

Mayor David Sims called the regularly scheduled council meeting of May 2, 2017 to order at 6:00 p.m. Present for the meeting were Mayor Sims, Council President Rick Alonzo, Council Members Ron Smith, Ken Toline, and Adam Arthur, Clerk Kris Larson, City Administrator Mike Klaus, City Attorney Andrakay Pluid, Planner Lisa Ailport, Police Chief Vic Watson, and Economic Development Coordinator Dennis Weed. Also present were Dave Gray, Lawrence Drake, Olivia Drake, Teresa Nelson, Jill Bean, Jim Neumayer, Jenny Fessler, Allen Fessler, Arnold Fessler, Ben Harris, Sheila Harris, and Jessica Tingley.

The first order of business was a hearing for vacation of a platted alleyway, File #VC03-17-Harris Vacation. Mayor Sims read the script for tonight's meeting, explaining the hearing procedures. He opened the hearing at 6:02 p.m. There were no conflicts of interest but Rick Alonzo did speak to Mr. Neumayer before the meeting tonight. He said the conversation was that it was common sense, as there has been a building there for 80 years and never been a problem until now.

Ben Harris spoke regarding his vacation request. He said the right of way goes through his home and his garage. Ben said there were a couple things wrong with the letter that was sent out. He said the date for written comment was Thursday and there was also a portion of the vacation that was his neighbor's property. Mr. Harris handed out a map of his vacation request and previous vacated right of ways – this was labeled Exhibit A. Mr. Harris said Coeur d'Alene Avenue was said to be used as a turn around, and he showed on the map that the turnaround is prior to his driveway where he is asking to vacate. Ben said part of Hemlock and Coeur d'Alene Avenue that is not being vacated could be used for snow storage. He does not see a problem with snow storage. Ben said the topography is steep at the intersection of Coeur d'Alene and Cemetery Road. On Willow Street platted lots are not currently being developed due to how wet it is and the topography. Ben said if Willow was vacated that access could be garnered from Cemetery Road. Ben owns Lots 5, 6, 7, and 8 in Blocks 5 and 6. Mayor Sims said this was platted after the Eaton Subdivision. Ron Smith asked if the other property owners could access their lots. Ben said they could access the lots from Cemetery Road or the other end of Willow. Rick Alonzo asked if Ben took down an existing building and built another. Ben said he took down a single car garage and built a double car garage. He said this has never been a problem in the past. Ben said he will work with the City on whatever they want to do.

Lisa Ailport, City Planner, said the notification was fine. The legal description was correct, and the people were given the date, time, and location of the hearing. The applicant is requesting to vacate 40 feet of Coeur d'Alene Street and 30 feet of Willow Street. This right of way was dedicated with the plat of the Jones First Addition in 1910. Streets and alleyways in the plat were dedicated to the public. Coeur d'Alene Street is also known as Hemlock Street and Pine Street but Willow is not currently named. The home was constructed around 1924 and the accessory building in 1928 according to Assessor records. Ron Smith ask for clarification of the area being requested to be vacated and said there is no physical road from Coeur d'Alene Street to Cemetery Road. The new building is 30x40 but the old building was 15x30.

Lisa said right of way are expedient for public good. Whether or not right of way will ever be needed should be considered. The property to the south of Coeur d'Alene is not in the city

limits. The plat was done in 1910 and the right of ways are what they were in 1910. If the land to the south were annexed the right of way would be used. City staff was told that emergency services and street crews turn around in the right of way. There is no title report prepared so staff is not aware of easements. Access from Cemetery Road is challengeable. Lisa said multiple access points should be considered rather than dead ends. Staff's opinion is that Willow Street and Coeur d'Alene Street benefit connectivity. Lisa said staff did look at the entry from the other end of Willow Street and it is wet and would create a dead end road which should be avoided. Right of ways are for utilities and franchised rights. Council needs to determine if it is or is not in the best interest of the public to vacate.

Ken Toline asked if there are city laws concerning eminent domain. Andrakay said there is State law but not city law. Andrakay asked if Ken were speaking of adverse possession. He said he was. Andrakay said public cannot adversely possess against the government.

Lisa said there was one public comment received from Mr. Navarro that was included in the packet.

Mike Klaus read his memo concerning the City utilities and streets. He said 1) right of ways provide cities with corridors for traffic and utilities and in his opinion should not be vacated unless there is high certainty that the property will not be needed for either of those purposes; 2) Coeur d'Alene Street is used as a turnaround by city vehicles and emergency responders; 3) part of Coeur d'Alene Street could be used as future vehicle and utility corridors for property to the south; 4) if the garage did not exist in the right of way the street could be developed for a turnaround and snow storage; 5) on Willow Street platted lots exist that are not currently physically accessed (Lisa clarified that these are lots 1-4) but those lots would utilize Willow Street for access; 6) obtaining a permit may have led to the building being properly located on property owned by the applicant. He said if a building permit had been issued this would have been caught at that time.

Mayor Sims said according to the picture of the home it is located in the right of way and has been there for over 100 years. Lisa said if a building permit was considered then new additions would have to prove conformity. There are assumptions being made because no survey has been done. Ron Smith asked if a building permit had been requested if we would be here tonight. Lisa said we could have been because the applicant could have requested a vacation prior to constructing the building, or the applicant could have built the building on their own property. Ron Smith asked about snow removal being one of the concerns. He said if the property were vacated and there was an agreement for a place to push the snow if that would take care of that concern. Mike said theoretically yes.

Jim Neumayer, Route 1, Cow Creek, Bonners Ferry, said there is a road going to the people that own the property and asked where the problem is. Jim said Mr. Harris built a building where Jim used to milk cows. Jim said we need the road and Harris' own the rest of the property. Jim said it does not make sense. Harris's own the land. Ron Smith clarified that when Jim was asking what the problem was that he was in favor of vacating the property. Jim agreed. Mayor Sims said Idaho Statue outlines a procedure that must be followed to vacate property, and that property

belongs to the public, so we must consider if it is in the public's interest to vacate it not what is in a particular property owner's interest. Jim said he used the property for 100 years so now we should let him use it.

Allen Fessler, 6267 Hemlock Street, Bonners Ferry, said if Ben would have applied for a permit to put the structure on his own property, the old building would still be there. He has no problem with vacating. Allen said he has not seen snow piled in the intersection. He said the snow is pushed off on his property and equipment turns around in his driveway. Allen asked if the right of way is for sewer lines. He pointed out where the utility lines are located and said they did not use existing right of ways. Allen said on the other side of Coeur d'Alene near Langford's has been vacated. To Allen it does not seem to help anyone except Ben and Sheila. Allen does not want to be annexed into the City as he likes his way of life there. He considered drilling a well to get off City water.

Jenny Fessler, 6267 Hemlock, Bonners Ferry, said it looks like it has been a dead end street for 85 years and asked what the problem is.

Ron asked if the letter in support could be read into the record. Ron read aloud the letter in support of the application from Brad Navarro.

Olivia Drake, 1157 Kootenai Trail, Naples, said she sees this in different areas. She is neutral on the vacation but would like to see a mutual solution that offers some benefit to the landowners.

Scooter Drake, 1157 Kootenai Trail, Naples, said he does not plow this area but does sand the road, and he turns around in Allen's driveway.

Mayor Sims asked if anyone opposed to the vacation wished to speak. No one responded.

There was no rebuttal as no one spoke in opposition.

Mayor Sims closed the hearing at 6:57 p.m.

Mayor Sims read Idaho Code 50-311 and said the standard must be in the public interest. He said in 1910 when the property was platted the right of ways were dedicated for the public. He said even though the right of ways were not used in the past we do not know what the future holds, and giving up the right of ways at this time would be short sighted.

Ron does not see this as a detriment to the public, and no one has said they are opposed to it. He thinks it is totally different than the last vacation reviewed. He would be in favor of vacating. Mayor Sims said we need to consider the benefit of the public, not just a property owner.

Rick Alonzo said the way the plats were laid out we are running into this more and more where no one has used the right of ways. He would have still had a residence in the right of way. Rick thinks we should vacate the property because the house is in the right of way. He does not know what the options are or whether the property owner would have to move the house. Rick thinks it is in the public good to do this. Mayor Sims said at some point in the future if the applicant wanted to build a new home it would have to be done on their own property. He further said there are encroachments on city right of way and we cannot vacate all those.

Ken Toline said there appears to be interest to one owner and not the public. The vacation would serve one owner and not the public. He has concerns that parallel the City utilities. He thinks the City should not vacate right of ways. Ken is not in favor of the vacation.

Adam Arthur is concerned about vacating this property and then vacating other encroachments in the City. He said we may not need it in the near future but we have to look farther down the road.

Ron Smith moved to approve file VC03-17, to vacate a portion Willow Street and a portion of Coeur d'Alene Avenue as defined as follows: A parcel of land in Jones First Addition to Bonners Ferry, Boundary County Idaho more particularly described as follows: that portion of Coeur d'Alene Avenue, a Forty (40) foot wide public right-of-way as shown on the Plat of Jones First Addition, which is bounded to the West by extending the East line of Lot Eight (8), Block Five (5) to the South line of said Plat, and bounded to the East by a line running due South from the Southeasterly corner of Lot Eight (8), Block Six (6) to the South line of said Plat, encompassing an area of approximately 7,980 square feet; and that portion of Willow Street, a thirty (30) foot wide public right-of-way as shown on the plat of Jones First Addition, which is bounded to the North by a line extending between the North line of Lot Five (5), Block Five (5), and the North line of Lot Five (5), Block Six (6) of said Plat, and bounded to the South by a line extending between the South line of Lot Eight (8), Block Five (5) and the South line of Lot Eight (8), Block Six (6) of said Plat, encompassing an area of approximately 6,000 square feet.

Finding that it is in the interest of the public based on record, as outlined in the staff report, and testimony received at this hearing. I further move to adopt the following findings of fact and reasoned decisions, including the conditions of approval (as amended, or as submitted) and enumerated in the staff report. The actions to be taken to obtain the vacation are to complete the conditions of approval as provided. Reasoned decision #1: The proposal was reviewed for compliance with I.C. §50-1306A notification requirements, procedures. Therefore, the proposal is in accordance with the applicable notification standards. Reasoned decision #2: The vacation of right-of-way is in the interest of the public. Rick Alonzo seconded the motion. The motion failed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “no, Adam Arthur “no”, Mayor Sims “no”.

Ken Toline moved to deny file VC02-16, to vacate a portion Willow Street and a portion of Coeur d'Alene Avenue, finding that it is not in the interest of the public based on the record and testimony received at the hearing. Furthermore, I move to adopt the following findings of fact and reasoned decisions. Reasoned decision #1: The proposal was reviewed for compliance with I.C. §50-1306A notification requirements, procedures. Therefore, the proposal is in accordance with the applicable notification standards. Reasoned decision #2: The vacation of right-of-way is not in the interest of the public. Adam Arthur seconded the motion. The motion passed – Ron Smith “no, Rick Alonzo “no”, Ken Toline “yes”, Adam Arthur “yes”, Mayor Sims “yes”. Lisa said we will work with the applicant to resolve the issues, and this may come back to the council.

Ben Harris, Sheila Harris, Jenny Fessler, Allen Fessler, Arnold Fessler, Jill Bean, Jim Neumayer, Scooter Drake, Olivia Drake, and Teresa Nelson left the meeting.

The City took a break. Fire Chief Dave Winey joined the meeting.

The meeting reconvened at 7:20 p.m.

Police Chief Watson said over the past two weeks there have been one agency assist, four misdemeanor warrant arrests, one felony warrant arrest, one DUI, two felony possession charges, one malicious injury to property, on battery on a law enforcement officer, three driving without privileges, one petit theft, and three vehicle crashes. The School Resource Officer is doing well. Vic said this Thursday there is a mock presentation at the high school of a fatal DUI crash. The traffic emphasis will start up later in the month.

Fire Chief Dave Winey said there was a call at the hospital, and other than that, they have been doing maintenance.

City Administrator Mike Klaus did not have a report this evening.

Economic Development Coordinator Dennis Weed said the Boise State University Capstone project at the visitor center was completed last week. The idea is to make the visitor center more sustainable rather than be expensive to the City budget. We are trying to get people to stay here longer and visit local businesses. Dennis is having many meetings to ensure that everyone is on the same page. The EDC grant is due for fiscal year 2017-2018. The grant amount is for \$32,000 and the State is asking for a match of \$16,000. There is an urban renewal meeting next week.

Adam Arthur moved to approve the consent agenda. Ken Toline seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”. The consent agenda contained the following: roll call; approval of bills and payroll; approval of April 18, 2017 council meeting minutes and April 24, 2017 special council meeting minutes.

Adam Arthur moved to approve the catering permit for the Kootenai Tribe Development Co. doing business as Kootenai River Inn for the Ducks Unlimited Banquet on May 12, 2017 at the Fairgrounds. Ken Toline seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”.

Rick Alonzo moved to adopt Resolution 2017-05-01 Amending Resolution 2015-12-01 regarding financing of the Cassia Water Storage Tank project (changes the due date for the final payment to March 1, 2027 rather than October 1, 2026). Ron Smith seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”.

Mike Klaus said we interviewed all the lifeguards returning for the 2017 summer. He said part of the interview was to see what they could improve on or what we could do better. A problem we have is that none of the guards have their water safety instructor (WSI) certification. We are working with the person we are recommending for head lifeguard to get this certification. Ken Toline asked about CPR and AEDs. Ken asked about the cost of certifications. Mike is looking into the cost. The group discussed options available. Ken suggested looking at Fairchild for an instructor. Mike said one person with the WSI has to be present for lessons. Ken Toline moved to hire the lifeguards listed in the City Administrator’s memo of April 27, 2017 and to pay an additional \$.50 per hour for those obtaining the WSI certification. Adam Arthur seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”. (Clerk’s note: Abby Davis was hired for Head Lifeguard at \$9.70 per hour,

Sophia Claphan, Nick Sabin, Michaela Worley, Bailey Jenkins, Kaylee Kramer, and Stephanie Koehn were hired as lifeguards at \$8.00 per hour).

Vic Watson said Willie Cowell needs to use 89 hours of vacation, and Vic is requesting that the extension go to October 1, 2017. Rick Alonzo moved to approve the request to carryover Willie Cowell's vacation until October 1, 2017. Ken Toline seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”.

Mike spoke regarding the well site property. He would like to speak to Suzanne at DEQ regarding the results of the testing that was done on the water. Mike said we need to make a decision before the end of the month for the property purchase. The contaminants are at a very low level but he wants to get more information. The capacity of the test pumping is good and it looks like 300 gallons per minute.

Mike told council about the different stages of getting a well in. The limits for public bidding will change July 1, 2017 and this will be a benefit, making this more flexible.

Mike said we are expecting a new employee on June 5<sup>th</sup> and we need to get a computer and software for him. He said we may wait to order the software until the employee is on board so he can help make sure we get the correct software. Rick Alonzo moved to approve purchase of a computer at a cost up to \$3,000 for the new mapper. Adam Arthur seconded the motion. The motion passed – Ron Smith “ye”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”.

Dennis Weed spoke about the EDC match commitment for the Idaho Department of Commerce grant. He is hopeful to keep the same amount of match from all the entities looking to next year. He said the City and County match may drop in the following year. Mayor Sims said the County and City are facing budget issues for next year. Dennis said he would feel comfortable with an \$8,000 match from the City and County. Dennis said his expenses should not go up. Adam Arthur moved to authorize the Mayor to sign the letter of match commitment to the Idaho Department of Commerce for the EDC Grant in the amount of \$8,000. Rick seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Ken Toline “yes”, Adam Arthur “yes”.

Council reviewed the Traffic Safety Committee City Code Chapter 2. The State traffic engineer will be taken out of ex officio members. The number of members appointed will consist of not less than five members but not more than seven. We will take out review of budgets, and take out the phrase for public safety under H and change it to pedestrian safety.

Mayor Sims spoke regarding the letter we received from the Department of Commerce regarding the sewer bridge project grant. The funding has not come through for 2017 so we can keep our application active.

The meeting adjourned at 8:05 p.m.

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David Sims, Mayor

Attest:

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Kris Larson, Mayor