

Mayor Darrell Kerby called the regularly scheduled Council Meeting of January 11, 2005 to order at 7:00 p.m. Present for the meeting were Mayor Kerby, Council President Jim Burkholder, Council Members Mick Mellett, Russ Docherty, and Leslie Falcon, Clerk Kris Larson, City Attorney Tim Wilson, Planning and Zoning Coordinator Gary Falcon, Police Chief Dave Kramer, and Fire Chief Larry Owsley. Also present were Attorney Mike Ormsby, Chuck Newhouse, Dave Winey, John Schwartz, LaMar Olsen, Dave Gray, John O'Connor, Bob Moir, Sharon Fitzgerald, and Herald Reporter Elizabeth Ciepiela.

The first order of business was a hearing for the Local Improvement District #2002-1 (LID) assessments. Mayor Kerby opened the LID assessment hearing. LaMar Olsen asked what the rate per foot was. Mayor Kerby said it is \$75 per front foot. Mike Ormsby spoke to the group and said this is the opportunity for any property owner to bring forth objections to the LID. If there are no objections then a notice of payment for final assessment will be mailed out by the City and the property owners will have until February 10, 2005 to pay or else the presumption will be made that over time payments for a 10 year period will be made. The interest rate will be somewhere between five and a half percent and seven percent. Lamar thinks the project is working fine. Dave Winey asked if someone wishes to make payments if they will be locked into a ten year period. Mike explained that the interest may be due until the end of the year in the year the final payment is made but people could pay their assessments off early.

Dan Usdrowski and Sharie MacDonald from Welch Comer and Ralph Agueros joined the meeting at 7:05 p.m.

Bob Moir inquired about the interest paid on a partial payment. Mike Ormsby said that the interest may be due until the end of the year in the year it is paid off. Mike explained that an amortized payment will be made by the property owner. Bob inquired if the City will be able to pay off the bond early. Mike said the City will be able to pay off the bond in five or ten thousand dollar increments.

Sharon Fitzgerald inquired about interest rates. Mayor Kerby said that the Bond Attorney and City Treasurer will look into issues to keep the rate as low as possible as well as keep the bonding costs as low as possible. The interest rate will be locked in by March 15, 2005 according to Mike Ormsby for the ten year period. Mayor Kerby said there is a possibility that the money may be financed by one of the city funds to keep the costs as low as possible. Sharon inquired about the hearing notice including a 20 percent figure that could be assessed by the City. Mike Ormsby said the law requires that verbiage to be in the notice but Council has made it quite clear that the assessments will not go above \$75 per front foot.

Bob Moir said that he has a questionable piece of property that is either 75 or 84 feet. Mike Ormsby explained if there is a disagreement with the assessment then the property owner is required in writing to let the Council know along with the reasons tonight. If no objection is made then the assessment remains the amount due. Mike explained that the engineers calculated the front footage according to the county records.

Ralph Agueros asked if he is being assessed for the trash bin that he has on his property. Mayor Kerby said he is being assessed for the property if he owns it and if there is a problem with the trash bin then he needs to take the matter up with Bonners Ferry Garbage Company because that is not a city issue.

Sharon Fitzgerald asked about the assessment including her heat mat and if she could pay a partial amount and finance the rest. She was told that she could pay as much as she wanted to up front and finance the rest if she would like to.

Bob Moir asked if there is legal recourse if the court finds that the property owner does not own the footage assessed. Mike Ormsby said there would be no legal recourse because whatever the assessment says will be the amount locked in as it is based on county records. Bob said they are in conflict. Mike said this is the right to raise objection to the amount assessed.

Ralph Agueros asked when the trees in front of the stop signs would be removed. Mayor Kerby said he cannot answer that question tonight because this is the LID assessment hearing.

At 7:25 p.m. Mayor Kerby closed the LID assessment hearing. He thanked those for attending.

The regular council meeting reconvened.

Ralph Agueros said the trees in front of the stop signs need to be addressed and asked that someone work on getting rid of the trees before there is an accident.

Bob Moir said the planning was not right on the project because some of the trees are in front of show windows. He was referring to a tree in front of South Hill Furniture.

Ralph Agueros said the project looks really nice with the holiday lights on. Bob Moir said it looked nice with the snow removed the last few days also. Mayor Kerby said there is a one year warranty period on the project. Bob said he had a problem with the dumpster which caused it to be moved to Ralph's property and his sidewalk does not drain into the street, it drains into the shop.

Mayor Kerby said the Harley Rally was to be spoken to by Skip O'Fallon but he could not be present tonight. Police Chief Dave Kramer is working on it with Skip.

Jim Burkholder moved to approve the consent agenda. Russ Docherty seconded the motion and it passed, all in favor. The consent agenda contained the following: roll call; approval of January 11, 2005 accounts payable; Treasurer's Report; approval of the December 21, 2005 minutes.

Jim Burkholder moved to adopt Resolution 2005-9 Considering and Disposing of Protests Regarding the Assessment Roll as detailed. Mick Mellett seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Resolution 2005-9 reads as follows:

RESOLUTION NO. 2005-09
A RESOLUTION OF THE CITY OF BONNERS FERRY, OF BOUNDARY COUNTY, IDAHO,
HEARING, CONSIDERING AND DISPOSING OF PROTESTS REGARDING THE ASSESSMENT
ROLL FOR LOCAL IMPROVEMENT DISTRICT NO. 2002-1; CONSIDERING THE ENGINEER'S
REPORT THEREFOR; MAKING AMENDMENTS AND FINAL DISPOSITION OF PROTESTS; AND
PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO
CITY OF BONNERS FERRY
Boundary County, Idaho
LOCAL IMPROVEMENT DISTRICT NO. 2002-1

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BONNERS FERRY, Idaho, as follows:

WHEREAS, the City of Bonners Ferry, of Boundary County Idaho, (the "City"), is a municipal corporation operating and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho, and as such is authorized and empowered to create local improvement districts and to construct improvements pursuant to Idaho Code, Title 50, Chapter 17; and

WHEREAS, the City Council (the "Council"), has heretofore duly created Local Improvement District No. 2002-1 ("LID No. 2002-1"), provided for certain improvements to be made therein, and provided that the cost and expense of said improvements be assessed against the property benefited thereby; and

WHEREAS, at the direction of the Council, the City's Engineer has created an assessment roll (the "Assessment Roll") apportioning the costs of said improvements among the lots, parcels, and other property located within LID No. 2002-1; and

WHEREAS, after proper publication and mailing of notice to the owners of property within LID No. 2002-1, a hearing was held on January 11, 2005, at which time and place owners of property within LID No. 2002-1 were heard concerning the amount or apportionment of the assessment affixed upon their property; and

WHEREAS, it appears to the Council that each lot, tract, parcel, and other property included within LID No. 2002-1 will be specially benefited by the doing and making of the improvements within said LID No. 2002-1 at least in an amount equal to, as to such lot, parcel of land and other property, the specific amount set opposite each such lot, parcel of land and other property upon the Assessment Roll heretofore filed; and

WHEREAS, each and all of said assessments are strictly in accordance with the benefits and are in amount and apportionment in accordance with Idaho Code 50-1712, and the ordinances and resolutions of the City, and said Assessment Roll and each and all of the assessments set forth therein are correct and proper in every respect; and

WHEREAS, the Council has also considered the Engineer's Report with respect to the apportionment and correctness of the assessments with respect to the amounts levied on any particular lot or parcel of land, including the benefits accruing thereon, and the proper apportionment of the total cost of the improvements to be borne thereby, and the inclusion of any lot or parcel of land in LID No. 2002-1;

NOW, THEREFORE, IT IS HEREBY FURTHER RESOLVED as follows:

Section 1: PROTESTS TO ASSESSMENT ROLL

The protests to the Assessment Roll, as described in Exhibit "A" attached hereto and incorporated herein by this reference, were presented, in writing or verbally, at or prior to the public hearing.

Section 2: DISPOSITION OF PROTESTS

Disposition is hereby made, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference, concerning each of the protests set forth in Exhibit "A" attached hereto and referred to in Section 1 hereof.

Section 3: FINDING OF BENEFIT FROM IMPROVEMENTS

Each and all of said lots, parcels of land and other property within said LID No. 2002-1, as the same are described in the Assessment Roll, will be especially benefited by the making and doing of said improvements in excess of the costs and expenses of said improvements.

Section 4: DETERMINATION OF AMOUNT OF BENEFIT

Each and every lot or parcel of land is benefited in the amount of the assessment now levied thereon.

Section 5: SUFFICIENCY OF ASSESSMENT ROLL

The Assessment Roll and the amount levied on each lot or parcel of land, including the benefits accruing thereon, and the proper proportionate share of the total cost of the improvements to be borne by each lot or parcel of land, are proper, regular, sufficient, and correct.

Section 6: LIMITATION ON INCREASE OF ASSESSMENTS

No single assessment has been increased in an amount greater than twenty percent (20%) of the amount of the assessment as set forth in the Notice of Hearing.

Section 7: SEVERABILITY

If any section, paragraph, clause, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of each section, paragraph, clause, or provision shall in no manner affect any remaining provision of this Resolution.

Section 8: EFFECTIVE DATE OF RESOLUTION

This Resolution shall take effect and be in force and effect from and after its passage and approval.

PASSED under suspension of the rules, at a regular meeting of the City Council of the City of Bonners Ferry, held on the 11th day of January, 2005, upon which a roll call vote was duly taken and duly enacted.

DATED this 11th day of January, 2005.

CITY OF BONNERS FERRY, Boundary County, Idaho

/s/ Darrell Kerby, Mayor

ATTEST: /s/ Kris Larson, City Clerk

Russ Docherty moved to have Ordinance 487 Approving and Confirming the Assessment Roll of Local Improvement District #2002-1 read by title only. Leslie Falcon seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Attorney Mike Ormsby read Ordinance 487 by title only.

Jim Burkholder moved to adopt Ordinance 487. Mick Mellett seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Ordinance 487 reads as follows:

ORDINANCE NO. 487

AN ORDINANCE OF THE CITY OF BONNERS FERRY, OF BOUNDARY COUNTY, IDAHO, APPROVING AND CONFIRMING THE ASSESSMENT ROLL OF ITS LOCAL IMPROVEMENT DISTRICT NO. 2002-1 FOR THE CONSTRUCTION AND INSTALLATION OF CERTAIN STORM DRAINAGE, CURB, SIDEWALK, LANDSCAPE AND LIGHTING IMPROVEMENTS WITHIN THE LIMITS OF LOCAL IMPROVEMENT DISTRICT NO. 2002-1; PROVIDING FOR ASSESSMENTS AND FOR THE ISSUANCE OF BONDS; CREATING CERTAIN FUNDS AND ACCOUNTS AND PROVIDING FOR CERTAIN COVENANTS WITH REGARD THERETO; PROVIDING FOR THE APPEAL PROCEDURE; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO
CITY OF BONNERS FERRY

Boundary County, Idaho

LOCAL IMPROVEMENT DISTRICT NO. 2002-1

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BONNERS FERRY, IDAHO, as follows:

WHEREAS, the City of Bonners Ferry, of Boundary County Idaho, (the "City"), is a municipal corporation operating and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho, and as such is authorized and empowered to create local improvement districts and to construct improvements pursuant to Idaho Code, Title 50, Chapter 17; and

WHEREAS, said City is authorized by Idaho Code, Title 50, Chapter 17, to issue local improvement district bonds for the purpose of paying the cost of improvements and betterments within local improvement districts of the City; and

WHEREAS, the City Council (the "Council") has heretofore duly created Local Improvement District No. 2002-1 ("LID No. 2002-1") for the purpose of making certain improvements to the storm drainage, curb, sidewalk, landscape and lighting system of the City and related improvements to benefit properties within the boundaries of LID No. 2002-1; and

WHEREAS, the members of the Council have considered the report of the City's Engineers with respect to the apportionment and the correctness of the assessments and the amounts levied on any particular lot or parcel of land, including the benefits accruing thereon, and the proper apportionment of the total cost of the improvements to be borne thereby, and the inclusion of any lot or parcel of land in the proposed No. 2002-1; and

WHEREAS, it appears to the Council that each lot, tract, parcel, and other property included within LID No. 2002-1 will be specially benefited by the doing and making of the improvements within said LID No. 2002-1, in an amount at least equal to the specific amount or amounts set opposite each such lot, parcel of land, and other property upon the assessment roll for said LID No. 2002-1 (the "Assessment Roll"), heretofore filed herein and heard before the Council, and that each and all of said assessments are strictly in accordance with the benefits attributable to each lot, parcel of land and other property, and are in amount and apportionment strictly in accordance with Section 50-1712, Idaho Code, and are also in accordance with the methods of assessment detailed in Section 50-1707, Idaho Code, and the resolutions and ordinances of the City, and that said Assessment Roll and each and all of the assessments set forth therein are correct and proper in every respect; and

WHEREAS, notice of time and place of hearing on the final assessment roll was duly and regularly given to all property owners within LID No. 2002-1 by publication thereof and by mailing to all property owners in the manner required by law, and the hearing was duly and regularly held on Tuesday, January 11, 2005, pursuant to said notice, at the time and place fixed for said hearing; and

WHEREAS, at said hearings all those persons desiring to be heard were heard and disposition of the protests has been made by the Resolution adopted on January 11, 2005; and

WHEREAS, the Council now desires to confirm the Assessment Roll, to levy the assessments, and to authorize the issuance of local improvement district bonds.

NOW, THEREFORE, BE IT FURTHER ORDAINED AS FOLLOWS:

Section 1: CONFIRMATION OF ASSESSMENT ROLL

The assessments set forth on the Assessment Roll for LID No. 2002-1 for the purpose of making certain improvements to the City's storm drainage, curb, sidewalk, landscape and lighting system and related improvements, and engineering, surveying, supervision and inspection for design and installation and all legal and other miscellaneous expenses, within the limits of LID No. 2002-1, all of which is provided for under the Resolution of Intent, are hereby in all respects approved and confirmed. No single assessment has been increased in an amount greater than twenty percent (20%) of the amount of the assessment as set forth in the Notice of Hearing.

Section 2: PROPERTY AFFECTED; LEVY OF ASSESSMENTS

Each lot or parcel of land and other property shown upon the Assessment Roll is hereby found to be benefited to the amount of the assessment levied thereon, and there is hereby levied and assessed against each of the lots, parcels and other properties, as set forth and described in said Assessment Roll, the amount as finally charged against each such lot, parcel and other property as it appears in said Assessment Roll.

Section 3: CERTIFICATION OF ASSESSMENT ROLL

The Clerk, upon passage of this Ordinance, is directed to certify and file the confirmed Assessment Roll forthwith with the City Treasurer.

Section 4: ASSESSMENTS ARE LIENS; RECORDATION OF NOTICE

The assessments made by this confirming Ordinance shall be a lien upon the property assessed, from and after the date the Clerk records a notice which shall contain the date of adoption of this confirming Ordinance and a description of the area or boundaries of LID No. 2002-1. The Clerk is hereby directed to make said recording with the Boundary County Recorder, immediately upon the passage of this Ordinance.

Section 5: DUE DATE OF ASSESSMENTS; PAYMENT IN INSTALLMENTS

Said assessments shall become due and payable to the City Treasurer within thirty (30) days from the date of the adoption of the Resolution disposing of the protests and confirming the Assessment Roll, or February 10, 2005. The Treasurer shall mail notice of the assessment amount due to each property owner assessed at the post office address if known, or if unknown, to the post office in Bonners Ferry, Idaho, stating the total amount of the property owner's assessment, plus the substance of the terms of payment of the same as hereinafter set forth (a copy of this Notice is attached hereto and incorporated herein by reference as Exhibit "A"). An Affidavit of Mailing the foregoing notice shall be filed in the Clerk's office.

Any property owner who has not paid his assessment in full within said thirty-day period shall be conclusively presumed to have chosen to pay the same in ten (10) equal annual installments, the first of which shall become due and payable one (1) year from the date of the passage of this Ordinance, with a like amount due on the same day of each year thereafter until the full amount of the assessment, with interest due thereon, shall be paid in full. Assessments paid in installments shall bear interest on the whole unpaid sum from the date of adoption of this Ordinance. The rate of interest per annum which such installments shall bear is hereby fixed as the net effective rate of interest on the LID No. 2002-1 Bonds plus up to two percent (2%). If any installment is not paid within twenty (20) days from the date it is due, the same shall become delinquent and the City Treasurer shall add a penalty of two percent (2%) thereon. Installments may be prepaid in the manner provided by Section 50-1715, Idaho Code.

Section 6: COST AND EXPENSES

The total cost and expenses of improvements shall include the contract price of all improvements, together with any costs or expenses incurred for engineering, clerical, printing and legal services, as well as for advertising, surveying, inspection of work, collection of assessments, interest upon bonds or warrants, and an amount for contingencies as may be considered necessary by the Council. Said costs are hereby levied and assessed by the front foot method of assessment against each of the lots, parcels and properties located within LID No. 2002-1, as described in the Ordinance creating LID No. 2002-1.

Section 7: INSTALLMENT DOCKET

The City Treasurer shall, upon passage of this Ordinance, establish a Local Improvement Installment Docket for LID No. 2002-1 as provided in Section 50-1717, Idaho Code.

Section 8: AUTHORIZATION OF BONDS FOR LOCAL IMPROVEMENT DISTRICT

The issuance of bonds to defray the cost of improvements made within LID No. 2002-1 is hereby authorized. Said bonds shall be designated "City of Bonners Ferry Local Improvement District No. 2002-1 Bonds" (the "Bonds"), and shall be more particularly described in an Ordinance to be adopted by the Council, authorizing the issuance and sale of the Bonds. Said Bonds shall be issued in the amount of the cost of the improvements within LID No. 2002-1, as set forth in this Ordinance, less funds from the City and other legally available funds, including Community Development Block Grant funds, and less the amount of any assessments paid in within the thirty-day period as set forth in this Ordinance.

Section 9: BOND AND INTEREST FUNDS

The City Treasurer is hereby authorized and empowered, and it shall be his/her duty, to receive and collect all assessments levied on property within LID No. 2002-1 to pay the cost of said improvements, the installments thereof, the interest thereon, and the penalties accrued, and to pay and disburse such payment to the person or persons lawfully entitled to receive the same, in accordance with the laws of the State of Idaho and all ordinances and resolutions of City.

There is hereto created, and shall be maintained by the City Treasurer, a special fund designated "City of Bonners Ferry Local Improvement District No. 2002-1 Bond Fund" (the "Bond Fund"), or such other designation conforming to accepted accounting practices. All moneys constituting payment of principal of said unpaid installments of assessments are to be deposited into the Bond Fund, and shall be used and applied for the purpose of paying the principal of and interest on the Bonds herein authorized and for no other purpose whatsoever. The Bond Fund is hereby pledged as security for such payment of principal of and interest on the Bonds.

There is hereby created, and shall be maintained by the City Treasurer, a special fund designated "City of Bonners Ferry Local Improvement District No. 2002-1 Interest Fund" (the "Interest Fund"), or such other designation conforming to accepted accounting practices. All moneys constituting payment of interest on said unpaid installments of assessments are to be deposited into the Interest Fund, and shall be used and applied for the purpose of paying the interest on the Bonds herein authorized and for no other purpose whatsoever. The Interest Fund is hereby pledged as security for such payment of interest on the Bonds.

Moneys in the Bond Fund and the Interest Fund shall be deposited in such bank or banks as are designated as depositories of public moneys of the City under the laws of the State of Idaho, or invested in bonds or warrants of the City. Interest received on such funds so deposited or invested shall be placed to the credit of the Fund from which it is earned.

Section 10: APPEAL PROCEDURE

The confirmation of the Assessment Roll for LID No. 2002-1 herein made is a final determination of the regularity, validity and correctness of said Assessment Roll, of each assessment contained therein, and of the amount levied on each lot or parcel of land or other property within No. 2002-1, subject to the right of appeal as set forth in Section 50-1718, Idaho Code.

Any person who has filed objections to the Assessment Roll, or any other person who feels aggrieved by the decision of the Council then confirming said Assessment Roll, shall have the right to appeal. Such appeal shall be made within thirty (30) days from the date of publication of this Ordinance, by filing a written notice of appeal with the Clerk of the City and with the Clerk of the Court of Boundary County, describing the property and objections of the appellant.

After said 30-day appeal period has run, no one shall have any cause or right of action to contest the legality, formality, or regularity of any assessment.

Section 11: RATIFICATION OF PROCEEDINGS

All proceedings heretofore had in connection with the creation of No. 2002-1, the preparation and adoption of the Assessment Roll, and hearing thereon, and the giving of notice of said hearing on said Assessment Roll, are hereby in all respects ratified, approved, and confirmed.

Section 12: IRREPEALABILITY

From and after the date the Bonds are issued, this Ordinance shall be and remain irrevocable until the Bonds and the interest thereon shall be fully paid and discharged, as herein provided.

Section 13: SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of each section, paragraph, clause or provision shall in no manner affect any remaining provision of this Ordinance.

Section 14: ENFORCEABILITY CLAUSE

The City shall enforce and seek remedies for breaches of the terms of this Ordinance, as provided by the laws of the State of Idaho.

Section 15: PUBLICATION AND EFFECTIVE DATE

After passage and adoption of this Ordinance, a summary substantially in the form attached hereto as Exhibit "B", and incorporated herein by reference, shall be published once in the official newspaper of the City, under the provisions of the Idaho Code, and upon such publication shall be in full force and effect.

Section 16: PASSAGE

Passed at a regular meeting of the City Council of the City of Bonners Ferry, held on the 11th day of January, 2005, upon which a roll call vote was duly taken and duly enacted.

DATED this 11th day of January, 2005.

CITY OF BONNERS FERRY, Boundary County, Idaho

/s/ Darrell Kerby, Mayor

ATTEST: /s/ Kris Larson, City Clerk

Mayor Kerby thanked Mike Ormsby for all the work on the project and also thanked Dan Usdrowski and Sharie MacDonald for attending and for their work. Dan thought this was one of the smoothest projects he has been involved in including working with the business public. Mayor Kerby again thanked them for their work. Mike, Dan, and Sharie left the meeting at 7:35 p.m.

Larry Owsley gave the fire report. He said there was an incident at the high school and he will meet with the Fire Marshall. There was a fire at the Kootenai River Inn in a heating duct and the area was evacuated. There was a carbon monoxide problem on Walker Lane and there were some gas malfunctions. There was a call on Second Street that was a gas furnace malfunction. Mayor Kerby asked if Larry will put an article in the paper if the public has problems with their appliances or wants to prevent problems what they should do.

Dave Kramer gave the police report. It has been an active January with three warrant arrests, two DUI arrests, two felony drug arrests, stolen motorcycle, two accidents, and an Amtrak train unruly passenger was turned over to the Police last night. Dave also mentioned that he has been appointed to the Idaho Advisory Board for the National FBI Academy. Mayor Kerby congratulated him.

Kootenai Elevator Building update was that the railroad is continuing to work on the issue.

Mayor Kerby informed Council that the Myrtle Creek line has been repaired and the city is back on Myrtle Creek.

The Trinity Lutheran Church daycare parking lot issue was discussed. Present were Heidi Brown, Kathy Schnuerle, Jane McCrum, Pastor Steve Dornfeld, and Becky Peterson-Davis representing the Church Daycare. Mayor Kerby said Gary Falcon

looked at the appeal and recommendations from the Church on Condition E of the Special use permit. Gary spoke to the group and said the City Staff came up with two different recommendations for the Church. One was to use the vacant lot to the west of the parsonage as the parking lot using gravel and dust abatement rather than paving. The other option was the Stephens Street parking lot with a sidewalk across the lawn to the parsonage. The staff recommended that the sidewalk be made and maintained. The staff included Mike Woodward and John Youngwirth along with Gary Falcon. Heidi Brown asked why a parking lot of 45 spaces on Buchanan Street that works beautifully is not acceptable. Mayor Kerby showed a picture of the map of the Stephens Street drawing and the sidewalk across the lawn. Mayor Kerby said at the present time if a parking lot access permit was applied for where vehicles back out on a street that it would be denied due to backing out on busy streets. The Stephens Street option is the most conducive due to the drop off of children and the parking area not including backing out according to the Mayor. Heidi asked why other daycare areas in the City have street parking and back out on the street parking. Mayor Kerby said it is because those areas are not as highly traffic heavy. Becky Peterson-Davis said the Boy Scouts and other groups use the Buchanan Street parking lot and she feels the City is being restrictive to the daycare. Mayor Kerby said Buchanan Street is different than other streets within the City and it is a substandard width road. The difference between all the other uses that the Church has now and this issue is that the Council did not have to be asked before and they now have to give an opinion. Heidi argued with the Mayor's statement. She asked regardless of the use how it is different. Mayor Kerby said it is the law that dictates daycare. Heidi said that Churches do not have to conform to City Ordinances. Mayor Kerby said the opinion has been litigated in Idaho and the City has the say so.

Russ Docherty asked if the Stephens Street option were approved tonight if that would be satisfactory. Heidi asked if there could be an exception made for sick child pickup or a special needs child. Leslie Falcon commented that the children made it from their home to the car. Kathy Schnuerle said that the Buchanan side is better during inclement weather because the Stephens Street walk is quite a bit longer than that on Buchanan Street. Pastor Steve Dornfeld reiterated that the Buchanan Street parking lot is not restricted for Church business. Mayor Kerby agreed. Pastor Dornfeld said that the daycare is an outreach ministry of the Church. Mayor Kerby said that the court has ruled that daycares in a certain zone are not protected under Churches and require special use permits. Becky Peterson-Davis asked if there is a rule against backing into the street. Mayor Kerby said no. Becky does not feel that they are being unsafe as they have looked at the area including Buchanan Street. She said safety to children is basic to the Church. She said Stephens Street is busier than Buchanan Street. Heidi said two of the options suggested by the Church have included 90 degree pull out. Russ Docherty said he can pull out on the Stephens side easier than on the Buchanan Street side. Mayor Kerby asked why they disagree with the Stephens Street option. Kathy gave an example of parents knowing there is a parking lot near the daycare on Buchanan Street and they are restricted to the Stephens Street side of the Church and it does not make sense. Pastor Dornfeld said part of what grates on the applicants is that the parking lots are available for other Church activities but are not good enough for this application. It is creating a burden for the congregation to make improvements that the Church feels are unnecessary.

He said the Church wants to provide a service for the working poor by providing this preschool for children. There is financial assistance for working poor for daycare but not for preschool. The resources that the Church is being asked to use will take away from future projects.

Mick Mellett said that parking issues are not being treated differently for churches. He said that when this issue began there was an issue at the Catholic Church where the Council restricted parking also due to safety issues. He said there will be use of the daycare during the busy traffic times of the day. He thinks the staff report is a safety issue. Mick does not have a problem with Stephens Street because it is pull in and pull out forward.

Gary Falcon said that a daycare on Fry Street had to build a parking lot across the street and walk the children across the street. Exhibit four was shown to Council by Pastor Dornfeld where vehicles would pull into the Buchanan Street parking lot and drive alongside the church exiting on Cody Street. Mayor Kerby agreed that exhibit four is a safe alternative. Becky said some of the parents will probably choose to use the Stephens Street parking lot but the Church does not want to be limited. Heidi said the parent handbook will be passed out to the congregation to educate the public as to the parking on the Buchanan Street side.

Jim Burkholder moved to amend condition “e” of the special use permit for TLC Children’s Center with parking as designated on exhibit four entering off Buchanan Street with striping and arrows depicting flow of traffic exiting on Cody Street and the use of Stephens Street parking lot also be allowed for daycare drop off with walking across the lawn. Russ Docherty seconded the motion. Leslie Falcon asked about the roadway being obstructed for vehicles when one patron parks in the passage way. Pastor Dornfeld said there is room for four parallel parked cars. Mayor Kerby asked if the applicants will be working at the daycare. They said they will not, they are the advisory committee. Pastor Dornfeld said parking will be designated in the handbook. Mick asked if there will be a partition to mandate that cars go out on Cody Street. Mick said as long as traffic exits on Cody Street and no traffic comes back out on Buchanan Street he will support it. He will support a permanent partition to keep traffic blocked because he does not want to see cars on Buchanan Street. Leslie asked if the Church is willing to cut off daycare users if they do not heed the rules. Heidi said it is in the handbook that misuse of parking guidelines is reason for termination of services. The motion tied – Jim Burkholder “yes”, Russ Docherty “yes”, Mick Mellett “no”, Leslie Falcon “no”. Mayor Kerby voted “yes” but the vote according to city code must be three fourths to over rule the previous motion.

Mick Mellett moved to amend condition “e” of the special use permit for the TLC Children’s Center parking with access off Buchanan Street being allowed as per the drawing depicted in exhibit four with vehicles exiting on Cody Street and including a permanent barrier between the Buchanan parking lot and Buchanan Street as well as the ability to use the parking on Stephens Street using the sidewalk but that no sidewalk is required to be built. The Buchanan parking area is wide enough for parallel parking

facing Cody Street out of the driveway area if necessary. Jim Burkholder seconded the motion. The barriers do not have to be permanently attached but must be of a hard substance according to Mick and Jim. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”.

Mayor Kerby suggested that we read Ordinance 486 by title only for the second and third times. Russ Docherty said he has a problem with the repeal of sections as stated in Ordinance 486. Council tabled the issue until the City Attorney is present.

Jim Burkholder moved to authorize the Mayor to sign the Verizon Cell Tower Land Lease Agreement and Memorandum of Land Lease Agreement. Russ Docherty seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Mayor Kerby thanked Council for their forward looking and safety cautious actions approving this tower because there were numerous calls to him when the county denied the cell towers previously. He said now 911 calls will go to the Boundary County dispatch center rather than to Bonner County when this tower is built.

Russ Docherty moved to authorize the Mayor to sign the Waterline Easement with Davidson Enterprises, Inc. Jim Burkholder seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”.

Jim Burkholder authorized the Mayor to sign the Welch Comer Visitor’s Center Design Agreement subject to staff review. Russ Docherty seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”.

Jim Burkholder moved to approve Resolution 2005-08 Gem Community Support and authorize the Mayor to sign it. Mick Mellett seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Resolution 2005-08 reads as follows:

Gem Community Support Resolution
Resolution 2005-08

WHEREAS, the City Council of the City of Bonners Ferry is interested in the economic health and vitality of the community and its citizens; and,
WHEREAS, the City Council wishes to support the efforts within and by this community to become more prepared to support and foster the appropriate economic and community development activities of its citizens; and,
WHEREAS, the Idaho Commerce and Labor is offering a program specifically designed to help communities help themselves prepare for and sustain an effective economic and community development program; and,
WHEREAS, this program is entitled the Idaho Gem Community Program.

IT IS HEREBY RESOLVED, that the City Council of the City of Bonners Ferry hereby supports and endorses the participation of the City of Bonners Ferry in the Idaho Gem Community Program of Idaho Commerce and Labor; and,
BE IT FURTHER RESOLVED, that the elected leadership of this community realizes this program requires dedicated, ongoing, and sustained effort; and that this resolution is our pledge to complete and regularly maintain the requirements for Gem Community certification, including developing an Action Plan annually, and submitting it to the Gem Community Program Coordinator, appointing Gem team leaders and members when vacancies occur, and meeting regularly; and,
BE IT FURTHER RESOLVED, that the Boundary Economic Development Council is the economic and community development organization authorized to perform the tasks necessary for maintaining certification as a Gem Community, and developing and implementing economic and community development projects and applying for relevant grant programs, as necessary, in order to sustain the community’s economic and community development efforts.

Dated this 11th day of January, 2005.

/s/ Darrell Kerby, Mayor, City of Bonners Ferry

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

Mick Mellett moved to accept the Department of Environmental Quality (DEQ) grant for the water master plan and authorize the Mayor to sign the acceptance. Russ Docherty seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”.

Leslie Falcon moved to authorize the Mayor to sign the DEQ pay request for the water master plan grant. Mick Mellett seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”.

Russ Docherty moved to authorize the Mayor to sign the Pedestrian Underpass Supplemental Agreement between the State of Idaho and Welch Comer. Jim Burkholder seconded the motion. The motion passed – Mick Mellett “yes”, Leslie Falcon “yes”, Russ Docherty “yes”, Jim Burkholder “yes”.

Mick Mellett moved to adopt Resolution 2005-10 Fair Housing. Leslie Falcon seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. Resolution 2005-10 reads as follows:

**Resolution 2005-10
Fair Housing Resolution**

LET IT BE KNOWN TO ALL PERSONS OF the City of Bonners Ferry that discrimination on the basis of race, color, religion, gender or national origin in the sale, rental, leasing or financing of housing or land to be used for construction of housing or in the provision of brokerage services is prohibited by Title VIII of the 1968 Civil Rights Act (Federal Fair Housing Law).

It is the policy of the City of Bonners Ferry to encourage equal opportunity in housing for all persons regardless of race, color, religion, gender or national origin. The Fair Housing Amendment Act of 1988 expands coverage to include disabled persons and families with children. Therefore, the city does hereby pass the following Resolution.

BE IT RESOLVED that within available resources the city will assist all persons who feel they have been discriminated against because of race, color, religion, gender, national origin, disability of familial status to seek equity under federal and state laws by filing a complaint with the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Compliance Division.

BE IT FURTHER RESOLVED that the city shall publicize this Resolution and through this publicity shall encourage owners of real estate, developers, and builders to become aware of their respective responsibilities and rights under the Federal Fair Housing law and amendments and any applicable state or local laws or ordinances.

SAID PROGRAM will at a minimum include: 1) publicizing this policy through local media and community contacts; 2) distributing posters and flyers to community contracts to educate the public of their respective responsibilities and rights concerning equal opportunity in housing; and 3) preparing a fair housing outreach plan to identify local landlords, realtors, banks and lending institutions, to review zoning ordinances for fair housing compliance, to identify the building code applicable to the jurisdiction and to inform the community who is responsible to enforcing the jurisdiction’s building code.

EFFECTIVE DATE

This Resolution shall take effect January 11, 2005.

/s/ Darrell Kerby, Mayor, City of Bonners Ferry

Attest: /s/ Kris Larson, City Clerk

Leslie Falcon moved to approve the purchase of two computers for the Clerks Office. Russ Docherty seconded the motion. The issue went through the foreman’s group and the two computers taken out of the office will go to others on the hill to replace computers that are obsolete. The motion passed, all in favor.

Mick Mellett moved to approve the vacation carryover request for Rick Alonzo. Jim Burkholder seconded the motion and it passed, all in favor.

Mayor Kerby designated Russ Docherty as the Panhandle Area Council (PAC) Representative. Mick moved to accept the Mayor’s recommendation of PAC Representative, Russ Docherty. Leslie Falcon seconded the motion and it passed, all in favor.

Mayor Kerby designated Mick Mellett as the PAC Representative Alternate. Russ Docherty moved to accept the Mayor's recommendation for PAC Representative Alternate, Mick Mellett. Leslie Falcon seconded the motion and it passed, all in favor.

Mick Mellett moved to authorize the use of the fire hall for the Ambulance Association at a cost of \$25 per week. Leslie Falcon seconded the motion. Mick thinks this is quite a good cause for the community and could see waiving the fees but understands the need for paying the heating costs. The motion passed, all in favor.

Russ Docherty expressed concern over the statement in the building code ordinance "that anything conflicting in the city ordinances will be cancelled" because without specific reference it will stay in the code book forever. Attorney Wilson said that by Ordinance 486 we are adopting the State's law and those rules and regulations and by updating we are updating as the State does. Mayor Kerby explained to Attorney Wilson that Russ did work in the recodification and he is concerned that the cleanup will not occur. Tim suggested keeping the cleanup on the agenda but the building code ordinance has to be passed. Jim Burkholder had a question on the wording where it refers to the requirement of certain building code adoption and enforcement. He clarified that the City does not have to adopt the building code and enforcement ordinance according to State law if they choose to have no enforcement – it is either all or none.

Mick Mellett moved to have reading of Ordinance 486 Building Code Adoption and Enforcement by title only for the second reading. Leslie Falcon seconded the motion. The motion passed, all in favor. Clerk Kris Larson read Ordinance 486 by title only.

Russ Docherty moved to have the third reading by title only of Ordinance 486. Leslie Falcon seconded the motion. The motion passed – Mick Mellett "yes", Russ Docherty "yes", Leslie Falcon "yes", Jim Burkholder "no". Clerk Kris Larson read Ordinance 486 by title only.

Russ moved to adopt Ordinance 486 Building Code Adoption and Enforcement. Mick Mellett seconded the motion. Mick said he does not like the ordinance but would rather have the restrictions than none at all. Jim Burkholder thinks this hurts the poor community and does not like the law. The motion passed – Mick Mellett "yes", Russ Docherty "yes", Leslie Falcon "yes", Jim Burkholder "no". Ordinance 486 reads as follows:

ORDINANCE NO. 486

AN ORDINANCE OF THE CITY OF BONNERS FERRY, BOUNDARY COUNTY, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; ESTABLISHING A BUILDING DEPARTMENT; PROVIDING FOR APPOINTMENT OF A BUILDING OFFICIAL; PROVIDING FOR THE ADOPTION OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL RESIDENTIAL CODE, AND THE INTERNATIONAL ENERGY CONSERVATION CODE, AND PROVIDING FOR LOCAL MODIFICATIONS TO THOSE CODES, AND PROVIDING FOR THE UPDATING OF THOSE CODES; PROVIDING FOR PENALTIES AND CIVIL REMEDIES FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF.

WHEREAS, Section 39-4116, Idaho Code has been amended so as to require certain building code adoption and enforcement.

NOW THEREFORE, BE IT ORDAINED by the City Council of Bonners Ferry, Idaho that the following be and is hereby adopted as an ordinance for the City of Bonners Ferry, Idaho:

Section 1.00: AUTHORITY

This ordinance is adopted pursuant to Idaho code Section 39-4116.

Section 2.00: ESTABLISHMENT OF THE BUILDING DEPARTMENT

There is hereby established a Building Department which is hereby empowered to enforce the provisions of this Ordinance, and such other Ordinances as directed by the Mayor. This Department shall be supervised by the Building Official, appointed by the Mayor.

Section 3.00: APPOINTMENT OF THE BUILDING OFFICIAL

The Mayor shall appoint an individual, partnership, corporation or other business association or entity as the Building Official. The appointed Building Official is hereby empowered to enforce the provisions of this ordinance, and the building, mechanical, fire and life safety and other codes adopted pursuant to this ordinance and such other ordinances and resolutions as directed by the Mayor and/or City Council. All building code inspectors shall be certified as provided by the Idaho Code.

Section 4.00: ADOPTION OF BUILDING CODES

The City hereby adopts the following building codes and standards, and shall enforce them with regard to all construction and development in the incorporated areas of the City:

- A. THE INTERNATIONAL BUILDING CODE, 2003 EDITION, and any subsequent edition or supplement thereto, as published by the International code Council, including all rules promulgated by the Idaho Building Code Board to provide equivalency with the provisions of the Americans With Disabilities Act accessibility guidelines and the Federal Housing Act Accessibility guidelines.
- B. THE INTERNATIONAL RESIDENTIAL CODE, 2003 EDITION, Parts I-IV, and Part IX, and any subsequent edition or supplement thereto, as published by the International Code Council.
- C. THE INTERNATIONAL ENERGY CONSERVATION CODE, 2003 EDITION, and any subsequent addition or supplement thereto, as published by the International Code Council.

Section 5.00: LOCAL MODIFICATIONS OF THE SELECTED BUILDING CODES

A. The following sections of the INTERNATIONAL RESIDENTIAL CODE are hereby revised:

1. Section R101.1: Insert "City of Bonners Ferry".
2. Table R301.2: Insert:
 - a. Ground Snow Load= 94 pounds per square foot
 - b. Wind Speed= 90 mph
 - c. Seismic Design Category= C
 - d. Weathering= Severe
 - e. Frost Line Depth= 24 inches
 - f. Termite= None to Slight
 - g. Decay= None
 - h. Winter Design Temp= -10 degrees Fahrenheit
3. Table R301.2 (1), footnotes: Insert "I. Regardless of construction design standards as outlined in this chapter, one and two family dwellings shall not be constructed for less than fifty (50) ponds per square foot live load (snow load)."

B. The following sections of the INTERNATIONAL BUILDING CODE are hereby revised:

1. Section 101.1: Insert: "City of Bonners Ferry".
2. Section 3409.2: Insert: "January 1, 2005".

Section 6.00: UPDATING OF ADOPTED CODES

The adopted versions of the codes specified in Section 2 and modified in Section 3 of this Ordinance shall be deemed superseded by successive versions of such codes as they are adopted or approved by the Idaho Building Code Board effective on the date any such Codes are made effective by the Idaho Code Board.

Section 7.00: FEES FOR PERMITS AND ASSOCIATED SERVICES

The City shall adopt by resolution a Fee Schedule for Building Permits and Associated Services (the "Schedule"). The schedule shall contain, but not be limited to, fees for permits and associated services required by this Ordinance. Fees for other services and applications including other ordinances administered by the Building Official may be added as deemed necessary by the City.

Section 8.00: PENALTIES; CIVIL REMEDIES

- A. Any person who violates any provision of this Ordinance, or of the standardized codes adopted pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or incarcerated in the county jail for not more that six (6) months, or by both such fine and imprisonment.
- B. A separate violation is deemed to have occurred with respect to each building or structure not in compliance with the codes adopted herein. Each day such violation continues shall constitute a separate offense.
- C. In addition to any criminal penalties imposed by this section, the City may seek any civil remedies available to it, including but not limited to injunctive relief to restrain conduct in violation of this Ordinance or compel performance of duties established by this Ordinance.
- D. The City may further assess investigation fees, as provided in the Uniform Building Code, 1997 Edition, "an investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee. The payment if such investigation fee shall not exempt any person from compliance with all other provisions of this code nor any penalty prescribed by law." as published by the International Conference of Building Officials.

Section 9.00: REPEAL OF CONFLICTING PROVISIONS

Any prior ordinance, section of any ordinance, or part of any ordinance in conflict with this Ordinance is hereby repealed to the extent of such conflict, as necessary. Permits issued pursuant to any repealed ordinances shall remain valid in accordance with their own terms.

Section 10.00: SEVERABILITY

If any part of this ordinance shall be declared invalid for any reason whatsoever, that declaration shall not affect the remaining portions of this ordinance which shall remain in full force and effect. To this end, the provisions of this ordinance shall be severable.

Section 11.00: EFFECTIVE DATE

This Ordinance shall take effect on, and be in full effect on, Published effective date.

Section 12.00: PUBLICATION

This Ordinance shall be published according to law in the Bonners Ferry Herald, a newspaper of general circulation published in the City of Bonners Ferry and the official newspaper of the City of Bonners Ferry, and hereby declared the official newspaper for the publication of this Ordinance.

Adopted as an Ordinance of the City of Bonners Ferry this 11th day of January, 2005.

CITY OF BONNERS FERRY, IDAHO

By: /s/ Darrell Kerby, Mayor

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

John Schwartz asked if the City was going to an election in February for the water issues. Mayor Kerby said May will be looked at for the election because the February date is too soon and we are not ready. Mayor Kerby said the application for the Economic Development Administration (EDA) grant is still pending but the EDA has changed their rules so the City must comply with the new rules in order to make application. There will be representatives from the EDA coming to Bonners Ferry to view our needs. Mayor Kerby said the bankruptcy is cleared up on the old LP site on Riverside. He said jobs sell the EDA grant and this site may be helpful in obtaining these funds by showing job creation. Mayor Kerby said the city will be in real hurt if the new storage tank is not built because of the new chlorination contact time rules.

Mick Mellett moved to go into executive session at 9:23 p.m. per Idaho Code 67-2345 to discuss legal issues. Russ Docherty seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Jim Burkholder “yes”. At 9:26 p.m. Russ Docherty moved to go out of executive session. Jim Burkholder seconded the motion. The motion passed, all in favor. No action was taken.

The meeting adjourned at 9:27 p.m.

Darrell Kerby, Mayor

Attest: _____
Kris Larson, City Clerk