

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

November 1, 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 November 1, 2016 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 )

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

**INVOCATION:** Pastor Stuart Bryan with Trinity Church provided the invocation.

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

**GREAT STREETS DESIGNATION FOR SHERMAN AVENUE PRESENTATION:**

Mike Ray, Region 2 Representative for the Idaho Chapter of the American Planning Association, recognized the City of Coeur d'Alene for the Sherman Avenue downtown area for the "Great Public Street" category. The American Planning Association runs a "Great Places in America" campaign each year. There were two designees in the great streets category in Idaho this year including Coeur d'Alene and Ketchum, Idaho. He presented a certificate of the designation to the entire Council and the Downtown Association.

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

1. Approval of Council Minutes for the October 18, 2016 Council Meetings.
2. Approval of Bills as Submitted.
3. Approval of Minutes for the General Services and Public Works Committee Meetings held October 24, 2016.
4. Setting of General Services and Public Works Committees meetings for November 7, 2016 at 12:00 noon and 4:00 p.m. respectively.
5. Approval of a Beer and Wine License transfer from the Garnet Café to Vita Fortunata, LLC., 315 W. Walnut Avenue; Jessica Stephens; and Ryan Foti
6. **Resolution No. 16-057** - 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 AUTHORIZING THE PURCHASE OF SIX (6) POLICE PATROL VEHICLES; AUTHORIZING THE POLICE DEPARTMENT TO APPLY FOR A 2016 EDWARD BYRNE JUSTICE ASSISTANCE GRANT; APPROVAL OF AN AGREEMENT WITH 418 EAST LAKESIDE LLC TO ALLOW EXISTING WINDOWS ON WEST SIDE OF BUILDING TO REMAIN IN PLACE PENDING FUTURE DEVELOPMENT OF NEIGHBORING PROPERTY; AND APPROVAL OF AN ENCROACHMENT AGREEMENT WITH 418 EAST LAKESIDE LLC FOR A PERMANENT HANDICAP RAMP PARTIALLY WITHIN THE CITY'S RIGHT-OF-WAY ON 5TH STREET.

**DISCUSSION:** Councilmember Gookin expressed concern that a couple items placed on the Consent Calendar are not routine matters, such as the purchase of six patrol cars from money saved in one fiscal year being spent in another fiscal year, and the justice grant. He believes these type of items should be discussion items on the agenda.

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

**PUBLIC COMMENTS:**

David Lyons, Coeur d'Alene, noted that at the recent workshop between the Council and ignite, they failed to discuss the financial condition of the districts although it was on the agenda. He noted that the year-end financials for ignite are available on their web site. He reviewed the information specifically for the River District beginning in 2016. He noted that most of the projects that the city is interested in are within the Lake District and money remaining in the River District, estimated to be \$4 million cannot be used within the Lake District. He asked Council to consider closing the River District early.

Arthur Cottrell, Coeur d'Alene, presented the 1940's speech by Charlie Chaplin "Message for all of Humanity."

**COUNCIL ANNOUNCEMENTS:**

Councilmember Gookin mentioned that Leaf Feast has begun and citizens can now rake leaves into the street, approximately 1 foot from the curb, and not to the center of the street. Visit the City's website at <http://www.cdaid.org/608/departments/streets/leafpickup> for additional information.

**RESOLUTION NO. 16-058**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH WELCH COMER & ASSOCIATES, INC., WHICH AMENDS A PRIOR PROFESSIONAL SERVICES AGREEMENT TO INCLUDE ADDITIONAL PROFESSIONAL SERVICES FOR A CITY-COUNTY SHARED PARKING LOT: FINAL DESIGN, BID, AND CPS.

**STAFF REPORT:** Parks and Recreation Director Bill Greenwood noted that the council approved a Memorandum of Understanding with the County on October 4, 2016. Within that agreement, the County agreed to give the City of Coeur d'Alene \$1,323,000 to build this parking lot with a completion date of November 30, 2017. As such, staff is recommending the city move forward with Welch /Comer as they are very familiar with this corridor and they have provided the Preliminary Engineers Report to the County for the shared parking lot. They are also the firm providing services for the City's Mullan Road project, so it makes fiscal sense to amend their current service agreement with the City for the construction of the shared parking lot.

**DISCUSSION:** Councilmember Gookin asked if this would come back to the City Council for consideration in the future. Mr. Greenwood stated that when a contractor was selected, he would bring this back to Council. Councilmember Gookin asked how the City would account for the money coming in from the County. Mr. Tymesen confirmed it would be through a budget amendment. Mr. Greenwood noted that there is funding for contingencies if there are any change orders.

**MOTION:** Motion by Edinger, seconded by English to approve **Resolution No. 16-058**, Amended Professional Service Agreement with Welch Comer & Associates for City/County Parking shared parking lot, final design, and construction phase services.

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

### **RESOLUTION NO. 16-059**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ACCEPTING A GRANT DEED FOR AN EASEMENT FOR A WATER MAIN AND APPURTENANCES, AND APPROVING AN AGREEMENT FOR WATER HOOK-UPS FOR TWO PARCELS ABUTTING THE WATER MAIN.

**STAFF REPORT:** Water Superintendent Terry Pickel explained that the previous water system provider, Idaho Water Company, extended water mains outside the existing city limits. Such is the case with a 12" water main crossing the Margaret W. Reed Foundation property located along Geisa Rd. on Fernan Hill. He noted that there was an easement granted for the property on the west side of the road; however, Idaho Water installed a portion of the 12" water main on the eastern two parcels along the road without an easement. The Reed Foundation wishes to sell the property and requested two service connections in exchange for the granting of the public utility easement necessary to keep approximately 500 feet of the water main in its current location. Mr. Pickel noted the costs associated with potentially having to move the mains, which would be at a substantial cost versus the granting of water service. The proposed public utility easement agreement with the Margaret W. Reed Foundation will allow the Water Department to legally access, maintain, and eventually replace the existing 12" water main along that part of Geisa Rd. crossing the Reed parcels. This will clean up a 56-year old error on the part of Idaho Water.

**DISCUSSION:** Councilmember McEvers asked for clarity regarding current water rights and if there are fire hydrants along the line. Mr. Pickel clarified that these two parcels do not have a current water service and there are fire hydrants along the line. He felt that this negotiation was good for the City to get the needed easements so future owners cannot move the line.

Councilmember Gookin asked for clarity regarding prescriptive easements and if the City would be entitled to one. City Attorney Mike Gridley explained that a prescriptive easement is one that is due to the existence of the encroachment that has been there so long it is deemed to have one by law; however, the City government may not be eligible for such easements. He clarified that this negotiation is a simple way to cleaned up missing easements. Councilmember McEvers expressed concern about providing water outside the city limits without requiring annexation; however, he understands the uniqueness of this one circumstance.

**MOTION:** Motion by Gookin, seconded by Evans to approve **Resolution No. 16-059**, Approval of Grant Deed for Water Main Easement and an Agreement for Water Hook-Ups to Provide Water Service – Margaret W. Reed Foundation.

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

#### **RESOLUTION NO. 16-060**

#### **A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING CONDEMNATION PROCEEDINGS.**

**STAFF REPORT:** City Attorney Mike Gridley requested that Council authorize the City Attorney to commence condemnation proceedings regarding real property owned by Silver Lake Mall LLC to acquire right-of-way for next year's Government Way Project. Silver Lake Mall LLC owns the Silver Lake Mall. Negotiations have occurred between Silver Lake Mall LLC and the City for the acquisition of property bordering Government Way, which property is required for right-of-way purposes in connection with the Government Way Project. Silver Lake Mall LLC and the City have agreed on the property to be acquired and upon the reasonable price for that property. Silver Lake Mall LLC had also entered into an agreement to sell the Mall and anticipated that the acquisition of property by the City would occur at approximately the same time as the sale. However, the sale of the Mall has fallen through. As a result, Silver Lake Mall LLC has to obtain the approval of holders of liens secured by the Silver Lake Mall property in order to complete the transaction with the City. One or more of the lien holders are European banks and the process to obtain lien releases has become complicated. Although Silver Lake Mall LLC and City staff believes that the transaction with the City will be finalized eventually, the delay could affect the scheduled project, the groundbreaking of which is anticipated to be in the spring of 2017. In order to keep the project moving forward, the city's engineer, Welch Comer, and the Idaho Transportation Department, have suggested that the City obtain a Conditional Right-of-Way Certificate from the Federal Highway Administration (FHWA). It has further been recommended that the City authorize the commencement of condemnation proceedings for the Silver Lake Mall property to enhance the likelihood that a Conditional Right-of-Way Certificate will be granted. The authorization of a condemnation action will enhance the

likelihood that the FHWA will grant a Conditional Right-of-Way Certificate that will allow the Project to proceed as scheduled.

**DISCUSSION:** Councilmember McEvers questioned if this is really a friendly condemnation. Mr. Gridley confirmed that this will be friendly and aids the movement forward with international lenders, as the parties are amenable to the action. Councilmember English asked if this is this same as eminent domain. Mr. Gridley confirmed that it was and that if the parties did not agree the City would have the right to take the property and provide Silver Lake Mall Properties compensation for the taking. Councilmember Gookin asked if there was any documentation from the owner stating they are agreeable. Mr. Gridley noted that there were emails and phone calls with their lawyer in New York. He clarified that in order to ensure federal funding, the City must provide notice that it has acquired all needed right-of-way property and the notice of condemnation will serve as acquisition of this property. Councilmember English said that he was uncomfortable with eminent domain and wondered what the effect would be to the project if the Council said no. Mr. Gridley explained that the owners of the property would have to negotiate a release from all the lenders and noted that this is the only property holding up the federal funding. He reiterated that the property owner has agreed to this proposal. Councilmember Gookin said that he was uncomfortable with government taking property. Without more solid evidence of support from the parities, he will vote no vote for this motion.

**MOTION:** Motion by McEvers, seconded by English to approve **Resolution No. 16-060**, Authorizing Institution of Condemnation Proceedings to Acquire Right-of-Way from Rouse Properties for the Government Way Project.

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

#### **RESOLUTION NO. 16-061**

**A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A FACILITY UTILIZATION AGREEMENT FOR THERAPEUTIC POOL USE WITH KOOTENAI HEALTH, DEPARTMENT OF REHABILITATION SERVICES, EFFECTIVE OCTOBER 1, 2016, THROUGH OCTOBER 31, 2018.**

**STAFF REPORT:** Mr. Greenwood explained that for the past thirteen years the City of Coeur d'Alene has leased the Terrill Aquatic Center pool to teach children's swim lessons. In the last five years, the City has taught six-week lessons year round for approximately 1,000 children. This is the only swim lessons the City offers. The City pays Kootenai Medical Center \$85.00 per rental day for use of the pool, and uses the pool Monday and Wednesday evenings for three hours per evening. The cost of the pool rental is included in the registration fees that are charged to the participants. The current registration fee is \$37.00, which is very reasonable cost.

**MOTION:** Motion by Evans, seconded by McEvers to approve **Resolution No. 16-061**, Approving the Agreement for Therapeutic Pool Use between City of Coeur d'Alene Recreation Department and Kootenai Health Rehabilitation Services Department.

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

**MOTION:** Motion by Gookin, seconded by McEvers to enter into Executive Session pursuant to Idaho Code 74-206 Section (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent.

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

The City Council entered into Executive Session at 6:51p.m. Those present were the Mayor, City Council, City Administrator, Human Resource Director, Police Chief, and City Attorney. Council returned to regular session at 7:08 p.m.

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

The meeting adjourned at 7:10 p.m.

ATTEST:

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Steve Widmyer, Mayor

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Renata McLeod, CMC, City Clerk