Seattle than regular marinas, and it is not a new concept to marinas in America. The same codes apply nationwide and there is a good track record of what is acceptable for fire and water, etc.

Councilmember Miller asked why it is necessary to have the dry stack buildings within the shoreline ordinance area north of the River Avenue demarcation. Mr. Barlow said boats access the water via a large fork lift. For that reason you don't want to have a dry stack far away from the water.

Councilmember Miller said that there has been discussion regarding dry stacks and the noise, light pollution and aesthetics of the building. Mr. Barlow said that he doesn't think that noise is an issue. Forklifts would not be working at night, and very little light is needed. The elevation of the highway allows you to see over the marina and the building is not that tall.

Councilmember Miller asked what happens to the docks located outside of the annexation parcel. Mr. Barlow said that they are permitted from the state under the Department of Lands and are not part of the acreage of language that is proposed to be annexed.

Councilmember Edinger asked Mr. Barlow if they had any plans for building condos. Mr. Barlow said not at this time because the utilities they have discussed and agreed to with the city are not large enough for condos. When and if they had other development that they wished to happen they would have to come back to the city for a building permit. They would need to have different configurations for water, fire, sewer, etc. Mr. Barlow stated that their company has no interest in condos at this point in time.

Councilmember McEvers asked Mr. Barlow what he can say to the public in terms of what the city would be receiving that they don't have now. Mr. Barlow said that he remembers that the previous request was for buildings up to 110 feet tall near the water's edge with a public walkway along the river. Where it got complicated was instead of a walkway it became a multiple use path and it was no longer a subtle, soft thing between the river and where people live. Councilmember McEvers asked if the boardwalk at the Resort was part of what the public got in exchange for the variance in the shoreline ordinance. Mr. Barlow said that it was the birth of the shoreline ordinance and they were not opposed to the boardwalk and saw it as an asset. The boardwalk has over a million people a year walk on it. Councilmember McEvers asked Mr. Barlow what the city would be getting in exchange for the variation on the shoreline ordinance for this project. Mr. Barlow said they would be getting the facility and the open space that they have committed to. It will also result in many thousands of dollars of new property tax for the city. The city is also getting paving, erosion control, etc. because it is already done.

Councilmember Evans asked about Item #23, the ped/bike easement and the fee in lieu of in the amount of \$13,000. She noted that the city currently has a parcel with approximately 100 feet of shoreline and suggested that instead of the \$13,000 payment in lieu of the ped/bike easement, that a private/public partnership happen to improve the city parcel to make it a more usable open space such as a non-motorized launch point for kayaks, paddle boards, etc. Mr. Barlow said that the city can use the \$13,000 for whatever they want but they don't have any plans to get involved in the development of the city's property at this point.

Public testimony was closed.

DISCUSSION: Councilmember Gookin asked Mr. Behary and Mr. Gridley regarding the open space rules. Mr. Gridley said that the requirement under a PUD is 10% of open space, as determined by the Planning Commission, which is free of buildings, streets, driveways or parking areas. Open space needs to be accessible to all users of the development and usable for open space and recreational purposes. Councilmember Gookin questioned the open space being water. Mr. Gridley said that it is water that is equivalent to over 10% of the land area, and that it meets the PUD requirements as written. Councilmember Gookin said that if the zoning was changed from Navigable Waters to C-17 he would be okay with the PUD.

Councilmember Evans commented that if the canal is not considered open space it would have the potential to be the access shutoff to the BLM slough, but if it is considered as open space, then the annexation would ensure that the area would remain open and would prevent it from being shut off. Mr. Gridley said that they looked at it historically and the reason the property was dredged was to bring in logs for the sawmill. It probably wouldn't happen again, but it is something that could happen. If it is preserved as open space, it can't happen.

Mayor Widmyer asked how the county designation of submerged land transfers over to the city. Mr. Tymesen, Finance Director, said that the assessor would look at the valuation. Mayor Widmyer asked if the property came into the city would it be considered land or submerged land. Mr. Tymesen said that it would be the value of the land and the property taxes would come into the city. He also confirmed that he does not know of any other submerged land property in the city.

Councilmember Miller asked if the city could put up buoys, signs and directional information on the surface of the navigable water, or is that controlled by the Department of Waterways. Mr. Gridley said that if it was out on the lake, the buoys the city has are affixed in some fashion to the bottom, which would require a permit from the Department of Lands. The navigable water that is within the marina is technically owned by the marina and the city would have to work with them if they wanted to put buoys out there.

Councilmember Evans said that she would like thoughts from the council on the public benefit as she is wrestling a bit with the vacation of the ped/bike easement. She is comfortable with the canal being counted as open space knowing it couldn't be potentially closed off.

Councilmember McEvers said that he understands the annexation fees and taxes and feels that it is a good deal for everybody.

Mayor Widmyer said that there are some annexation fees that will come to the city and it could be that council could work with the Parks Department and use some of the annexation fees to improve the piece of city owned property in the area. Mr. Tymesen confirmed that council can direct staff regarding the use of the annexation fees and he has not anticipated any annexation fees from this project in the budget for next year and that it would be new revenue.

Councilmember English said that he was impressed with the improvements to the property and it has value to have it in the city. He also looks at it as a very unique situation and doesn't think there would be a lot of precedence. If he had to pick between the value of the waterway access

which is so unique versus some kind of land access that might not even be guaranteed to be open to the public, he thinks it is a rare opportunity for water access that we don't ordinarily get. He is supportive of the annexation.

Councilmember Gookin said that this is the river and council has made a big deal about the other mill sites and river access.

MOTION: Motion by Edinger, seconded by English, to approve/deny the A-4-16: Marina Yacht Club, LLC., located at 1000 N. Marina Drive, for a proposed annexation and zone request from County Commercial to City C-17, to make the necessary Findings and Order, and to direct staff to negotiate an annexation agreement.

DISCUSSION: Councilmember Evans said that she is still hung up on vacating the ped/bike easement and worried that the city is being short sighted on any future opportunities by vacating the easement.

Monte McCully, Trails Coordinator, said that where the ped/bike easement ends, you can't really connect it. In looking at the map, there is nowhere to put a trail around the island. If it was ever developed as a condo or hotel, it could be addressed at that time. Once a pedestrian bridge is built or some other connection to the island, then just being able to get to the area of the city's property would be a great start. Mr. McCully stated that he was more concerned with getting a trail north along the river from the city property should the adjacent RV park ever be redeveloped.

Councilmember Gookin said that the Cedars and the island looks awesome and he doesn't have a problem with any of it, but he doesn't like a PUD. By approving an annexation, they are voting on something they don't see. His issue is the water.

Councilmember Edinger said that he and Councilmember English were against the annexation some years back, but this is a different presentation and he thinks it is a good thing for the city of Coeur d'Alene, and will bring in some tax money and would be a great benefit to the city of Coeur d'Alene and the taxpayers.

Councilmember Miller said that her concern about the open space over the waterway is that it is kind of a trade off like the Bellerive open space where nobody knows it is there. She also has concerns waiving the shoreline ordinance area and the unknown boat stacking product, but will have to defer to staff through the building permit process in making sure that a hazard isn't created there.

ROLL CALL: English, Aye; Edinger, Aye; Miller, Aye; McEvers, Aye; Gookin, No; Evans, Aye. Motion carried with Councilmember Gookin voting No.

PUBLIC HEARING: (Legislative) **Council Bill No. 16-1021** Budget Amendment for Fiscal Year 2015-2016

Staff Report: Troy Tymesen, Finance Director, presented a request for council approval to amend the Fiscal Year 2015-16 Budget by a total of \$2,671,865. Idaho code allows the City Council at any time during the current fiscal year to amend the appropriations ordinance to reflect the receipt of revenues and/or the expenditure of funds that were unanticipated when the ordinance was adopted. The City each year adopts an amendment or amendments to the appropriation ordinance. The budget amendment reflects increases in expenditures due to carryovers of projects, capital purchases from the GO Bond sale, retirement and separation accumulated leave payouts, State and Federal grants received, availability pay in the Police Department and an increase in constant manning in the Fire Department. Additional revenues of \$526,080 are projected to be received in the General Fund to cover the increased expenses for the fiscal year, \$745,000 is coming from the GO Bond funds, and \$774,385 is projected to come from General Fund balance.

Mr. Tymesen reviewed the expenditure increases to the General Fund and other funds during the last year. He noted that the goal is to have enough dollars to get everything done that council directs them to do. He confirmed that the \$774,385 listed as increases to the revenue for the General Fund was money taken from the Fund Balance to square up the General Fund. He noted that some of the dollars were dedicated for projects that were carried forward and the Fund Balance will probably not move down by that amount.

Mayor Widmyer called for public comments. There were none.

Public testimony was closed.

MOTION: Motion by Evans, seconded by Gookin, to pass the first reading of **Council Bill No. 16-1021**.

ORDINANCE NO. 3549

COUNCIL BILL NO. 16-1021

AN ORDINANCE AMENDING ORDINANCE 3514, THE ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015 APPROPRIATING THE SUM OF \$85,949,225 \$88,621,090, WHICH SUM INCLUDES ADDITIONAL MONIES RECEIVED BY THE CITY OF COEUR D'ALENE IN THE SUM OF \$2,671,865; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

Section 1

That Section 1 of Ordinance 3514, Ordinance of the City of Coeur d'Alene, be and the same is hereby amended to read as follows:

That the sum of ~~\$85,949,225~~ \$88,621,090, be and the same is hereby appropriated to defray the necessary expenses and liabilities of the City of Coeur d'Alene, Kootenai County, Idaho, for the fiscal year beginning October 1, 2015.

Section 2

That Section 2 of Ordinance 3514; Ordinances of the City of Coeur d'Alene be and the same is hereby amended to read as follows:

That the objects and purposes for which such appropriations are made are as follows:

GENERAL FUND EXPENDITURES:

Mayor and Council	\$247,345
Administration	305,263
Finance Department	798,078
Municipal Services	1,587,774
Human Resources	264,861
Legal Department	1,200,180
Planning Department	558,908
Building Maintenance	497,773
Police Department	13,272,575
Drug Task Force	29,710
	\$1,236,180
	13,670,005

Byrne Grants		157,125
COPS Grant		136,000
Fire Department	13,567,735	14,520,435
General Government	49,250	153,500
Engineering Services	1,306,016	1,498,376
Streets/Garage	2,898,101	2,948,101
Parks Department	1,973,062	1,979,962
Recreation Department	723,984	736,684
Building Inspection	937,133	
TOTAL GENERAL FUND EXPENDITURES:	\$40,217,748	\$42,263,213

SPECIAL REVENUE FUND EXPENDITURES:

Library Fund	\$1,509,151	
Community Development Block Grant	529,424	
Impact Fee Fund	1,842,000	\$2,036,900
Parks Capital Improvements	524,000	530,700
Insurance / Risk Management	372,000	
Cemetery Fund	304,272	311,172
Cemetery Perpetual Care Fund	127,500	
Jewett House	29,355	
Reforestation/Street Trees/Community Canopy	103,500	
Arts Commission	7,300	
Public Art Funds	324,000	
TOTAL SPECIAL FUNDS:	\$5,672,502	\$5,881,002

ENTERPRISE FUND EXPENDITURES:

Street Lighting Fund	\$584,150
Water Fund	8,310,421
Wastewater Fund	16,265,161
Water Cap Fee Fund	850,000
WWTP Cap Fees Fund	2,500,000
Sanitation Fund	3,737,479
City Parking Fund	167,896
Drainage Fund	1,257,307
TOTAL ENTERPRISE EXPENDITURES:	\$33,672,414
	\$33,672,414

FIDUCIARY FUNDS:

STREET CAPITAL PROJECTS FUNDS:	\$2,661,900	
DEBT SERVICE FUNDS:	2,842,000	\$3,259,900
	882,660	
GRAND TOTAL OF ALL EXPENDITURES:	\$85,949,224	\$88,621,089

Section 3

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

Section 4

This ordinance shall take effect and be in full force upon its passage, approval and publication in one (1) issue of the Coeur d'Alene Press, a newspaper of general circulation published within the City of Coeur d'Alene and the official newspaper thereof.

ROLL CALL: Edinger; Aye; Miller, Aye; McEvers, Aye; Gookin, Aye; Evans, Aye; English, Aye. Motion carried.

MOTION: Motion by McEvers, seconded by Gookin, to suspend the rules and to adopt Council Bill 16-1021 by its having had one reading by title only.

ROLL CALL: Edinger, Aye; Miller, Aye; McEvers, Aye; Gookin, Aye; Evans, Aye; English, Aye. Motion carried.

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

The meeting adjourned at 9:02 p.m.

ATTEST:

Steve Widmyer, Mayor

Amy C. Ferguson, Deputy City Clerk