

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

October 17, 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, October 17, 2017 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

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

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

INVOCATION: Pastor Mark McWhorter, with Church of the Nazarene provided the invocation.

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

AMENDMENT TO AGENDA MOTION: Motion by McEvers, seconded by Evans to add Resolution No. 17-066 to the Agenda as the approval of the documents are required by the Army Corp and are needed prior to the next Council meeting. This action was unknown at the time the original agenda was created. **Motion Carried.**

PROCLAMATION DECLARING "WATERKEEPER DAYS – NOVEMBER 2 AND 3, 2017." Mayor Widmyer proclaimed November 2 and 3, 2017 as "Lake Coeur d'Alene Waterkeeper Days." Lisa Manning, Director, Lake Coeur d'Alene Waterkeeper accepted the proclamation and noted that Waterkeepers is a grassroots effort whose mission it is to protect everyone's right to clean water. Their vision is for swimmable, drinkable, fishable waterways worldwide. She noted that they have been giving tours on Lake Coeur d'Alene reviewing the Atlas Mill site and reviewing examples of where silt fence and buffer requirements have been placed. She explained the pollutant they are most concerned about is nutrient loading. Ms. Manning noted that the Waterkeepers organization would work to hold polluters accountable through patrols, education, enforcement, standards and strengthening of regulations. She introduced Alan Lamb, who is working on the Waterkeepers film festival. Mr. Lamb noted that the film festival would be held at North Idaho College on November 2 and 3. He felt that it would be a great educational opportunity for the community and college students.

Councilmember McEvers asked if Waterkeepers works with the Tribe. Ms. Manning confirmed that they do work with the Coeur d'Alene Tribe and noted that they helped her to understand the monitoring programs. She thanked the Mayor and City Council for the proclamation.

MANHOLE ADJUSTMENT UPDATE PRESENTATION: Utility Project Manager Mike Becker explained that the Wastewater Department is conducting a pilot test for street utility adjustments, wherein they are utilizing circular cuts around manholes versus square for any damaged or updated manholes. He presented examples from Harrison Avenue and Ramsey Road. He noted that they reviewed varying depths to determine what their new replacement standards should be and decided to put in control joints similar to sidewalks. Mr. Becker noted that Avista wanted to be included in the pilot project, so they include a few of their locations within the project. Councilmember Miller asked if it would be cost effective for the city to purchase the equipment needed for circular cuts for future use. Mr. Becker noted that they have been discussing options with a couple of contractors who have expressed interest in purchasing the cutters, which would provide the city with more competitive bids in the future. Councilmember English said that he lives at the end of the Ramsey project and felt that there should be signs to explain why the cones are up so folks do not think they were accidentally left behind. Mr. Becker said that is something they could consider.

CDATV SURVEY UPDATE: Municipal Services Director Renata McLeod noted that the CDATV Committee felt it was important to check in with the community since the last survey was conducted in 2013. At that time, the committee was seeking input on the type of programming preferred. Now the committee is not only interested in content, but to better understand if live streaming is successful and a method to explore in the future. The data received will aid in strategic planning.

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

1. Approval of Council Minutes for the October 3, 2017 and October 5, 2017 Council Meetings.
2. Approval of Public Works Committee Minutes of October 9, 2017
3. Approval of Bills as submitted and reviewed for accuracy by Finance Department
4. Approval of the Financial Report
5. Setting of Public Works and General Services Committee meetings for October 23, 2017 at 12:00 noon and 4:00 p.m. respectively
6. Setting of public hearings on November 21, 2017:
 - a. ZC-3-17- Applicant: Welch Comer; Location: South of vacated Garden Avenue East of Park Drive, requested proposed zone change from R-3 (Residential at 3 units/acre) to City R-8 (Residential at 8 units/acre) zoning district
 - b. A-3-17- Applicant: The Estate of Marvin Paul Keough; Location: 7845 N. Ramsey Road, requested proposed 4.6 acre annexation from County Commercial to City C-17
7. Approval of SS-17-09c, Alaska Partners Professional Center Condominiums, Final Plat
8. **Resolution No. 17-065-** A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING THE BELOW MENTIONED AGREEMENTS FOR THE CITY OF COEUR D'ALENE, INCLUDING APPROVING A SUBRECIPIENT AGREEMENT WITH THE BOYS AND GIRLS CLUB FOR A

COMMUNITY DEVELOPMENT BLOCK GRANT ALLOCATION AND APPROVING OF AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH J-U-B ENGINEERS, INC., FOR ENGINEERING SERVICES FOR THE 2017-18 WASTEWATER COLLECTION SYSTEM CAPITAL IMPROVEMENT PROJECTS (CIP).

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

City Administrator Jim Hammond noted that next Monday, October 23, 2017, the public entry for City Hall would be located in the lower level. Thereafter the lower entry will be the only public entrance point.

Mayor Widmyer asked for the approval of appointments to the City's committees, commissions, and boards.

MOTION: Motion by Gookin, seconded by McEvers to approve the appointments of Jolie Wenglikowski and Hannah Brown to the Childcare Commission; Sydney Morrison and Hannah Daniels to the Arts Commission; Marie Michalson to Urban Forestry committee; Steve McCrea, Cassidee Smidt, and Isabell Bartosh to the Library Board; Hart Parr Dal Pra and Kensey Freeman to the Parks and Recreation Commission; Joseph Morrison to the CDATV Committee; and Ronan Malaghan to the Pedestrian Bicycle Committee. **Motion carried**

Mayor Widmyer noted that in April 2018 Councilmember Ron Edinger would be inducted into the Idaho Hall of Fame.

RESOLUTION NO. 17- 066

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING A "LETTER OF ACKNOWLEDGMENT" AND A "CERTIFICATION OF LANDS AND AUTHORIZATION FOR ENTRY" WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR THE COEUR D'ALENE AUTHORIZED FEDERAL LEVEE REHABILITATION PROJECT, JOB NO. CDA-01-17.

STAFF REPORT: Assistant Project Manager Kim Harrington explained that the United States Army Corp of Engineers (USACE) performed its annual floodworks inspection in April of 2017 and identified two areas in which rehabilitation is required. She clarified that this project is separate from the FEMA Certification Process. The City of Coeur d Alene is not obligated to any project costs. The estimated project cost is \$187,700.00 that is funded by the USACE under the PL84-99 program. The City's maintenance of the floodworks system has allowed the system to remain in the USACE rehabilitation program. When there is damage associated with a flood event the USACE will repair. She noted that there is a set of three trees that may need to be removed with the project. The USACE would like to advertise for bids the first week of November with the project work being performed during low water level in late December. Staff has received easements with the property owners and the Corp will bid and manage the project.

DISCUSSION: Councilmember Edinger asked when the project would start. Ms. Harrington explained that it is on an aggressive timeline, as they want to work while the water is at the lowest level and they hope to be complete by December. Mayor Widmyer asked if the three trees are on NIC property and if they would have to authorize the removal. Ms. Harrington confirmed that they are on NIC property and that the city can approve within 15 feet of the toe. Additionally, the City has an existing Memorandum of Understanding with NIC, so if it is determined that they need to be removed, they agreement allows for it. She clarified that it is unknown at this time if they need to come out. Councilmember English noted that this is a good deal for the City and if they can move forward while there is federal money, he would support it. Ms. Harrington reiterated that the City is getting a large benefit from this project.

MOTION: Motion by Evans, seconded by English to approve **Resolution No. 17-066** authorizing a Letter of Acknowledgment and Certification of Lands and Authorization for Entry for the Coeur d'Alene authorized Corps of Engineers Federal Levee Rehabilitation Project, Job No. CDA-01-17.

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

LEGISLATIVE PUBLIC HEARING 0-5-17- MODIFICATION TO THE WIRELESS COMMUNICATIONS ORDINANCE: MUNICIPAL CODE SECTIONS 17.08.800-17.08.830

STAFF REPORT: Senior Planner Sean Holm provide a brief history of cell phone tower infrastructure including the moratorium on the construction of cell phone towers in the mid-1980's. He noted that there have been no major rewrites to the code since that time. Mr. Holm introduced Bob Duchen, Vice President of River Oaks Communications Corporation. Mr. Duchen presented information regarding wireless technology including small cells, federal regulations and the FCC. He clarified that small cells do not necessarily have to do with the size of the unit, but its capacity and noted that it is critical for the City to ask what the equipment will look like and how it will be connected to cabinetry, etc. He noted that there are certain timelines that have to be met with requests for amendments to existing facilities or creation of new facilities, referred to as shock clocks. He noted that Spokane's code includes a ½-mile radius because of topography and the legacy from prior attorney recommendations. He presented several maps outlining the separation radiuses from 1 mile to ½ mile and noted that the best solution was a ¾-mile radius requirement.

Mr. Holm noted that staff is recommending changes to the wireless communication code to bring it to date with current technology. He noted that the Planning Commission has reviewed the recommended changes and recommended approval and further recommended that staff review the 1-mile radius requirement for placement of new towers. Staff has reviewed the radius requirements and is recommending reducing it to ¾ mile. The code would set forward preferred tower locations; require the demonstration of gap in coverage or capacity and exceptions to standards. These exceptions would allow a means for an applicant to seek relief from a hardship by proving their case; however, it does not allow an applicant to forego stealth design. The City would require the removal of abandoned antennas and towers. Mr. Duchen noted that for city-

owned property the City would continue to be able to negotiate a lease agreement that would be in the best interest of the City.

DISCUSSION: Councilmember McEvers asked for clarification regarding the definition of a tower. Mr. Duchen explained that the definition includes anything that was built for the express purpose as a cell tower; however, if a phone pole is used it is subject to a different analysis. Councilmember McEvers was involved with code development regarding stealth looking towers, and noted that the Federal regulations say the City can provide certain restrictions but cannot prohibit them and ½ mile is not to include giant towers. Mr. Duchen noted that the regulations refer to capacity, not the size of the tower. Mr. Duchen noted that there are height restrictions in certain zones within the proposed ordinance. He reviewed the public comments from AT&T, which included a request that the definition of small cell be 28 cubic square feet, and he recommended that the City not approve that request. He further explained that a special use permit is required unless it is within the industrial zones. Small cells are allowed in all zones. He would encourage co-locations. Mr. Duchen noted that the ordinance includes the provision to allow for RF Experts. The ordinance also includes the shock clock definition and clarity. Only the 60-day shock clock requires the request be deemed granted if no action is taken.

Councilmember English asked if the radius means that a tower cannot be within the ¾-mile radius. Mr. Holm confirmed that the ¾-mile radius would be a restriction unless the applicant is able to provide evidence for a variance request. Councilmember Edinger asked if the Planning Commission recommendation included the 1-mile radius. Mr. Holm clarified that the Commission requested staff to research the issue and make a recommendation. Staff is now recommending a ¾-mile radius. Councilmember Gookin asked if the catalyst for the code review was the company Mobility coming to town. Mr. Holm confirmed that was one of the catalysts for the code review, and staff felt it was time to look at the standards.

Councilmember Gookin asked if the code passes, does it allow a company to build a tower by right. Mr. Holm confirmed that at the approved preferred locations it could be by right.

Councilmember McEvers asked for clarification regarding the difference between towers and small cells. Mr. Duchen explained that small cells include antennas on a pole and base cabinets and that a new pole is deemed a tower. Councilmember McEvers asked how the city owned right-of-way would be regulated and if the city would get franchise fees. Mr. Duchen noted that the company would need an agreement to use the city right-of-way and fees are usually based on an established amount per pole.

PUBLIC COMMENT:

Greg Gadbow noted that he works for Verizon Wireless. He explained that macro is an approximately 120 foot tall tower with 8-foot antennas. A small cell can be a 25-40 foot pole with 2-foot antennas. He noted that Verizon uses vendors who do stealthing, but he does not work on that end. The design can be unique to blend in with surroundings. He noted that with a macro tower it would cover up to 10 miles, so any decision to add another would be based on complaints, capacity, and needs. He clarified that depending on Verizon's needs they might not be in the same area as other providers.

DISCUSSION CONTINUED: Mr. Gridley explained that the legislation under Idaho Law is confusing regarding franchise fees. The City is not allowed to charge a fee to telephone companies and there is some debate if this reference applies to cell phone companies. The position of the City is that cellular companies are different and they would be charged a fee. Councilmember McEvers asked if small cells would work in a residential alleyway. Mr. Duchen explained that through the code the City is trying to encourage the providers to use small cells through an easier review process. He clarified that they still have to get a building permit and have it reviewed by the Planning Department. Councilmember Evans asked if since each small cell is a different provider could they co-exist. Mr. Gadbow explained that it depends on the pole owner, but it is technologically feasible. Mr. Duchen clarified that a small cell is not shared by providers, so there would be equipment from each provider. Councilmember Miller asked how the ordinance addresses a company buying up all locations and sub-letting the space. Mr. Duchen noted that the company doing that, like Mobility, is an infrastructure provider so they are not protected by the codes. Additionally, in his view there is a difference between a pole company and a service provider. Once the poles are up, they can sell them. The city should not let them build poles on speculation -- the City should make sure there is a need for the poles. Councilmember Miller asked how much control the City has over the need for poles. Mr. Duchen noted that the City has a lot of control through the special use permit and should ask them if they have a lease from a provider, which would ensure there is a need for the poles. Councilmember English felt that the Coeur d'Alene is already built out and cannot think of a dead zone, and wondered how much potential there is for new towers. Mr. Gadbow explained that small cells help with capacity, so a dead zone might not be the issue. Councilmember Gookin asked if there any alternatives for capacity other than putting up more towers or small cells, such as additional spectrum or cell sectors increasing. Mr. Gadbow explained that there either needs to be a large site or small cells, and that the small cell is the alternative for Verizon. Councilmember Gookin asked for information regarding the electromagnetic radiation limits. Mr. Duchen said one of the items that is off limit to local governments is regulations regarding radio frequency emissions as that is in the purview of the FCC.

PUBLIC COMMENTS CONTINUED:

Collin Robinson, with Centerline Solutions, explained that the FCC does regulate the maximum exposure and other providers will run a report to make sure each site is in compliance. Councilmember Gookin questioned if the FCC limits for one tower are 1,000 microbots per cubic centimeter, if there are two towers, does that double or stay the same. Mr. Robinson explained that they would consider both tower emissions. He noted that small cell emissions are very low and less of a concern. Councilmember Gookin expressed concern regarding the emissions. Mr. Gadbow noted that they have an RF expert that conducted a review for them, who stated that anywhere from 1-4 feet from the antennae is where you would want to turn the power off, and 20 feet or more above the user. Councilmember Edinger asked how many towers or cells does Verizon expect to put in Coeur d'Alene. Mr. Robinson noted that they have nine small cells planned, four on Avista poles and five on KEC poles and no new towers.

Greg Gadbow noted that he came in from Seattle tonight to support the code and expressed his pleasure in working with staff.

Public comment was closed.

DISCUSSION CONTINUED: Councilmember Gookin asked Mr. Holm if a tower comes up in a residential zone, would it have to be through a Special Use Permit (SUP) and everyone within 300 feet would be notified. Mr. Holm confirmed it would require a SUP and would require a public hearing. He also noted that between 2015 and 2019 there would be 7 times more need for data. Councilmember Gookin noted that the United State legal limit for RF is 1000 microbots per cubic centimeter, while in China, it is 10 and in Switzerland, it is one. Councilmember Miller asked if there are any current applications that would trigger any of the shock clock parameters. Mr. Holm noted that there are no current pending applications to trigger any timelines.

COUNCIL BILL NO. 17-1033

AN ORDINANCE REPEALING CHAPTER 17.08, ARTICLE VIII, COEUR D'ALENE MUNICIPAL CODE, ENTITLED WIRELESS COMMUNICATION FACILITIES REGULATIONS; ADOPTING A NEW CHAPTER 17.08, ARTICLE VIII, COEUR D'ALENE MUNICIPAL CODE, ENTITLED WIRELESS COMMUNICATION FACILITIES REGULATIONS, INCLUDING DEFINITIONS, GENERAL AND SPECIFIC REQUIREMENTS, STANDARDS, PERMITTED LOCATIONS, APPLICATIONS, REVIEW AND INSPECTIONS, COMPLIANCE, INDEMNIFICATION, PERMITS, AND FEES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Motion by McEvers, seconded by Evans, to dispense with the rule and read **Council Bill No. 17-1033** once by title only.

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

MOTION: Motion by McEvers, seconded by Evans, to adopt Council **Bill 17-1033**.

DISCUSSION: Councilmember McEvers noted that 20 years ago he thought there were going to be towers everywhere and was concerned about how to protect the City under the FCC regulations. At that time, he felt that the City could not say no and that the companies have the right to give people a service. He noted that he will support the proposed code and would like to encourage small cells but wants cell phones to work. Councilmember Gookin felt that based on his research the $\frac{3}{4}$ -mile radius would not encourage many big towers and the small cells will be less of an impact. He noted that he likes that the code requires a special use permit.

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

MOTION: Motion by McEvers, seconded by Miller to enter into Executive Session pursuant to Idaho Code 74-206A (c) to acquire an interest in real property, which is not owned by a public agency.

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

The City Council entered into Executive Session at 7:48 p.m. Those present were the Mayor, City Council, City Administrator, Finance Director, and City Attorney. Council returned to regular session at 8:03 p.m.

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

The meeting adjourned at 8:04 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk