

Mayor David Anderson called the regularly scheduled council meeting of June 2, 2015 to order at 7:00 p.m. Present for the meeting were Mayor Anderson, Council President Rick Alonzo, Council Members Ron Smith, Connie Wells, and Tom Mayo, Clerk Kris Larson, City Administrator Stephen Boorman, City Attorney Will Herrington, Fire Chief Pat Warkentin, Police Chief Vic Watson, and Economic Development Coordinator David Sims. Also present were Marcia Cossette, Jasper Naumann, Adam Arthur, Jessica Tingley, Doug Ladely, Sr., Jerry Higgs, and Bob Graham.

Mayor Anderson opened the public hearing on the proposed pool season pass fees and water and sewer capitalization fees. David Sims said he has a concern that the methodology used to calculate the water and sewer capitalization fees is not consistent with recent Supreme Court Opinions in the State of Idaho. David submitted written information for the record consisting of a letter to Attorney Will Herrington, two Supreme Court cases, and memo from Stephen Boorman. Jerry Higgs spoke about the capitalization fees and questioned if the City gave the correct figures to the firm that calculated the new fees for the City. He asked if we were using the potential hook ups or just used the current number of hook ups. He said this issue was addressed in one of the complaints where the contractors filed against other cities. He wanted to know what we submitted to the consultants. Stephen Boorman said the capitalization fee is a percentage of the system. He said you look at the value of the system divided by the number of users and the number of users is what is being questioned by Jerry and David. Stephen said we are at or near capacity in our water and sewer systems. Fortunately we have a clean water master plan and sewer master plan. He said if we do the recommended improvements in our sewer master plan we should gain about 20 percent capacity in the sewer system. At this time we are pushing the limits of the discharge permit for sewer and we are pushing the limits of the treatment capacity for the water plant. He said the number of current users and the maximum capacity are close to the same number. We can use the depreciated value of the system or the replacement cost of the system. Our figures are based on the replacement cost of our systems. Ron Smith asked if this fee is for new users. Stephen explained that the number of equivalent dwelling units is what is looked at. Ron asked who pays this. Stephen said it is for new services added to the system. Ron asked about the increases. Stephen said the replacement cost of the systems is what is being used so that is a driver rather than using the depreciated value of the system. David said the court case is very clear that the equity buy in fee should be calculated by dividing the net system replacement value by the number of users the system can support. He said the City calculated using the number of current users. David said our water use has dropped in the past ten years due to meters being installed. He said he does not know where we are regarding the permit limits in our sewer system but the design capacity of the lagoons is a half million gallons per day and we are averaging 250,000 gallons per day. David is not clear when there is a rule imposed by EPA how that fits in with the capacity of the lagoons verses the capacity of the collection system. He said the lagoon would be near capacity but the collection system is not close. David said if we are getting close to the capacity of our water system that we need to look at other water sources as the river is not ideal. Mayor Anderson said we cannot deny what the EPA is saying and spoke of rule changes. David said if we are at 80 percent of capacity in the sewer system it makes a huge difference in the capitalization fees as well as the

percentage of capacity we are at in the water system. It is important to pin that number down. Mayor Anderson closed the public hearing at 7:11 p.m.

Bob Graham spoke regarding the excessive force policy that is proposed for adoption this evening. He does not like the way it is titled as it reads like it is the policy of the police to use excessive force.

Jerry Higgs spoke regarding the proposed dog ordinance. He has concerns under 5-3b-13 exceptions and read the sentence from the ordinance. His concern is that the word animal should be replaced with the word dog. Jerry said support or service animals are becoming an issue in our country because people are abusing this provision of the Americans with Disabilities Act because they are using this to bring their pets many places. He made the recommendation to say physician prescribed and trained service dog. He said many entities are placing dog ordinances and animal control ordinances in separate documents. He and four other people wrote the City of Hayden's dog ordinance and animal control ordinance. Jerry read a portion of the City of Hayden's ordinance as well as a portion of the City of Sandpoint's leash law. Rathdrum requires a leash law, Kellogg also has a leash law, and Lewiston has a leash law as well as other cities in the State of Idaho. Jerry thinks if we pass the ordinance proposed we will have issues as it is poorly written and has many loop holes. Jerry said service animals are not always dogs. He thinks someone from the City should have done better research and he asked council not to pass the proposed ordinance this evening.

Police Chief Vic Watson gave the police report. Calls for service since May 19th included two petit theft cases, two driving without privileges, three vehicle accidents, one grand theft case, two DUIs, four warrant arrests, one vandalism, two domestic disputes, one malicious injury to property, one drug case, ten speeding tickets, one battery, and one unattended death.

Fire Chief Pat Warkentin said the fire department had only three calls last month and that is low. The fire department responded to a car accident at Cody Street and Highway 95 today. The 1940 Seagrave was in the Memorial Day Parade and the Little League Team rode on the old fire truck.

Stephen Boorman gave the Administrator Report. He said the department heads met with Jack Kirsh from the State Insurance Fund, and he explained the way our work comp rates are calculated. He said time loss accidents affect the rates significantly. Jack will come up and do an accident investigation training for the supervisors to look at the near misses and help us learn to prevent accidents. Jack told us that for every dollar that is spent by the State Insurance Fund on a claim that the costs to the City are also increased. Tack oil prices are down this year. We only have six lifeguards this year so we will be shorthanded at the pool. He told council to recruit lifeguards if they know of any young people that are interested. Stephen thinks out of the six guards only four will be returning next year and that is not enough to operate the pool. Stephen said he has been speaking with Eugene Water and Electric Board who own the Smith Creek Hydro and the sale of the hydroelectric facility is nearly complete. We have one joint use type contract on that transmission line that will need to get transferred to the new owners.

David Sims said the public hearing for the Highway 95 project will not be in June as planned. ITD is struggling with drainage issues and alley closures. Mayor Anderson asked if anyone had

seen the \$10 million that was awarded for repaving someplace else on Highway 95. Ron Smith said it is in Benewah County. David said they moved up projects that were already in the STIP. He said it is important to look at the surplus eliminator money when it comes available as it might be a significant amount. David spoke regarding the closure of the Department of Labor in Bonners Ferry. He said Director Edmunds will be coming to Bonners Ferry to speak to the Economic Development Committee.

Rick Alonzo moved to add late agenda items including authorizing the Mayor to sign the State Local Agreement with Idaho Transportation Department for the Augusta Project; pass Resolution 2015-06-03 pertaining to the Agreement for Federal Aid Highway project; authorize the Mayor to sign the Certified Statement of Intended Use form for the fireworks purchase; and approve a special event permit for Kootenai River Brewing Company. Ron Smith seconded the motion and it passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

Connie Wells moved to approve the consent agenda. Tom Mayo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. The consent agenda contained the following: roll call; approval of accounts payable and payroll; and approval of the May 19, 2015 council meeting minutes.

The reading of the ordinance amending City Code Title 5, Chapter 3 concerning dogs was discussed. Will Herrington recommended a change to the ordinance amendment in section 5-3b-12 A regarding the owners to be clarified to dog owner. Rick Alonzo said he would like to recommend having the portion of the ordinance amendment speaking to service animals to include the term certified. Ron Smith said he does not see a problem waiting. He asked if there are other ordinances relating to dogs. Will said there is an entire chapter in City Code regarding dogs and in most small cities an ordinance is amended when there is a problem. He cautioned about trying to control all animals and he advised not to be concerned until there is a problem. Connie Wells said she does not want to wait until our City attorney is back because it will be the end of the summer. She moved to read by title only the amendment to City Code Title 5, Chapter 3 concerning dogs including the amended wording suggested by Will Herrington. Tom Mayo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. Attorney Will Herrington read the title of the proposed ordinance amendment of City Code Title 5, Chapter 3 Concerning Dogs.

Tom Mayo moved to adopt the Ordinance amending City Code Title 5, Chapter 3 Concerning Dogs and to waive the second and third readings. Connie Wells seconded the motion. Ron Smith would like to add the clause of the service animals being certified. Will Herrington said we can amend the ordinance at a later date if there is a need. Rick said he does not know the certifications required for the service animals and does not have a problem going forward with this and make future changes if necessary. Rick sees the need of this being in place for summer. Mayor Anderson sees the immediacy of this ordinance. He spoke about a snake that was a topic of discussion several years ago. Vic Watson said dogs are recognized in Idaho law but cats are not. He cautioned about any ordinances speaking to cats but dogs are a serious matter in the City and said they are being problematic. He said he likes the ordinance amendment as it is simple

and gets to the issues. Vic compared service animals to handicapped permits and said they are misused at times but he thinks we should honor the need for service animals as most people are being truthful. Tom said there are other animals that cause problems in different parts of town but thinks we should get this in place. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. Jerry Higgs suggested that there be public awareness made for this. The new ordinance number is 550. Ordinance 550 reads as follows:

ORDINANCE NO. 550

AN ORDINANCE OF THE CITY OF BONNERS FERRY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING BONNERS FERRY CITY CODE TITLE FIVE, CHAPTER THREE B CONCERNING DOGS; ENACTING A NEW SECTION 5-3B-12 PERTAINING TO SANITATION RESPONSIBILITIES AND PENALTIES; ENACTING A NEW SECTION 5-3B-13 REGARDING CONTROL AND RESTRAINT OF DOGS; PROVIDING SEVERABILITY; PROVIDING FOR A WAIVER OF THE READING RULES; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and City Council find it in the interest of the citizens of Bonners Ferry to enact a new section within Bonners Ferry City Code Title Five Chapter Three B pertaining to the responsibilities of dog owners in cleaning up and disposing of dog fecal matter deposited on public property or private property not belonging to the dog owner.

NOW THEREFORE, Be it ordained by the Mayor and the Council of the City of Bonners Ferry, Idaho, as follows:

Section 1: That a new section 5-3B-12 of Bonners Ferry City Code is hereby adopted:

5-3B-12: SANITATION RESPONSIBILITIES; PENALTY:

A. It shall be unlawful for an owner or any person having custody or control of any dog to fail to remove the fecal matter deposited by his/her dog on public property or private property not belonging to the dog owner. Removal must be effected before the dog owner or responsible party leaves the immediate area where the fecal matter was deposited. The dog owner or responsible party must dispose of the fecal matter in a sanitary manner by depositing the same in a trash receptacle.

B. A violation of these sanitation responsibilities shall constitute an infraction, with penalties and fines, as provided in Idaho Code.

Section 2: That a new section 5-3B-13 of Bonners Ferry City Code is hereby adopted:

5-3B-13: CONTROL AND RESTRAINT:

A. Any dog, while on a street, sidewalk, public property, or upon private property without the consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the dog and be controlled by a person of sufficient age and strength to control the dog.

B. Exceptions: This shall not apply to police dogs engaged in police work or to service animals performing medically necessary purposes.

C. Any dog found in violation of this section shall constitute prima facie evidence that the owner of the animal is in violation of this section. A violation of this section shall constitute an infraction.

Section 3: PROVISIONS SEVERABLE: The provisions of this Ordinance are hereby declared to be severable and if any provision of this Ordinance or application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

Section 3: WAIVER OF READING RULES: That pursuant to the affirmative vote of the majority of the full council, the rule requiring two (2) separate readings by title and one (1) reading in full, be, and the same is hereby dispensed with, and accordingly, this ordinance shall be read once by title.

Section 4: EFFECTIVE DATE: This ordinance shall be effective upon its passage and publication in the manner provided by law.

APPROVED by the Mayor and City Council of the City of Bonners Ferry this 2nd day of June, 2015.

CITY OF BONNERS FERRY, IDAHO

BY: /s/ David K. Anderson, Mayor

Attest: /s/ Kris Larson, Clerk, City of Bonners Ferry

Resolution 2015-06-01 regarding excessive force was discussed. The City is required to have the excessive force resolution for the Community Block Grant. Tom Mayo moved to adopt Resolution 2015-06-01 City Excessive Force Policy. Rick Alonzo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

The contract with LSB Engineering for the sewer bridge structural review was discussed. Stephen said John Delaney was the person that first noticed the bridge may have changed. He said the 1968 structure may have moved or the cables may have stretched over time. Tom Mayo asked about the uprights. Stephen said two uprights are leaning to the north. Rick Alonzo moved to authorize the Mayor to sign a contract with LSB Engineering for the sewer bridge

structural review. Tom Mayo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

Tom Mayo moved to approve the increased pool season pass fees. Connie Wells seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. (Clerk’s note: City residents \$10, non-City residents \$20)

Will Herrington spoke regarding the capitalization fees. He said cities have not prevailed on the appeals to the Supreme Court. Next week Will will be at the AIC Conference with many attorneys and he will have the opportunity to discuss the fees at that conference. He recommended that we look at this again in two weeks after he has time to review the cases. He said we do not have to hold another hearing. Will wants to have the attorney that worked with the City of Hayden look at this. Mayor Anderson said the reason the fees look so dramatic is that our fees were so low. Tom Mayo said just in case he is not here when the capitalization fees are approved, he would gladly write a check tonight if he could get hooked up to the City sewer system. Ron Smith moved to table the capitalization fee increases. Rick Alonzo seconded the motion and it passed, all in favor.

Mayor Anderson highly recommended that we work with EES Consulting for review of the Idaho Forest Group contract. Stephen said we did not receive the contract yet. He explained that our current contract with Idaho Forest Group expires in September and he does not anticipate controversy.

City business licenses were discussed as a complaint was made by a current business owner that wished to have her thoughts presented to council. Tom Mayo said he is comfortable with what the City is doing as this person is a landlord. Mayor Anderson said this person is questioning where to hang the business license. Ron Smith said the person could hang it where ever they want. Connie Wells said the business owner can hang the license in her home. Rick said he hangs his business license in his home.

Connie Wells moved to authorize the Mayor to sign the State/Local Agreement with Idaho Transportation Department for the Augusta Street Project. Tom Mayo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. Stephen reminded the group of the amount of the project match being \$8,000 now and approximately \$80,000 next year plus about \$27,000 in-kind.

Ron Smith moved to approve Resolution 2015-06-03 committing to an agreement with Idaho Transportation Department and the project costs for the Augusta Street Project. Connie Wells seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

Tom Mayo moved to authorize the Mayor to sign the Certified Statement of Intended use for the purchase of fireworks for the 4th of July celebration. Connie Wells seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

Jasper Naumann handed out a proposal to council for live music outside the Brewery after the Bull Bash. The location of the band will be on the Kootenai River Brewing Company property.

Closing will be no later than 2:00 a.m. Jasper requested that First Street be closed between Riverside and Bonner Street. Security will be provided for the event. There will be wristbands given to participants and minors will be different colored. Will Herrington asked if people will be drinking in the public right of way. Jasper was not sure but was concerned that there may be an overflow of people in the street if there is a large crowd. Rick Alonzo said there is an open container law in the City. Rick suggested a barrier be put up between the street and Riverside Auto so no damage is done to the cars. Jasper thinks he will construct a fence of some sort for this. Police Chief Vic Watson wants to make sure the vehicle traffic is gone from the Bull Bash before the street is blocked off. He thinks there is not concern about emergency vehicles. Jasper remembered there is a renter above Callie's Niche and would keep his fence back to the Brewery's property line on First Street. Jasper said the Brewery does not want their alcohol leaving the Brewery property. He said people need to be in the fence of the Brewery in order to see the band. Jasper said it would be the risk of the public if they have open containers on the city street. He just wants to have the city street blocked off in case they need an overflow for people. Vic said in essence they would be using the street as part of a beer garden. Stephen suggested cyclone fencing and gave Jasper the cost. Beer will be served in red solo cups and Jasper will speak to the tenant next door and will erect a fence on the inside of the sidewalk on First Street near Riverside Auto. Vic suggested that Jasper speak to Riverside Auto. Rick Alonzo moved to approve the special event permit for Jasper Naumann, Kootenai River Brewing Company for a concert at 6424 Riverside and First Street, from Riverside to Bonner Street, on June 12, 2015 following the Bull Bash, with the stipulation that fences be put at the ends of First Street and construction type fencing be put up to prevent people from going on Riverside Auto's property. Ron Smith seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

Rick Alonzo moved to enter into executive session per Idaho Code 67-2345 (1) (a) at 8:30 p.m. Ron Smith seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”. Executive session ended at 8:52 p.m. No action was taken.

Rick Alonzo moved to hire Michael Martinez to fill the vacancy at the police department. Tom Mayo seconded the motion. The motion passed – Ron Smith “yes”, Rick Alonzo “yes”, Connie Wells “yes”, Tom Mayo “yes”.

There being no further business, the meeting adjourned at 8:53 p.m.

David K. Anderson, Mayor

Attest:

Kris Larson, City Clerk

