

Mayor Darrell Kerby called the special council meeting of May 23, 2006 to order at 7:00 p.m. Present for the meeting were Mayor Kerby, Council President Russ Docherty, Council Members John Langs, Leslie Falcon, and Dave Gray, City Clerk Kris Larson, and City Administrator Stephen Boorman. Also present was Judith Holly Beaudet.

The first order of business was a hearing for amendment of the planning and zoning ordinance concerning home occupations. There being no comments Mayor Kerby recessed the hearing at 7:02 p.m.

Holly Beaudet said she has concerns with the city's acquisition of Robert Moir's property. She is concerned about the small amount of money being paid to Mr. Moir due to the location of the downtown business. She had made an offer to Mr. Moir of \$200,000 and thinks this would be more in line with current values. She spoke of subterfuge and has concerns that Mr. Moir was not compensated fairly and said she did not like the eminent domain. She asked if the city would draft a letter to the county concerning parking for a development she is considering on her property. She was hopeful to have purchased Mr. Moir's property for parking area. Holly speculated what the results of the court hearing may have been. She again asked that the city draft a favorable letter to county planning and zoning concerning parking for her development proposal.

Leslie Falcon moved to approve the consent agenda. John Langs seconded the motion. The motion passed, all in favor. The consent agenda contained the following: roll call; approval of the Treasurer's Report; approval for Police Chief Dave Kramer to attend the Idaho Chief's Meeting in Lewiston on June 13-14, 2006.

Area of Impact Ordinance 499 was the next agenda item. Dave Gray moved to have the amended version of Ordinance 499 read by title only. Leslie Falcon seconded. Clerk Kris Larson read Area of Impact Ordinance 499 by title only.

Russ Docherty moved to adopt Ordinance 499. John Langs seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”. Ordinance 499 reads as follows:

Boundary County Ordinance No. 2006-3

City of Bonners Ferry Ordinance No. 499

AREA OF IMPACT AGREEMENT – CITY OF BONNERS FERRY

AN ORDINANCE DEFINING AND ESTABLISHING A GEOGRAPHICAL AREA OF CITY IMPACT FOR THE CITY OF BONNERS FERRY, IDAHO, IDENTIFYING THE COMPREHENSIVE PLAN THAT SHALL APPLY WITHIN THE ESTABLISHED AREA OF CITY IMPACT; IDENTIFYING THE SUBDIVISION AND ZONING ORDINANCES THAT SHALL APPLY WITHIN THE ESTABLISHED AREA OF CITY IMPACT; IDENTIFYING METHODS AND PROCEDURES FOR APPLICATION, ADMINISTRATION AND ENFORCEMENT OF THE COMPREHENSIVE PLAN AND ORDINANCES THAT SHALL APPLY WITHIN THE ESTABLISHED AREA OF CITY IMPACT; AND ESTABLISHING AN EFFECTIVE DATE PURSUANT TO SECTION 67-6526, IDAHO CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE COUNCIL OF THE CITY OF BONNERS FERRY, IDAHO, COUNTY OF BOUNDARY, STATE OF IDAHO, AND;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, BOUNDARY COUNTY, STATE OF IDAHO.

Section 1: Legislative Purpose: The purpose for establishing an Area of City Impact is to identify a logical urban fringe area adjoining the City of Bonners Ferry, Idaho. The urban fringe area is realizing, or will realize, growth and development that must be planned and managed in an orderly fashion. The Area of City Impact recognizes trade area, geographic factors and the potential delivery of public services as being associated with the City of Bonners Ferry and comprised of areas that may reasonably be annexed to the City in the near and distant future.

Section 2: Geographic Area of City Impact: The officially adopted and agreed upon "Area of City Impact for Bonners Ferry, Idaho," is established by this ordinance and is set forth herein on the attached map entitled Area of City Impact Map for the City of Bonners Ferry, Idaho dated 5-23-06, and marked Exhibit A.

Section 3: Comprehensive Plan: The Comprehensive Plan and subsequent amendments as officially adopted by the County of Boundary, Idaho, shall apply to the Area of City Impact within the unincorporated area of Boundary County, Idaho. Upon the adoption of this Ordinance both the City of Bonners Ferry and Boundary County shall amend their Comprehensive Plans to be consistent with this agreement, if required.

Section 4: Subdivision Ordinance: The Subdivision Ordinance and subsequent amendments thereto as officially adopted by Boundary County, Idaho, shall apply to the Area of City Impact within the unincorporated area of Boundary County, Idaho. The Subdivision Ordinance of Boundary County shall also prevail over any City of Bonners Ferry ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivisions, short plats or administrative lot splits.

Section 5: Zoning Ordinance: The Zoning Ordinance, Zoning Map and subsequent amendments thereto as officially adopted by Boundary County shall apply to the Area of City Impact within the unincorporated area of Boundary County, Idaho.

Section 6: Code and Ordinance Administration:

1. Boundary County shall be responsible for the administration of the County's ordinances listed in Section 3, 4 and 5, and shall receive all permit fees for inspection performed to recapture direct costs for inspections, administration, legal publications and other costs arising from the process. Appeal and hearing procedures shall follow those adopted by Boundary County presently and in the future.
2. Amendments to the Boundary County Comprehensive Plan, requests for preliminary and final plats or the vacation thereof and requests for zone changes, special use permits and/or conditional use permits involving property located in the Area of City Impact within the unincorporated area of Boundary County being proposed for non-agricultural development of any type shall be submitted to the City of Bonners Ferry for review and recommendation by the City Council. Review and approval recommendation by the City Council shall be in addition to county approval and shall be based upon standards for review as set forth under Title 67 and Title 50, Idaho Code. In granting a recommendation of approval, the City Council shall have the right to suggest terms and conditions pertinent to the permit under consideration.
3. The authority to enter into and execute development agreements with a subdivider and to accept required bonding or other forms of security to guarantee construction of required street and/or utility improvements involving plats located within the Area of City Impact within the unincorporated area of Boundary County shall rest with Boundary County.
4. Unless otherwise stipulated by written agreement, the maintenance of public streets, law enforcement and fire services within the Area of City Impact within the unincorporated area of Boundary County shall be the responsibility of Boundary County until such time as they are annexed by the City of Bonners Ferry pursuant to law.

Section 7: Enforcement: Enforcement of the Comprehensive Plan and land use ordinances within the Area of City Impact shall be as defined by Ordinance.

Section 8: Renegotiation: The Area of City Impact Agreement shall be reviewed by the City of Bonners Ferry and Boundary County at least once every ten years, and shall be renegotiated at any time upon the request of either party hereto. Renegotiation shall begin sixty (60) days after written request by either the City or County, and shall follow procedures for the original negotiations as set forth in Idaho Code, Section 67-6526.

Section 9: Effective Date: This Ordinance shall be in full force and effect from and after its passage by both the City of Bonners Ferry and the County of Boundary as required by law.

Section 10: Repeal and Severability: Upon the passage, publication and effective date of this ordinance by both the City and the County all preceding ordinances of the City and the County in conflict with the provisions of this ordinance shall be and are repealed.

It is further provided that in the event any provision of this ordinance shall be deemed unconstitutional in violation of law, or unenforceable, that provision shall be deemed stricken and the remaining provisions shall remain in full force and effect.

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF BONNERS FERRY this 23rd day of May, 2006.

CITY OF BONNERS FERRY, IDAHO

ATTEST:

/s/ Darrell Kerby, Mayor

/s/ Kris Larson, City Clerk

APPROVED BY THE COMMISSIONERS OF THE COUNTY OF BOUNDARY this 15th day of May, 2006.

COUNTY OF BOUNDARY

BOARD OF COUNTY COMMISSIONERS

ATTEST:

s/ Ron Smith, Chairman

s/ Michelle Rohrwasser, Deputy
Clerk of the Board of County Commissioners

s/ Dan Dinning, Commissioner

s/ Walt Kirby, Commissioner

Russ Docherty moved to approve the proposed electric rate increase as amended to be effective June 1 if possible. Leslie Falcon seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”. (Clerk’s note: the electric rate increase is approximately 4.6% overall – base rates were increased in all classes and a new class called small commercial was created. The increase was a restructure of the rates to more fairly assign the costs of serving each customer class).

The hiring of a parks part-time employee was tabled until the next meeting.

John Langs moved to hire the lifeguards for the summer season. Dave Gray seconded the motion. Dave said the people listed are trustworthy and good people. The motion passed, all in favor. The guards hired were Shelley Aubuchon, Shandee Patzer, Shantel Schirado, Janaya Patzer, and Samantha Kelly. Stephen recommended hiring three of the following upon receipt of their necessary certifications and successful demonstration of their rescue skills to the head lifeguard. Listed in order of preference were Olivia Hanson, Michael Kastelic, Molly Rivkin, and Spenser Behrens.

Leslie Falcon moved to authorize the Mayor to sign the Memorial Day Parade permit and waive the fees with the stipulation that they clean up. Dave Gray seconded the motion. The motion passed, all in favor.

Mayor Kerby recessed the regular session and re-opened the hearing for consideration of the amendment to Planning and Zoning Ordinance 435 special use permits. There being no comment or no objection Mayor Kerby closed the hearing.

Leslie Falcon moved to read Ordinance 435A including amendments as written. John Langs seconded the motion. The motion passed, all in favor. Clerk Kris Larson read Ordinance 435A as amended in its entirety.

Dave Gray moved to have the second and third readings of Ordinance 435A as amended by title only. Leslie Falcon seconded the motion. The motion passed, all in favor. Clerk Larson read Ordinance 435A as amended twice by title only.

John Langs moved to adopt Ordinance 435A as amended. Dave Gray seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”. Ordinance 435A reads as follows:

Ordinance 435A

AMENDMENT TO: ORDINANCE NO. 435

ORDINANCE NO. 435, of the City of Bonners Ferry, regarding special use permits;

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

AMENDING SAID ORDINANCE; by adding a new item, entitled **Home Occupation**, as number (5) to Section Residential Zones AA, A and B to read as follows:

Residential Zones AA, A and B:

1. Day Care Business: “Day Care” shall have the meaning as given in the Idaho Code, as amended from time to time.
2. Hair Salon or Barber Shop: A shop or business licensed by the State of Idaho to provide hair care, cosmetology and/or other beauty services to customers.
3. Elderly Care Facilities: The providing of care to the elderly for a fee or other charge where such services are licensed by the State of Idaho and/or required to be licensed by the State or its agencies.
4. Juvenile Boarding Houses and/or Educational Facilities: The maintenance of a home or other structure to provide to minor children residence, food, supervision, and/or education for a fee or other compensation excluding facilities defined as “day care” specifically included are juvenile boarding and educational facilities which are licensed or required by law to be licensed for such activities by the State of Idaho and/or its various agencies.
5. **Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof or does not adversely affect the uses permitted in the zone of which it is a part.**
 - a. **Members of the household residing on the premises shall be engaged in such occupation and only one person not residing on the premise shall be allowed to engage in the occupation.**

- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty per cent (20%) of the floor area of the dwelling unit shall be used in the conducting of the home occupation.
- c. There shall be no change in the outside appearance of the building or premises or visible evidence of the conduct of such home occupation.
- d. No significant traffic shall be generated by such home occupation. Significant traffic shall be defined as more than 20 vehicle trips per day.
- e. No equipment or process shall be used in such home occupation, which create noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

APPROVED by the Mayor and City Council of the City of Bonners Ferry this 23rd day of May, 2006.

CITY OF BONNERS FERRY, IDAHO

By: /s/ Darrell Kerby, Mayor

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

Leslie Falcon moved to adopt Resolution 2006-10 Continuing Disaster Emergency Declaration for Kootenai River Flooding. John Langs seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”. Resolution 2006-10 reads as follows:

**RESOLUTION #2006-10
RESOLUTION TO CONTINUE DISASTER EMERGENCY DECLARATION
KOOTENAI RIVER FLOODING**

WHEREAS, a disaster emergency was declared by Mayor Kerby on May 19, 2006 due to the rising Kootenai River near Bonners Ferry, Boundary County, Idaho causing eminent threat of flooding, and

WHEREAS, the high river level and the possibility of higher water caused by the filling of Kootenai Lake and high runoff from the Moyie River and the Yaak River downstream of the Libby Dam is attributing to the flooding, and

WHEREAS, there is visible undercutting and damage to the levees protecting the area surrounding Bonners Ferry, and

WHEREAS, the north side levee which protects a residential area in Bonners Ferry; the Bonners Ferry sewage treatment plant that services the City of Bonners Ferry as well as South Hill Water and Sewer District and the North Water and Sewer District; and the natural gas transmission line, is in imminent danger from high flood waters, and

WHEREAS, the City of Bonners Ferry has exceeded its ability and resources to provide adequate flood fighting efforts and levee repair, and

WHEREAS, the State of Idaho has declared a statewide disaster declaration for flooding, and

WHEREAS, the request is being made with the endorsement of the State of Idaho for the Army Corps of Engineers to aid the City of Bonners Ferry in flood fighting,

NOW THEREFORE, be it resolved by the Council of the City of Bonners Ferry, that the disaster emergency declaration be continued within the City of Bonners Ferry, Boundary County, Idaho, to protect the citizens from existing imminent danger.

Dated this 23rd day of May, 2006.

CITY OF BONNERS FERRY

/s/ Darrell Kerby, Mayor

Attest: /s/Kris Larson, City Clerk

The visitor’s center/parking lot project was the next agenda item. Stephen said there are three options submitted by Welch Comer for council to review. The project is over budget and the parking lot is the greatest part of this due to the standard specifications being increased. The city now owns the parking lot. One option (option B) is to cut and patch the parking lot. Another option (option C) is to build the parking lot to a design life of 10 years rather than 20 years but it would increase the base and put a two-inch asphalt overlay on top. Stephen said there is significant value to a solid base in the parking lot. John Langs inquired about truck traffic in the parking lot. Stephen said there will be minimal amount of truck traffic other than delivery trucks. Russ Docherty asked about option B. Stephen said it is just delaying costs that will need to be spent on repairs. Stephen said on option C if the project comes in under budget we have the option of putting more asphalt on the surface than the two-inch layer. Mayor Kerby is concerned about the base and option C takes care of the base of the parking lot. Leslie Falcon said the landscaping has been removed. Stephen said the utilities have been removed but the

conduit for the electrical and the bases have been removed from all the options. Anything underground is left in the project. Holly Beaudet suggested that an area of the parking lot be left gravel for horse trailers. Stephen said he likes options A & C. Mayor Kerby has no problem with option C. He expressed concern about upcoming projects that may cost the city money. Stephen said if Idaho Transportation Department (ITD) would allow it we would bid alternates but ITD does not allow it. Council discussed choosing option C and if the project comes in under budget then upgrading the asphalt layering.

Dave Gray moved to select option C for the visitor's center and parking lot project. John Langs seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”.

Russ Docherty moved to table the pedestrian underpass project discussion. Dave Gray seconded the motion and it passed, all in favor.

At 7:44 p.m. Russ Docherty moved to go into executive session per Idaho Code 67-2345 for discussion of property negotiations. Leslie Falcon seconded the motion. The motion passed – John Langs “yes”, Russ Docherty “yes”, Leslie Falcon “yes”, Dave Gray “yes”. At 7:58 p.m. Russ Docherty moved to go out of executive session. Leslie Falcon seconded the motion. The motion passed, all in favor. No action was taken.

Dunning Acres plats on the northside has dedicated right of way for the dike road and in 1996 this was sloughed into the river and now the road is on McCloy's property according to Stephen. Mayor Kerby said under the emergency there is authority to use the property needed. Council said there needs to be a road. Stephen said Mr. McCloy wants the right of way put back where it was and the road moved. Council agreed that the city needs to keep the road for access.

Bob Moir joined the meeting at 8:04 p.m.

Mayor Kerby thanked Bob for the settlement agreement. Bob apologized for the confusion with Holly Beaudet. He said he had told her he would consider her proposal and run it by his attorney. Bob said the building permit for the change of use for the next door building may cause a delay to facilitate his business. Bob cannot find in the building code where there is the clause that says if the building is vacant that he needs to file for a change of use. Mayor Kerby told Bob that he would be treated just as anyone else in the city and building permits are required. Bob said he should be made whole by the move. Mayor Kerby said the agreement is out of court and it is not eminent domain. Stephen said the building permit is looking at health and safety issues and they generally get turned around in a week or so. They are particularly concerned with fire issues. Bob said the building was built for car business and he does not understand the change of use causing the permit to be filed. Bob said maybe he needs to talk to an attorney about using federal funds for planning the project. He expressed concern because he is up against a wall and the city has put him there. Bob said he has spent six years in his business and he has a lot to move. Stephen advised Bob to speak to Sewell and

Associates. Bob said he has read the code and he understands it and building inspections. Bob still thinks the property purchase is an eminent domain issue. He would like to get caught up so he can do his best and not be overwhelmed. Bob spoke about court actions and problems he is experiencing. Bob is worried about the moving aspect of the transaction. Bob does not have a problem with the city. He has over a thousand signatures that say that his building should not be torn down. He is not happy about the situation and it has bothered him for over two years. Bob said just because an attorney tells the city it is legal to take or buy his property it does not make it right. He will make the best of the situation but is concerned about not being able to operate a business out of his building. Bob has over 1400 hours of research into this case and said the city may not even be legally incorporated. He also spoke about federal right of way and the property in the parking lot. Council thanked Bob for coming in to speak to them.

There being no further business the meeting adjourned at 8:30 p.m.

Darrell Kerby, Mayor

Attest:

Kris Larson, City Clerk