

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

January 21, 2020

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room January 21, 2020 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)
Dan English)
Woody McEvers)
Amy Evans)
Christie Wood)

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

INVOCATION: Pastor Ray Duran with Candlelight Church provided the invocation.

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

PUBLIC COMMENTS:

John Grimm noted that he was a candidate for Sheriff and expressed concern over the City's sign ordinance regarding political signs. He mentioned a Supreme Court case that has outlawed content-based sign codes. He noted that one of his supporters was contacted by City code enforcement to remove a sign on private property. He said he has talked to the City Attorney, Mr. Gridley; however, they have reached an impasse. Mr. Grimm asked that the Mayor direct the City Attorney to bring an amendment to the code before the council to bring the code in line with the case or he will seek a declaratory judgement. Mayor Widmyer said that he would consult with the City Attorney and get a response back to Mr. Grimm by Friday. Councilmember English asked what was the main issue; for example, sign size, time line, or fee. Mr. Grimm said that he believes a time restriction favors commercial speech over political speech and is the main issue. He believes the other codes are there as sensible guidelines.

ANNOUNCEMENTS:

Councilmember Miller announced that the North Idaho Centennial Trail is turning 30 years old and is having a celebration on January 23, 2020 at Seasons Restaurant.

Councilmember Gookin announced that the City is currently tagging cars that need to be moved for snow removal and that citizens should move their cars soon to avoid being towed.

Mayor Widmyer asked for confirmation of the appointment of Michael Pereira to the Design Review Commission, and James Chapkis and Patrick Murray to the Parking Commission.

MOTION: Motion by McEvers, seconded by Evans to appoint Michael Pereira to the Design Review Commission, and James Chapkis and Patrick Murray to the Parking Commission.
Motion carried.

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

1. Approval of Council Minutes for the January 7, 2020 Council Meeting.
2. Approval of Bills as Submitted.
3. Approval of Financial Report.
4. Setting of General Services/Public Works Committee meeting for Monday, January 27, 2020 at 12:00 noon.
5. Setting of a Public Hearing for CDBG Annual Action Plan 2020 for February 4, 2020
6. Approval of SS-19-14, Bunker Park: Final Plat
7. **Resolution No. 20-005** - A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING THE APPROVAL OF AN AGREEMENT FOR MAINTENANCE/WARRANTY WITH GREENSTONE-KOOTENAI II, INC., FOR BOLIVAR 4TH ADDITION, AND SECURITY [S-3-6.M]; AND THE APPROVAL OF A UTILITY EASEMENT FOR A WATER LINE WITH ANDERL DEVELOPMENT, LLC, FOR 1681 W. PAMPAS LANE.

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

RESOLUTION NO. 20-006

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AN AGREEMENT WITH CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS FOR THE USE OF CITY PROPERTY IN CONNECTION WITH THE OPERATION OF A WIRELESS NETWORK.

STAFF REPORT: City Attorney Mike Gridley explained that the proposed agreement would allow Verizon to install small cells. This is an area in which State and Federal laws allow telecommunication companies to use city owned right-of-way for the placement of telecommunication equipment, including wireless antennas. The agreement requires Verizon to pay an annual fee of \$270 for each site location on the City right-of-way. The fee increases 2% every year. In addition, the City can collect a \$500 site license application fee for up to five site applications, which Verizon has agreed to pay.

Mr. Jason Verduzco, Verizon Public Policy and Community Affairs Director for Eastern Washington & Idaho, noted that 94% of people under 40 have a smartphone, and 80% of 911 calls originate from a cell phone. He said that the nation is moving into the next phase of technology as evidenced by 39 times the mobile use today from 2010. He reviewed the 2018 FCC Order for use of poles and rights-of-way and described the tower and small cell connection

and location. Mr. Verduzco reviewed the radio frequency and health and safety standards set by the FCC and the groups involved in that research with the FDA, EPA, OSHA, etc. He provided some examples from the Boise, Idaho areas that include an antenna and an equipment box.

DISCUSSION: Councilmember Gookin asked for clarity regarding the City's inability to pass rules or regulations on these types of encroachments. Mr. Gridley explained that the City cannot say no; however, it could regulate aesthetics to some extent, noting that there is a lot of case law on the matter. He expressed that Verizon has been good to work with and is honoring the City's wireless placement ordinance. Councilmember Wood asked who wrote the agreement and requested Mr. Gridley to go over the terms of the agreement. Mr. Gridley explained that it is a boiler plate agreement from Verizon and they have negotiated certain clauses. The agreement is a 10-year term with two additional five-year terms and can be terminated by either party for cause or with a year's notice. Councilmember McEvers asked Mr. Verduzco how Verizon will determine the need for each city. Mr. Verduzco noted that as the data usage continues to grow, they will look for problem areas first. Mayor Widmyer asked if there is a power requirement and who will be paying for that use. Mr. Verduzco confirmed that they would need power and that they work with Avista on getting power to the location, and negotiated a flat rate clause for the power. Councilmember English asked what the timeline would be for installation. Mr. Verduzco said that the timeline is not set and that the agreement is the first step; then they will work with City on completing the application for land use, which will take until the end of this year or next. Councilmember McEvers asked if 4G and 5G will eventually be transitioned out. Mr. Verduzco said that is a potential, and that it would be part of the technology evolution. Councilmember Gookin noted that he has researched the issue and it is fascinating technology. He asked about the millimeter radiation that comes out of the antennas, noting that even on the OSHA website it states that exposure limits have not been established yet and that the FCC does not mention 5G at all. Councilmember Gookin said that he notices a warning sign on the box that radio frequency exposure may exceed the FCC limits and wondered if they provide training to others for exposure like they do to the Verizon workers. Mr. Verduzco confirmed that they give the training to linemen, and anyone else that may have contact with the poles. Councilmember Gookin expressed concern that the contract says Verizon is only permitted to install things that are within industry standards, and there are no standards. Mr. Verduzco explained that 5G are still radio waves that are already in use and he will provide more information regarding 5G. He said that in Boise they did several community engagement meetings and hired an expert in radio frequencies to help with that conversation and they could do that for Coeur d'Alene. Councilmember Wood noted the Federal Government did not give the City any wiggle room in allowing the use. Mr. Gridley also clarified that there is no ability to deny the request. Councilmember Gookin said that he would vote against the request as he does not believe the safety is there.

MOTION: Motion by McEvers, seconded by English to approve **Resolution No. 20-006;** Approving a License Agreement with Cellco Partnership d/b/a Verizon Wireless for use of city property in connection with the operation of a wireless network.

ROLL CALL: English Aye; Wood Aye; Evans Aye; Miller Aye; McEvers Aye; Gookin No.
Motion carried.

LEGISLATIVE PUBLIC HEARING FOR V-19-03; VACATION OF A PORTION OF SELTICE WAY RIGHT-OF-WAY ADJOINING THE SOUTHERLY BOUNDARY OF TAX # 8882, TAX # 10490, & TAX # 22364 IN THE CITY OF COEUR D'ALENE.

STAFF REPORT: Engineering Project Manager Dennis Grant explained that the applicant, William L. Sheldon, is requesting the vacation of a portion of right-of-way along the north side of Seltice Way and east of Atlas Road. The four (4) lane divided highway known as Seltice Way was originally constructed in 1926 as US Highway 10, with the portion from Coeur d'Alene to the Idaho/Washington boundary being replaced by I-90 in 1971. This portion of Seltice Way adjoining the area of request has a right-of-way of +/- 200 feet. The reason for the requested vacation is to vacate the unused portion of right-of-way along the north side of Seltice Way, east of Atlas Road. Mr. Grant noted that Seltice Way was recently reconstructed, widened and rebuilt. As part of the construction, a bike path was added along the north side of Seltice Way. The applicants are proposing to vacate a portion of Seltice Way, which is two feet north of the current trail/toe of slope. The request would not have any impact on future expansion of the Seltice Way corridor since the current project is complete. The Development Review Team was informed about the vacation. Notices were sent to 12 households and Mr. Grant said that he received three responses with two in support, and one neutral.

DISCUSSION: Mayor Widmyer asked that the county be informed so that the property gets added to the tax roll. Mr. Grant noted that the applicant will add the vacated property to their property and will receive another tax number to their land. The City will publish and record the Ordinance, with the legal description attached. The consultant then works with the property owner to record the proper agreements with the county, such as a grant deed. Councilmember Wood asked how the City ensures the land owner files the paperwork. Mr. Grant said that after the approval of the ordinance, he sends an approval letter to the consultant, and then he checks City maps within 30 days to make sure it has been updated. Councilmember Wood asked if the preservation of the existing water line causes a restriction on the property, such as paving over the line. Mr. Grant explained that there are no conditions on a vacation, but the existing water needs to be protected with the easement and the City would have access to it no matter what they do over the top of it.

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

**COUNCIL BILL NO. 20-1000
ORDINANCE NO. 3646**

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, VACATING A PORTION OF SELTICE WAY RIGHT-OF-WAY, GENERALLY DESCRIBED AS A PARCEL OF LAND ADJOINING THE SOUTHERLY BOUNDARY OF TAX NO. 8882, TAX NO. 10490, AND TAX NO. 22364 IN THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

MOTION: Motion by McEvers, seconded by Gookin, to dispense with the rule and read **Council Bill No. 20-1000** once by title only.

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

MOTION: Motion by McEvers, seconded by Gookin, to adopt **Council Bill 20-1000** with the agreement to the preservation of an existing water line easement.

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

ADJOURN Motion by Wood, seconded by Miller that there being no other business this meeting be adjourned. **Motion carried.**

The meeting adjourned at 7:05 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC
City Clerk