

MINUTES
REGULAR MEETING OF THE SANDPOINT CITY COUNCIL
July 17, 2019

I. OPENING Mayor Rognstad called the regular meeting of the City Council to order at 5:00 p.m. on Wednesday, July 17, 2019, in the Council chambers at City Hall, 1123 Lake Street.

ROLL CALL Council members Ruehle, Aitken, Aispuro, and Eddy were present. Council members Williamson and Darling were absent.

II. JOINT MEETING WITH INDEPENDENT HIGHWAY DISTRICT

Mayor Rognstad announced that the meeting would begin with two joint public hearings with the Independent Highway District (IHD), and he welcomed the IHD Board of Commissioners.

Chairman Bailey called the IHD meeting to order, and IHD Clerk Julie Bishop conducted roll call, with all IHD Commissioners present: Chairman Mel Bailey, Commissioner Tim Closson, and Commissioner Marj Tilley.

PLEDGE OF ALLEGIANCE Mayor Rognstad led the pledge of allegiance to the flag.

Mayor Rognstad announced that there were several public hearings scheduled during the course of the evening and that the order of each would be as follows:

- 1) Staff explanation of the subject of the hearing.
- 2) Presentation by the applicants or their representative. Any questions should be directed to the applicants at that time.
- 3) Opening of the public hearing, at which time the public may provide testimony. Questions should be asked of the person testifying before they leave the podium. Those who wish to testify are required to complete a sign-up sheet. The order of those providing testimony will be as follows:
 - I. In favor
 - II. Neutral
 - III. Opposed
- 4) Rebuttal testimony from the applicant or his representative. Final questions may be asked of the applicant at that time. However, if new facts are elicited, the public will be given an opportunity to comment on new facts.
- 5) The public hearing will then be closed for deliberation. No new information may be provided at that time, and questions may be directed only to City staff during deliberation.

A. PUBLIC HEARING ON REQUEST FOR PUBLIC RIGHT OF WAY VACATION –
Property 1: alleyway situated in part between the properties at 527 S. Fourth Ave., 509 S. Fourth Ave., and 612 S. Third Ave.

Mayor Rognstad read aloud the legal description for Property 1, as follows:

All that portion of the platted 15 foot wide alley lying in Block 21 as shown on the Plat of Weil's 3rd Addition, recorded in Book 1 of Plats, Page 61 on January 3, 1907, being contiguous with Lot 7, Lot 8 of said Block 21, and with Lot 1A of the Replat of Lots 5 & 6, Block 21, Weil's 3rd Addition, said Replat recorded in Book 4 of Plats, Page 135, Instrument No. 407480 on June 16, 1998, and lying southerly of the following described line:

Beginning at the Northeasterly corner of said Lot 8, being a point on the westerly line of said alley; Thence easterly a distance of 15 feet to the Northwesterly corner of said Lot 1A, being a point on the easterly line of said alley and being the terminus of said line.

Mayor Rognstad stated that the request to vacate this public right of way (ROW) was received by the City from abutting property owners John W. Stejer Jr., John Hansen, and Sue Bloomfield. Per Idaho Code § 40-203, notice was provided to known owners and operators of underground facilities and owners whose land abuts the portion of public ROW proposed to be abandoned and vacated, and the notice of public hearing was

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published three times in the Bonner County Daily Bee.

Infrastructure and Development Services Manager Amanda Wilson provided some background information regarding this request, showing an aerial image of the property proposed for vacation and stating that it is located next to the Third Street Pier.

The reason for the joint hearing with IHD is that IHD is the legal owner of this ROW. The City has entered into a Memorandum of Understanding (MOU) with IHD that allows the City to maintain rights of way.

The area being proposed for vacation of Property 1 encompasses approximately 1,500 square feet (0.0344 acres), more or less. The applicants abutting the ROW state that they are requesting this vacation due to the fact that the alleyway is not used by the City or the general public, as it dead-ends to the south at their private lots and does not provide access to the waterfront; private property prohibits public access to the water from that ROW.

All written comments submitted by nearby property owners as a result of the public hearing notification indicate support or a neutral opinion of the request. There were no written comments received from any of the owners of underground utilities who were notified. Ting responded and indicated a neutral position. There are no City utilities located in this area.

Pursuant to the requirement under State law, a fiscal impact was conducted for this property. The average of the three adjacent properties was calculated, considering the value of the land only, and this calculation was applied to the square footage of the ROW, resulting in a value of \$17,776.00. If the vacation is approved, there would be a contract of sale to purchase the property through IHD. The MOU provides revenue sharing terms between IHD and the City; accordingly, a portion (90%) of the purchase amount will be shared with the City for public benefit.

Ms. Stapleton clarified that, because the City maintains the ROW, in accordance with the MOU, any buildout or improvements on public ROW are accomplished by the City. Our revenue sharing agreement with IHD supports improvements and maintenance and operations (M&O) related to City streets and public rights of way. Revenue is specifically restricted to those rights of way and is not for general fund revenues or general-purpose use by the City.

Ms. Wilson pointed out that one of the properties is adjacent to the waterfront. Therefore, the value of that land is significantly more than the other two properties that were used in calculating the average value of the land. She received an email message from the applicants, stating that they felt inclusion of the value of the property that is abutting the waterfront unfairly increases the overall average of the land that does not abut the waterway. They have requested a reduced value of \$15,488.16. Staff does not object to this proposal. Applicants also brought to her attention that there are other cities that accept 50% of the calculated value as consideration for vacated property. Staff does not support this proposal.

City Attorney Will Herrington stated that, although the City is not aware of any utilities installed in the area of this property, it's possible that an installation could have occurred without the City's knowledge. He will, therefore, recommend providing within the proposed Resolution that easements for any existing utilities will be honored. He explained that City Council will consider the Resolution, and, if the City's recommendation is to vacate the ROW, the City's Resolution will simply consent to IHD's vacation. If IHD agrees to the vacation, they will not adopt a Resolution this evening but will do so at a later date. IHD's Resolution will constitute the actual vacation and will be recorded with the Bonner County Recorder in lieu of a deed.

Applicant John Stejer, Jr., stated that he spearheaded the vacation petition on behalf of himself and neighbors Mr. Hansen, and Mr. and Mrs. Bloomfield. The purpose of their request is to have the ability to take this piece of property, which is currently unusable and unmaintained, and begin maintaining it. At some point in the past, there was a fence

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erected on the property, possibly 40 or more years ago, that needs to be repaired or replaced, but they are unable to do so without title to the property. They are not necessarily in agreement with the price but understand that there is value in the property and are prepared to accept the \$15,488.16 valuation and also acquiesce to any existing easements.

Mayor Rognstad announced that this is a quasi-judicial hearing, during which the hearing body must hold an evidentiary hearing and make its decision based on the written and oral testimony presented. A quasi-judicial decision is one that requires the hearing body to find facts and exercise discretion when applying the standards of a statute to a specific situation. The decision must be based on the testimony presented and cannot be based on ex parte information received outside of the hearing. The hearing body may review the petition to vacate and related materials in advance of the public hearing, but they may not discuss the petition outside of the public hearing. He asked whether any City Council member wished to declare any ex parte contact regarding this matter. No such disclosures were made. Chairman Bailey made the same query of the IHD Commissioners, and no such disclosures were made.

Mayor Rognstad stated that the hearing would be conducted in compliance with the following rules of procedure: Before persons testify at public hearings, they are to fill out the sign-up sheet available at the front of Council chambers and hand to staff. If you desire, you may note your objection, support or comment on the form provided. If you wish to comment during the public hearing, please come to the podium and state your name and whether you reside within the City limits. Please limit your comments to no more than 3 minutes. Testimony shall directly address the subject at hand and shall not be personally derogatory toward any individual, organization or business. Members of the hearing body may ask questions of persons who testify. If they do so, it will only be for the purpose of clarifying information. Once the public hearing is closed, there will be no further opportunity for public input on the proposal, and deliberation will begin. For those testifying, just a reminder that you will need to complete a sign-up sheet, and please clearly state your name when you approach the podium. You will have three minutes to speak.

Mayor Rognstad opened the City public hearing. Chairman Bailey opened the IHD public hearing.

No one spoke in favor of the request.

Brent Heiser, Residential Appraiser employed by the Bonner County Assessor, announced that he would be making a neutral statement in regards to the proposed vacation. He stated that the property is valued by the County, utilizing an application that is used countywide, and it is their opinion that the property should be valued at \$32,956.00, which is quite different from the City staff opinion of \$17,776.00. He commented that he did not know how the value provided by City staff was determined or who prepared the City staff report, but he said that their office was not contacted by the City. Their office was contacted by Ms. Bishop, and they provided this information to IHD. It was his opinion that this information needs to be addressed at this meeting and considered because it is factual data that the County uses to determine values within the City of Sandpoint and Bonner County. He stated that he doesn't know where the City is getting their numbers, and the reduced proposal is even lower than the City staff determination. He stated that he doesn't know where City staff is getting their data or who their resource is, but the data and value that he brings is how the County has valued this property and properties in that neighborhood.

Mr. Heiser continued, as a Bonner County resident, with a statement in opposition to the proposed vacation, asking how the southernmost waterfront portion of this alley that the Stejers already own was obtained. He said that he requested this information from the City, and all he has is a 2016 quitclaim deed from the City to the Stejers. He has no information in regards to the consideration that was received by the City from the Stejers for the value of the property when ownership was transferred. He would like to know how they obtained that property and what they gave for consideration for the part of that alley that connects to the water. His concern is that the property that was transferred to the

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Stejers in 2016 is access for the public to the water. He would like to see the meeting minutes pertaining to this transaction. The public is now denied access to the water because of that action, and he would like for the public to have access to water. He stated that, if he wants to go fishing, he could go to City Beach or Dog Beach or Memorial Field or Third Street Pier, but that's not always a guarantee.

Ms. Wilson thanked Mr. Heiser for his questions and responded to **Mayor Rognstad** that the valuation summary sheet was pulled from Bonner County and is not as current as the data Mr. Heiser is using. She explained that the value of each property is broken down by the land value and building values. For each property, that information was obtained from Bonner County. She confirmed to Mr. Heiser that the property under consideration for vacation is not waterfront. She showed the calculation used to come up with the \$17,776.00 valuation. It is the County's report of land square footage for the abutting parcels and the County's assessment of each of those parcels that was used in the City staff valuation calculation. Idaho law does not specify a valuation method; it specifies that a determination of value is made.

Mr. Heiser replied to **Mayor Rognstad** that they do not use building value at all but strictly land value only and no waterfront. He said that they cannot use waterfront valuations to value non-waterfront property, stating that "it's inappropriate. Period." He also replied that the valuation figures provided by City staff are different than the figures he is familiar with for these properties and his figures are basically double what City staff has calculated.

Mr. Heiser replied to Ms. Wilson that the discrepancy is strictly that City staff is using waterfront property to value non-waterfront land. The County bases waterfront property values on front footage, not on square footage. They base City lots on square footage in Sandpoint. He stated, "My data is actual."

Chairman Bailey stated that IHD did look at the process and how the original lots were done. As for the waterfront portion of the alley that was transferred from the City to the Stejers in 2016, IHD found that the documents date back to 1940, when the original waterfront property was deeded. The quitclaim was done in 2016, but the properties were vacated in 1940 and deeded in 1942. It's been quite some time ago when ownership of those original waterfront-area properties was transferred.

Mr. Heiser stated that the quitclaim for the waterfront portion of the alley is from the City of Sandpoint to the Stejers, and he wondered how the City of Sandpoint became the owner of that property in order to issue the quitclaim deed and stated that, since it's alleyway, IHD, not the City, is responsible for that property, unless IHD grants the City "the opportunity to claim." Chairman Bailey affirmed that IHD has responsibility for those properties in Sandpoint that are roads and accessways.

Ms. Wilson stated that, as a point of clarification, in the 1940s, the City vacated a significant amount of ROW. As she understands it, for the sake of the purchase in 2016, the quitclaim deed simply formalized what occurred in the 1940s. Also, at that time, the agreements between the City and IHD were much different. There was no purchase value in the 1940s for the vacation. There was an ordinance passed by City Council, vacating the waterfront portion of the alley. The 2016 quitclaim deed did not go through Council. There are no meeting minutes. It was handled by the City Attorney to formalize an ordinance that was passed by City Council in the 1940s.

Mr. Heiser stated that he would like to review the Ordinance, any legal proceedings, and documentation of the direction from legal counsel for the City to quitclaim the property to the Stejers.

Chairman Bailey added that IHD was not formed until December 1940, so the vacation in question was accomplished prior to IHD's existence.

Mr. Heiser responded to Commissioner Closson that the ROW that is the subject of the public hearing is not waterfront property. It is being valued by the County as other non-waterfront lots in Sandpoint are valued.

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Mr. Stejer stated that he was aware that the City's vacation process is new, so his attorney did seek out information from other municipalities and found that it is quite common, when vacating ROW, that the adjoining properties must be in agreement, and they take the assessed land value of those adjoining properties, combine them, and average them to find the value of the ROW. In most municipalities, they try to create incentives for people to seek to vacate unused ROW, and these cities discount the amount required to be paid as consideration when the property is vacated. The value the County has mentioned is almost \$22 per square foot; they would be hard-pressed to find those values even in commercial property, let alone a 1,500 square foot lot.

Mr. Stejer continued, stating that, with respect to the portion of the alley that fronted the water, when they purchased their property, the title company, at the closing table, informed them that, in 1940, that parcel had been deeded to the owner, but the paperwork was never done. In 2016, the City Attorney was approached by the title company, confirmed this was the case, and the City quitclaimed the property.

Ms. Wilson responded to **Mayor Rognstad** that the data used to calculate the proposed values was received by email to City Planning and Community Development Director Aaron Qualls from the County Assessor's Office.

Mayor Rognstad closed the City Council public hearing, stating that no new information could be provided, and questions could be directed only to City staff during Council and Commissioner deliberation. City Council will deliberate and make a decision first, then the Highway District Commissioners will do the same during their own separate deliberation.

Chairman Bailey closed the IHD public hearing.

Councilman Aispuro moved to approve the petition to vacate the alleyway situated in part between the properties at 527 S. Fourth Ave., 509 S. Fourth Ave., and 612 S. Third Ave., and to direct staff to provide a resolution for adoption, supporting findings of fact and conclusions of law and the conditions of approval. The Resolution will provide that the City consents to the Independent Highway District vacating the right of way. **Councilman Eddy seconded the motion.**

Mayor Rognstad clarified that the City's decision to approve the petition is a recommendation to IHD, who will make the final decision.

Mayor Rognstad stated that, given the apparent discrepancy regarding the valuation of the property, before the vacation is finalized, he would encourage staff to consult the County Assessor's Office and ensure appropriate valuation.

Mr. Herrington stated that, within the City's adopted Resolution, there will be a valuation recommendation from the City. Staff has recommended that value at \$15,488.16. In the end, it will be up to IHD, within their resolution, adopted during a future meeting, to determine exactly what compensation should be required. The valuation can be viewed a number of ways. For instance, one could argue that this is only a narrow strip of land that is not usable for anything and has value to no one, except the adjacent property owners, resulting in nominal value. The City has tried to calculate a fair estimated value, based on the information available, and, outside of contracting the services of an appraiser, this was a reasonable method for achieving that valuation.

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aispuro	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent

The motion passed by a unanimous vote of Council present.

Commissioner Closson stated that, even though it was well-intentioned, the City has no statutory authority to set value; this is IHD's responsibility. It's obvious, from the testimony,

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that there is a rather wide discrepancy in the valuation procedure and amount. Mr. Heiser's comment regarding fishing access is well-taken, as Commissioner Closson is also concerned about losing access to the waterfront, even though, in this case, there is a vacated alleyway that prevents that. However, the existence of the Third Street Pier, which is a nice facility for public access immediately adjacent to these properties, really negates this argument.

Commissioner Closson moved to approve the petition, City of Sandpoint file number VAC19-01, to vacate the portion of alleyway that is located between the parcels at 527 South Fourth Avenue, 509 South Fourth Avenue and 612 South Third Avenue, and to direct staff to draft the supporting findings of facts and conclusions of law and the conditions of approval for presentation to the Commissioners at the next Board meeting for adoption by resolution, with the condition of an appraisal that is agreeable and based on fair market value. Commissioner Tilley seconded the motion. By roll call vote, the motion was unanimously approved.

B. PUBLIC HEARING ON REQUEST FOR PUBLIC RIGHT OF WAY VACATION –
Property 2: 379.48 feet of Third Ave. from Great Northern Rd. to the west line of the old (vacated) 2nd Street projected south

Mayor Rognstad read aloud the legal description for Property 2, as follows:

A portion of Third Avenue, located in the plat of west Sandpoint, as recorded in Book 1 of Plats, page 152, records of Bonner County, Idaho, being more particularly described as follows:

That portion of said Third Avenue lying east of the east right of way of Great Northern Road to and west of the west line of Second Street projected south.

Mayor Rognstad reported that the request to vacate this public right of way was received by the City from abutting property owner Allen G. Cox Family, LLC. Per Idaho Code § 40-203, notice was provided to known owners and operators of underground facilities and owners whose land abuts the portion of public right of way proposed to be abandoned and vacated, and the notice of public hearing was published three times in the Bonner County Daily Bee.

Wilson provided some background information regarding this request, showing an aerial image of the property proposed for vacation and stating that it is located off Great Northern Road.

The area being proposed for vacation of Property 2 encompasses approximately 9,554 square feet (0.219 acres), more or less.

Notice of public hearing was published in the Bonner Daily Bee on June 15, June 22, and July 6, 2019.

There is no access to Federal or State lands or waters that will be denied if the request for vacation is approved.

Steve Klatt, Bonner County Road Director, provided a written comment in support of the vacation on behalf of the County.

There were no written comments received from any of the owners of underground utilities who were notified. Ting responded and indicated a neutral position.

There are existing City water and sewer utilities in this area, so an easement will be required in order for the City to maintain those facilities.

The fiscal impact was based on the property to the north, owned by the applicant. The property to the south is owned by Bonner County and was not included in the assessment. The value for purchase that has been proposed is \$10,318.32. This valuation was achieved using the same method that was used to assign a value to Property 1. As with

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the other property, The MOU provides revenue sharing terms between IHD and the City; accordingly, a portion (90%) of the purchase amount will be shared with the City for public benefit.

Adrian Cox, representing the applicant, stated that their view is that this vacation is mutually beneficial to the applicant, the County, the City and IHD. The property in question has effectively been used exclusively by the applicant and neighboring property owner as a private drive. It is their intent to pave and improve the driveway, and it is his opinion that it is not in the public's best interest to be required to maintain the driveway for the public's benefit when the road feeds only one private property. They benefit by having more control over the property, without the requirement to build sidewalk, for example. The County, next door, would also be able to use the driveway, so it would be in the public's best interest for the City not to have to plow what is, effectively, "a one-user street." Hopefully the valuation is cleaner on this property. The value the City is presenting is based on the value of the land portion of their adjoining parcel.

Mayor Rognstad announced that this is a quasi-judicial hearing, during which the hearing body must hold an evidentiary hearing and make its decision based on the written and oral testimony presented. A quasi-judicial decision is one that requires the hearing body to find facts and exercise discretion when applying the standards of a statute to a specific situation. The decision must be based on the testimony presented and cannot be based on ex parte information received outside of the hearing. The hearing body may review the petition to vacate and related materials in advance of the public hearing, but they may not discuss the petition outside of the public hearing. He asked whether any City Council member wished to declare any ex parte contact regarding this matter. No such disclosures were made. Chairman Bailey made the same query of the IHD Commissioners, and no such disclosures were made.

Mayor Rognstad stated that the hearing would be conducted in compliance with the following rules of procedure: Before persons testify at public hearings, they are to fill out the sign-up sheet available at the front of Council chambers and hand to staff. If you desire, you may note your objection, support or comment on the form provided. If you wish to comment during the public hearing, please come to the podium and state your name and whether you reside within the City limits. Please limit your comments to no more than 3 minutes. Testimony shall directly address the subject at hand and shall not be personally derogatory toward any individual, organization or business. Members of the hearing body may ask questions of persons who testify. If they do so, it will only be for the purpose of clarifying information. Once the public hearing is closed, there will be no further opportunity for public input on the proposal, and deliberation will begin. For those testifying, just a reminder that you will need to complete a sign-up sheet, and please clearly state your name when you approach the podium. You will have three minutes to speak.

Mayor Rognstad opened the City public hearing. Chairman Bailey opened the IHD public hearing.

Mr. Klatt spoke in favor of the request, stating that Bonner County Road and Bridge supports the petition. This is a small segment of street that really serves no foreseeable public use. The contiguous property will be expanded into District 3; it was previously the animal shelter property, and the building is in disrepair and will be demolished. They cannot see any public benefit to this road being preserved as a public right of way. Their road district will still be able to use the property, which will be a benefit to the public.

Mr. Heiser registered a neutral opinion on behalf of the Bonner County Assessor, stating that he didn't know how City staff was determining the value of this property. His office has been in contact with Ms. Bishop and provided a value of \$1.50 per square foot as a valuation for this land. It is deemed commercial or industrial property near the Airport. A representative of his office provided the County's valuation amount by email.

He went on to state that petitioner property owners usually pay more for vacated property, as they have a vested interest. Sometimes it's privacy, sometimes they don't want to have a neighbor. There are other reasons why they would pay more than if the property was

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on the open market. He has provided values that the County uses in their systematical approach with sales data to arrive at those values, and those are current values.

No one spoke in opposition to the request.

Chairman Bailey closed the IHD public hearing.

Mayor Rognstad closed the City public hearing, stating that no new information may be provided at this time, and questions may be directed only to City staff during Council and Commissioner deliberation. City Council will deliberate and make a decision first, then the Highway District Commissioners will do the same during their own separate deliberation.

Councilman Aispuro moved to approve the petition to vacate the 379.48 feet of Third Ave., from Great Northern Road to the west line of the old (vacated) 2nd Street projected south, and to direct staff to provide a resolution for adoption, supporting findings of facts and conclusions of law and the conditions of approval. The Resolution will provide that the City consents to the Independent Highway District vacating the right of way. **Councilwoman Ruehle seconded the motion.**

Ms. Stapleton confirmed that the valuation for this property was calculated using the same method used to calculate the value for the first property.

Mayor Rognstad stated that this one is a lot more straightforward.

Ms. Wilson confirmed that the size of the property is 9,554 square feet.

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aispuro	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent

The motion passed by a unanimous vote of Council present.

Commissioner Closson moved to approve the petition, City of Sandpoint File number VAC19-02, to vacate the undeveloped public right-of-way adjacent to 1800 Great Northern Road, and to direct staff to draft the supporting findings of facts and conclusions of law and the conditions of approval for presentation to the Commissioners at the next Board meeting for adoption by resolution, with the condition that current market values are used in order to arrive at a valuation. Commissioner Tilley seconded the motion. By roll call vote, the motion was unanimously approved.

Chairman Bailey moved to adjourn the IHD meeting at 6:02 p.m. Commissioner Tilley seconded the motion, and the IHD meeting was adjourned.

Mayor Rognstad announced the conclusion of the joint meeting with the Independent Highway District and that City Council and staff would take a short break, then resume with the remainder of the agenda.

The City Council regular meeting resumed at 6:12 p.m.

PUBLIC FORUM

Mayor Rognstad announced that, before commenting, the speaker should state their name and indicate whether they are a Sandpoint City resident or reside outside the City but own property within City limits. Speakers are not required to state their physical street address. Each speaker will be allowed 3 minutes, unless additional time is requested by the Mayor or City Council. In the interest of time, speakers are not to repeat prior comments but are to simply state support for those comments. Comments shall not be personally derogatory, nor shall they be personally directed at any individual, organization or business. Questions are not to be directed to City Council or staff. If someone would

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like to speak on a matter scheduled for public hearing, those comments will be taken after the public hearing is opened. Speakers must complete a Public Comment Sign-Up Sheet and provide to staff.

No one spoke during the public forum portion of the meeting.

ANNOUNCEMENTS

City Administrator Jennifer Stapleton reported that the Parks and Recreation public survey is now available and open to residents in Sandpoint city limits and also to those who live outside the City and use our parks, recreation programs, trail system and City-owned open land, including the watershed property. The survey can be found at www.sandpointsurvey.org. The consultants will be returning, and there will be additional public meetings.

III. CONSENT CALENDAR

- C. MEETING MINUTES** (*approval of City Council minutes; acknowledgment of all others*)
1. City Council – July 3, 2019 regular meeting
 2. Arts Commission – June 11, 2019
 3. Urban Renewal Board – June 4, 2019
- D. BILLS** in the amount of \$716,619.18 (\$266,723.34 for regular payables and \$449,895.84 for payroll)
- E. TREASURER'S REPORT ON CASH AND INVESTMENT TRANSACTIONS – May 31, 2019**
- F. APPOINTMENTS TO CITY COMMISSIONS, ADVISORY COMMITTEES, AND BOARDS**
1. Will Crook, Urban Renewal Board, July 17, 2019 – July 31, 2022
- G. RESOLUTION NO. 19-32 – STATE/LOCAL AGREEMENT WITH IDAHO TRANSPORTATION DEPARTMENT FOR LOCAL HIGHWAY SAFETY IMPROVEMENT PROGRAM GRANT AWARD**

Councilman Aitken moved that items C-1 through G be approved. **Councilman Aispuro seconded the motion.**

A roll call vote resulted as follows:

Councilwoman Ruehle	Yes
Councilman Aitken	Yes
Councilman Aispuro	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent
Councilman Eddy	Yes

The motion passed by a unanimous vote of Council present.

IV. OLD BUSINESS

PUBLIC HEARING – ZONE CHANGE PROPOSAL - ZC19-01: A request from Maureen and Steve Tillberg for a Zone Change on two parcels of approx. 8.5 acres from RS (Residential Single-Family) to MUR (Mixed Use Residential). The site is located at the southeast corner of Schweitzer Cutoff Rd. and Boyer Rd. and is described as NWNWNE of 10-57N-2W, less N 80' & Tax 103, 104, and 105. The change from RS to MUR would generally allow for greater housing density, smaller setbacks, a mix of commercial and residential uses, and taller structures (up to 40'). This property lies within the Sandpoint Airport Overlay Zone.

Mayor Rognstad announced that the public hearing rules and procedure outlined earlier this evening are still in effect for this hearing. He asked whether there was any City Council member who wished to declare any ex parte contact regarding this matter that was not already provided in the meeting packet.

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Councilman Eddy mentioned the letter from Helen Newton. The Mayor confirmed that this letter, which was emailed to all Council members, was scheduled to be read into the record during the public hearing.

Mayor Rognstad stated that he had contact with the applicants, Steve and Maureen Tillberg, who attended the Mayor's Roundtable meeting about a month ago and wanted to discuss this issue. He is not aware of any new information that was discussed during this conversation that has not already been brought to City Council during past hearings.

Mr. Qualls reported that this request came before City Council following Planning and Zoning Commission's approval of the request during a public hearing on March 5, 2019, by a vote of 3 – 2 in favor. On March 20, 2019, City Council voted unanimously to concur with the recommendation. On April 5, 2019, the Mayor vetoed the Ordinance that sought to ratify Council's approval of the rezone, stating that he desired further opportunity for public input. Following a request by the applicants, this evening's public hearing was scheduled.

The property is located at Schweitzer Cutoff Road and North Boyer Road. It is approximately 8.5 acres, encompassing two parcels, currently zoned Residential Single-Family (RS). The request is for a change to Mixed Use Residential (MUR), which is a sort of hybrid zone, allowing primarily residential uses, mirroring the Residential Multi-Family (RM) zone but with an allowance for additional small-scale neighborhood commercial, as well.

The property lies within the Airport Overlay Zone, which primarily governs height, in order to protect aviation navigation. The Sandpoint Comprehensive Plan land use map designates this area as Context Area 3 (CA-3), which is most comparable to the RM zone. The Plan was adopted in 2009 and is currently being updated. The meeting packet contains data regarding the Airport, including growth projections, information from the Land Use Compatibility section of the Airport Master Plan, as well as Idaho Land Use Guidelines, which includes a chart showing general airplane crash statistics around airports, bearing in mind, when reviewing the chart, that, at the Sandpoint Airport, aviators take off and land at both ends of the runway.

Included in the meeting packet are some Idaho Transportation Department guidelines, which include zones that are intended as a guideline to consider when adopting new zones or during comprehensive planning. They are included, as they may appear overlaying this area, as a way to evaluate land use compatibility around the Airport, which is a Comp Plan goal, specifically Goal T-5, Airport Policy A, "Ensure surrounding land uses are compatible with continued aircraft operations" and Policy C, "Provide for safe air navigation by approving appropriate safeguards to ensure that airport operations are conducted in a safe and efficient manner." Compatible land uses are broken down into two basic categories, noise and safety, with two sub-categories under safety: hazards to air space and overflights and hazards to people on the ground, such as high concentrations of people, risk-sensitive uses such as nursing homes, hospitals, flammable materials, etc.

Information regarding these zones is provided as a guideline to assist in evaluating compatible land uses. They have not been adopted by the City and are not mentioned in the Comp Plan, but they are State guidelines, provided for consideration when making a decision regarding the rezone of this property, which is located near the end of the runway. He referenced the Inner Critical Zone, marked in green on the map, and the Lateral Safety Zone, marked in purple. The area designated by a blue hashmark is the existing Airport Overlay Zone, which primarily governs height.

Density can be affected by the need for stormwater treatment and parking regulations, for instance. Under the current zoning, the property could probably absorb 40-50 single family 5,000 square foot lots. The minimum lot size for the RM zone is also 5,000 square feet but allows for more density in the form of apartment complexes, duplexes, triplexes, 4-plexes, etc. The proposed MUR zoning allows for some small-scale commercial uses. As an example, one of the Milltown developments would probably fit on this site.

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Mr. Qualls responded to **Councilwoman Ruehle** that the maximum building height in the RS zone is 35 feet. The maximum in the MUR zone is 45 feet. The Airport Overlay Zone governs height differently. It's based on a conical zone, which is a 7:1 ratio from the primary surface, which is right around the Airport boundaries. This would supersede any underlying zoning height designations. Without the opportunity to measure and perform proper calculations, it would be difficult to specify exact heights allowed at certain points within the property, but it is buildable. The Airport Overlay Zone mirrors Federal Aviation Administration (FAA) standards, Part 77 Code of Federal Regulations (CFR) 14, regulating imaginary surfaces to protect airspace. The City has adopted an ordinance, mirroring those FAA standards for our airport. **Mayor Rognstad** mentioned that, for perspective, there are trees on the property that are 70-80 feet tall or higher, and they fall under that height ceiling. Mr. Qualls stated that, for most of the parcel, it would be the underlying zoning that would govern height.

Marty Taylor, Certified Planner with James A. Sewell and Associates, spoke on behalf of the applicants. Single family housing has proven to be less than affordable here in town. Affordable housing is achieved by either subsidy or density. A rezone of this property would provide for a denser use and economy of scale, giving rise to more affordable housing. The goal is to be consistent with the Comprehensive Plan, including the land use classification map. This project is consistent with those goals and objectives, which is the statutory requirement to rezone. It's also consistent with the underlying map and land use classification.

There are three components that weigh in on airport compatibility. One is the FAA standards. He has provided an analysis, responding to the FAA comments. In summary, the FAA recognized the potential to what they refer to as higher noise exposure. He looked at both the Airport Master Plan noise analysis, the corresponding noise contour map, and Table 1 at 14 CFR 150. All three sources of information he provided concluded that the proposed land use is compatible without restriction. The FAA also referenced projects adjacent to runways. He provided a map that shows this project is not adjacent to a runway; it is to the side of the runway. This project is also not near the extended runway centerline, confirmed by the Airport Layout Plan from the Airport Master Plan. A simple check of a map showing this property makes it apparent that it is within the Airport Overlay Zone; an additional disclosure statement to alert homeowners that they live next to an airport would be redundant. In response to the FAA's mention of a navigation easement regarding height restrictions, the property is already encumbered by the Airport Overlay Zone. As the Mayor pointed out, the trees on the property are several times higher than is any allowable structure at 40 feet within the MUR zone. At 7:1 and 50 feet away, his math calculates a 350-foot tall building on the property. The requested zoning will be more restrictive than any conical zone.

The MUR zone is consistent with height-related aids or hazards to navigation, and there are no noise effects. The Master Plan references only impediments to navigation and compatibility, noise and height. The Airport Overlay Zone references interferences, hazards, and height, particularly and quantitatively, the Overlay Zone references height. Qualitatively, it mentions light and glare, meaning that a structure should not be developed in this area with a copper roof, for instance, which might pose a hazard to navigation. It comes down to height. There is no indication that multi-family housing would be incompatible or interfere or create a hazard. The Master Plan and the Overlay Zone mention incompatibility as buildings that are too tall or that create some kind of glare.

There's the Comp Plan, FAA regs, Airport Overlay Zone, Airport Master Plan, all of which give rise to substantial evidence in the record. Noise and nuisances, hazards and height have been discussed at length. MUR zoning is compatible with all of the above.

The Bonner County Commissioners previously provided comments and stated their opposition to the proposed rezone, based on a recommendation from the Airport Board. However, this project is not incompatible with the Airport Overlay Zone.

There has been an attempt to introduce standards that are not made a part of the Overlay Zone or the Master Plan or the Comp Plan. An applicant's rights are determined by the

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ordinances in existence of time of filing of an application for a permit. There are five affirming Idaho court cases that effectively state that "you can't make up the rules as you go along" or apply standards that have not been adopted. The City has not adopted the ITD Division of Aeronautics Land Use Guidelines. The use of those Guidelines, having not been adopted, is, arguably, not proper. Per the Idaho Airport Zoning Act, adoption of land use regulations is the sole responsibility of the local land use authority. Sandpoint's local land use authority, City Council, has not adopted the ITD Division of Aeronautics Land Use Guidelines.

The Idaho Local Land Use Planning Act references that, within an airport overlay zoning district, the governing board shall establish clear and objective standards for the overlay zoning district, while ensuring that the application of such standards does not constitute a regulatory taking pursuant to Idaho or federal law. The emphasis is on clear and objective standards. The City's Airport Overlay Zone includes four zones, none of which include an Inner Critical Zone or a Lateral Safety Zone. To suggest that these unadopted standards can be used in Comp Plan analysis is misplaced.

Based on the codes that are in effect, he encourages the Council to uphold their prior unanimous approval of this rezone and to concur with the Planning and Zoning Commission's recommendation for approval of the rezone.

Mr. Taylor requests that the public hearing be left open during Council deliberation so that he might have an opportunity to respond to questions that might not otherwise be answered. During a public hearing where he represented a client seeking a property rezone, even though he made this same request, the public hearing was closed for Council deliberation, at which time the application was materially changed from what the applicant requested, and he had no opportunity to respond to this decision by Council. He stated that he "would discourage that type of activity."

He requests that Council approve this rezone, finding that it is in accord with the codes that are in effect at this time, not any future codes that the City might be contemplating.

The following spoke in support of the request:

Jim Corcoran, not a Sandpoint resident, stated that he worked with Mrs. Tillberg on several community projects and testified to the applicants' honesty and concern for their community.

Phyllis A. Goodwin, read a letter into the record on behalf of Helen Newton, Sandpoint resident, stating, "When the airport was built, it was well outside the city limits, surrounded by working farms. Those farms have become home to Farmin-Stidwell school, nursing and assisted living facilities, apartments and residential developments as well as some industrial facilities and hangars. Discussions concerning the need to relocate the local airport have occurred over the years. It should have been relocated decades ago when a few large parcels of land could have been purchased to make it happen. Now, most of those large parcels have been subdivided. Acquiring the necessary land now to relocate would be a Herculean task. The airport was included in properties to the west and north sides of town when that area was annexed by the city in the early 1980s. There are necessary limitations on any airport located within a city but commercial, light industrial and most notably residential development all around the airport have consistently and consciously been approved by involved local government jurisdictions. I have reviewed the records available on the city's web page regarding the Tillberg zone change application dating back to the March 2, 2019 planning commission public hearing. The Tillbergs and their land use planner (and former Bonner County planner) Martin Taylor carefully dotted every "i" and crossed every "t" as required by the city. Recognizing their careful compliance with the city's requirements, the city council approved the rezone request. The necessary ordinance was prepared and adopted, only to be vetoed by the mayor. If the city council considers the Tillberg's request based only upon its compliance with all requirements in place at the time it was filed with the city, their request for rezoning should be approved. The best outcome of this action will be the addition of much needed affordable housing and new tax revenues. Respectfully, Helen Newton."

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Larry Eatry, residence unknown, stated that Mr. Tillberg has been very accommodating to the City, for instance granting an easement for a water pump station. Considering Mr. Tillberg's cooperation with the City in the past and considering he followed the rules with this rezone application, he believes that approval of this rezone is proper and imperative.

Maureen Tillberg, City resident and applicant, stated that they have spent the last eight months and thousands of dollars on this rezone effort, which Council has already approved. She stated that "a simple rezone request has basically turned into a nightmare" for them. In her opinion, the Mayor, by his veto, has "turned a crystal-clear situation into a pile of mud and sludge." The problem arose after City Council approved the rezone change, then the Mayor allowed input after the public comment period from folks at the Airport who oppose the change. The Airport has cited examples of the reasons for their opposition, which their land planner, Marty Taylor, proved in their initial application were unfounded. Why was their zone change targeted for a veto while three other properties closer to the Airport been approved for MUR since the veto? She stated that the Mayor cited the following reasons for his veto: 1) The public was not afforded an adequate opportunity to comment on the rezone, 2) Planning deadlines are not always well understood by the general public, 3) the zone change approval by Planning and Zoning was a split decision. If Planning and Zoning and other Council members made a decision that they didn't like, would they be afforded a second chance outside of the comment period in order to get a result that they wanted because the general public doesn't always understand deadlines? Nowhere does it state in any Code that the Planning and Zoning decision had to be unanimous. Per City Code, within 15 days of his veto, the Mayor was to have issued a written explanation for his veto that included the ordinance and standards used in his evaluation of the application and the reason for the veto, reasons for denial, and the actions, if any, that they could have taken to obtain approval, but they did not receive this written explanation. The problem is not that their zone change did not meet City Code or Comp Plan requirements or that there were even some legitimate legal reasons why it shouldn't be approved. They believe the Mayor's veto was politically-motivated retribution and support for some friends at the Airport. Council members approved the rezone request once, and they followed the City's rules precisely, their property qualifies for this zone change per the City Comp Plan, which the Mayor helped to draft and achieve approval in 2009. She appealed to Council, asking that they not be held hostage and requesting a fair and just decision to re-approve their zone change.

Roger Beardon, City resident, pointed out that there is a church across the street from the Tillbergs' property that is over 40 feet tall, and there are hangar apartments at the Airport. He has a friend who lived in Spirit Lake and had property to develop. The city there made his development plans difficult, and he finally gave up and left. Sandpoint needs homes and the tax base.

Carrie LaGrace, City resident and one of the Tillbergs' real estate agents, stated that there is a great need for multifamily and affordable housing.

Sharon Albert, City resident, relayed that she and relatives have been unable to find affordable housing in Sandpoint, and lack of housing is driving the workforce out of town. She asks Council to approve this request and help provide housing relief for Sandpoint.

Casey Krivor, not a City resident, and one of the Tillbergs' real estate agents, stated that the City has no developable property left. He is currently working with two major builders in Coeur d'Alene and scouring the area. Owners are choosing to do their own developments, resulting in high-end housing. The Tillbergs' eight-acre parcel has many amenities and is easily developable. These developers are considering this parcel, but they want to build 4-plexes or duplexes. There are many possible designs that would accommodate this area, and MUR zoning makes sense. He stated that his pilot friends take off to the south the majority of the time and don't get anywhere close to this property. He asks Council to approve this request.

David Howell, City resident, moved here 14 years ago from California. He is tired of "good ol' boy politics." He came here to retire and spend the rest of his life with good,

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honest people. He reminded Council that they were voted into office to serve the citizens.

Patti Howell, City resident, stated that both the Planning and Zoning Commission and City Council have already approved this rezone, and it seems odd to her that Council allowed the Mayor's veto to stand. There are numerous houses around the Airport, numerous neighborhoods already built and more being built. She reminded City Council that they represent the citizens. They should do the right thing for everyone and not cave to the pressure of special groups, and she pointed out that the Tillbergs have helped the Airport in the past. She urged Council to make a better decision for the Tillbergs than they did for the geese at City Beach.

Rhea Maloney, City resident and business owner, stated that she has known the Tillbergs for a long time, and they are honest people who followed the rules and even hired professionals to assist with their application. She doesn't understand the reasons for the veto. This town needs affordable housing, and this parcel is perfect. Trains are just as noisy as the Airport. She urged Council to base their decision on the rules and regulations in place at the time of application.

Steve Tillberg, City resident and applicant, mentioned an eight-page letter from a business owner to the Mayor. The Mayor has refused to discuss the contents of the letter, although the City Planner responded and corrected the contents of the letter. A left-hand pattern of departure would take planes over the corner of his property, with 60 houses developed nearby. The Airport Manager has stated that there is no room for the Airport to grow. The Mayor is siding with a small percentage of owners at the Airport. He's not impartial and is on side of Airport.

Tari Pardini, City resident, stated that many families are coming into town but have nowhere to live or are awaiting housing. She has been here since 1979, and the housing problem is getting worse. There are many developments of high-end homes for people coming from California. The Tillbergs' property would provide a perfect opportunity to build affordable housing for struggling families. The process and the veto have been disconcerting. All correspondence received outside the comment period is ex parte contact and cannot be read or considered. Why does there seem to be no concern about schools in the flight pattern? She urged Council to do the right thing and approve this request.

Carol Curtis, City resident and real estate agent, stated that she has been involved in the affordable housing program, and it is a challenge to find housing. From young people whose income is low to the elderly on a fixed income, people can't afford housing. A zone change doesn't dictate what happens on a piece of property, but it does afford a window to create more homes.

Woody Sherwood, City resident, was neutral to the request and stated that the Airport is important to the economy of the area. The City needs to create a vision for what the Airport can be and maintain it; there may be a time when we'll have a commercial airport. He agrees and understands the need for affordable housing. Perhaps deed restrictions on this property should be considered.

The following spoke in opposition to the request:

Andrew Sampson, not a City resident, stated that he has great empathy for the Tillbergs. There is a great need for affordable housing in Sandpoint. Mistakes have been made the Council and government in the past. That is no excuse to make mistakes now or in the future. A great need for affordable housing? Yes. Land to build it on anywhere near central Sandpoint? Possibly not. Perhaps some of the commercial buildings could be converted to flats. Not far outside of Sandpoint, there is vacant land. He is a pilot, Royal Air Force trained. Recently, he flew from Sandpoint down to Felts Field. He took off and flew, left turn out, higher than 500 feet, over the Tillbergs' property. If his engine had failed before that, he would have had to consider where to put the plane down. He commented that he'd rather hit a load of trees and the aircraft stop in the trees than hit some buildings, with the wings breaking off, full of fuel. The buildings will most likely be made of wood.

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The fire would decimate the whole building. The whole area would be flamed and burned. How many people would die? How many people would then feel guilty that they approved this, that they planned and built the housing and approved people to live in these properties?

He read a prepared statement, as follows, titled "Why no residential houses should be near an Airport."

General Aviation has already started to boom in the US just as it has in the UK and Europe after many years in the doldrums. In the next few years as the price of flying is vastly reduced with the introduction of new technologies, many more people are going to be able to fulfil their dreams and take to the sky's and Sandpoint Airport needs to be able to service this growth in Air Transportation for Business and Private Commuting.

By 2025 it will be cheaper to fly to CDA, Spokane or Kalispell than to drive in an SUV, and will take just a fraction of the time.

In the not too distant future I can see both Air Taxi's and even Commercial flights operating out of Sandpoint taking people direct to Seattle, LA, Vancouver, Las Vegas, Chicago, Miami and even New York.

Electric flight is already available and will continue to grow rapidly over the next 5 years, and whilst electric motors are relatively quiet, the propellers they drive still make lots of noise. There is no replacement as yet for the Jet Engine so high altitude, high speed Business Jets are here to stay for the foreseeable future and their numbers are increasing all the time, so the need for long runways will also remain for any long distance flights.

If the FAA restrictions and compliancy's are not met, the lack of FAA funding would more than likely be the end of the 'Free to use' Airport and that in tum would result in damage to the future economy of Sandpoint Town.

The advent of electric aircraft will also help to double or even treble the movements at the Airport over the next few years, this would be the potential for complaints of increased noise and fumes and expensive Court cases for damages and they would demand time restriction's on flying which would cause financial hardship and be very damaging to the operation of the Airport and possibly its future.

Scott Dempsey, not a City resident, stated that he feels for the Tillbergs. He owns 24 acres adjacent to the Airport and decided on an airport-related facility when developing this property, as he felt higher density was not appropriate. One of the plane crashes was very close to the Tillbergs property. He's a pilot and flies over their property. The traffic pattern altitude is 500 feet. He extends that out as a courtesy in order to decrease the noise factor.

Dave Mundell, City resident, stated that he flew as an airline pilot for 31 years. These little airports have always been close to his heart, and he'd had to see Sandpoint lose its airport. Around the country, it begins with approval of affordable housing around the airport, then there's a crash and complaints about noise, and it's always the airport that suffers. He doesn't want to see the Tillbergs suffer, but he thinks this is "the camel getting his nose under the tent", and, at some point, we'll lose the Airport.

Andrew Berrey, not a Sandpoint resident, owner of Granite Aviation, the fixed-base operator (FBO) at the Sandpoint Airport, stated that there has been misinformation recently about the Airport, and he reported on economic activity at the Airport. There are about a dozen companies operating at the Airport, with approximately 380 employees and an estimated annual payroll of over \$20,000,000. Companies include Quest Aircraft, Timberline Aerospace, Tamarack Aerospace, Life Flight Network, Pilot Training

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Northwest, High School Aerospace Program, Inland Aviation Specialties, Vulcan Air, and Granite Aviation. There is over 410,000 square feet of industrial space at the Airport, supporting our aerospace community and bringing in hundreds of thousands of dollars each year in the form of property taxes that help and support our community. He has heard that only a few rich people use our airport, but nothing could be further from the truth; our airport is used every year by people who need medical attention, forest fire fighters, angel flights, high school students learning about aircraft maintenance, pilot students, and many more. Granite Aviation alone recorded 3,569 flights in 2018, which accounts for roughly 10,000 people entering our community from the Airport, not including the aircraft that flew into the Airport that did not use Granite Aviation's facilities. High density residential anywhere near the Airport threatens our local aerospace industry. The Federal government, State government, and County government are all opposed to this proposal, so we should listen. As a community, we should not be putting discretionary funding for the Airport at risk. There are zero setbacks at this piece of property with the proposed zoning, putting it at 350 feet from the extended centerline. Some aircraft landing at the airport have a hundred-foot wingspan, and they are very loud. The Granite Aviation FBO building sits 530 feet from the runway. When a loud plane takes off, they cannot conduct business until it's gone because it's so loud, and development on this property could actually be closer than that, as pertains the extended runway centerline, where these planes are arriving and departing. He urged City Council to deny this zone change. We need to protect the asset.

Dave Schuck, Sandpoint Airport Manager, stated that there are safety concerns and concerns about hazards, but one of his greater concerns is the negative impacts that an airport can have on the surrounding community, primarily noise. He assumes that the applicants and the developer will not be living on this property, so they will not be subject to the hazards and annoyances produced by the Airport. Their interest is in maximizing the value of the property, which is their right, but that does not necessarily make it the right decision for Council. We have a responsibility to ensure the safety and wellbeing of the community. There are compatible land use issues related to this property, and there are hazards due to the increased likelihood of off-airport landings, and there are noise and annoyance considerations with residential property so close to the Airport. He played a voicemail message recording on his mobile phone from a neighbor who was complaining about the noise generated by the Airport. He reported that he gets many such calls and foresees an increase in those calls with additional residential around the Airport, and the caller is not as close to the Airport as the subject property.

The 7:1 ratio slope actually goes out 7 feet for every 1 foot. The corner of the property is about 85 feet from the property line, so a structure that is 12 feet high would be allowed at the corner closest to the Airport.

Mr. Schuck replied to Mayor Rognstad that FAA funding is critical to the maintenance and upkeep of the Airport. The runway rebuild project is scheduled for 2021. The current runway fails federal standards, and the FAA has pledged to fund 90% of the rebuild, which will cost of \$3 million to \$5 million. The State will fund 5%, so the County will need to come up with only 5% of the funding for this project. Without federal funding, which is a possibility when there is incompatible land use around the Airport, maintenance of the Airport would not be possible. Federal funding is critical for current airport infrastructure and future improvements. While the FAA will not say that we would lose funding by allowing zoning such as what is being proposed, but they do have to look at the grant applications they receive, and they have to look at whether the community is supporting the Airport with land use compatibility guidelines, and they have to fund the airports and communities that are doing the best to follow their guidelines. This is discretionary money that they can direct in many different directions, and there is always more demand for grant money than there is supply. Approving incompatible land uses around the Airport certainly lowers our standing for future grant requests.

Don Simmonds was present and registered his opposition to the request but did not wish to speak.

Mayor Rognstad read into the record a letter from Chuck Luettgerodt, GM, Inland Aviation Specialties, as follows:

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The intent of this letter is to shed some light on the seemingly ongoing controversy over the Airport and surrounding land within the Federal Government's Airport Safety Overlay. This letter is surely going to upset both governing parties, and the land owners.

I have been attending the Airport Advisory Board, (AAB), meetings since 1997, and must say that the underlying issues affecting the Airport, and its sponsor, (Bonner County) and the City of Sandpoint have not changed.

The County is responsible both financially and administratively for the Airport as well as keeping it in compliance with the Federal Government's, (Federal Aviation Administration) Guidelines for Airport viability and the Federal Grant Assurances that financially aid in the operation, maintenance and guidance regarding our federally funded Airport. Compliance with these Grant Assurances is what determines whether or not the Airport Sponsor, (Bonner County), qualifies for the available Federal funding through the Airport Improvement Program, or not. One of the most important aspects of the Grant Assurances is the protection of the Airport and its surrounding environment. (1).

The City, on the other hand, in part is responsible for administering all construction permits and collecting the fees due for each permit granted, as well as administering all land use change requests within the city limits of the City of Sandpoint, which includes the area surrounding Sandpoint Airport.

The problem that I have witnessed over the last twenty years as a resident of Bonner County, is that the City and the County don't corroborate with each other over land use issues when it comes to the Airport or the surrounding area thereof. Silverwing at Sandpoint is the perfect example, and I voiced my concern right from the moment SW's "hangars" became "hangar/homes". I screamed "density" with the AAB, but certain members of the AAB at the time, scoffed at my outcry, and did nothing to thwart SW's progress. SW's initial defense was that, "the city gave us the permits to move forward, so it must have been O.K.", (legal). The City failed, or neglected, or chose not to confer with the County in regards to the legality of the existence of "hangar/homes" within zone "A" of the Airport. And well, the rest is bitter history that the County has had to deal with not only in an administrative capacity as the Airport Sponsor, but financially as well. The same lack of collaborating existed for the Harlicker development. These homes on Granite View are encroaching on the OFZ, (Object Free Zone) in regards to the to the extended west side Taxiway required for the Runway re-alignment as depicted in the Airport Master Plan "A" & "B" and their respective revisions.

The new homes across from the Airport on Boyer are also within this Airport Safety Zone that we whom work at and use the Airport are most concerned with. This housing density is dangerous to the citizens that reside in these dwellings this close to the Airport. Allowing more high density dwellings within the Airport Overlay, which has existed for a long time, will affectively place the City in the position of executioner. The City will affectively be signing the death certificates of all whom live within the intended protected area surrounding the Airport. Only until there is a tragic accident, will those death certificates be dated by the hand of City officials if any further land zoning request for more density housing is granted.

Mrs. Tillberg's Letter to the Editor in the Bonner County Daily Bee Newspaper where she states that "The Mayor doesn't care about the citizens of Sandpoint", couldn't be further from the truth. I commend the Mayor for having the testicular fortitude to oppose this proposed zone change even under hostile verbiage from an obvious disgruntled citizen/opponent. The Mayor is presenting concerns for the citizens of Sandpoint by questioning the safety and legalities regarding the Tillberg's request for a zone change that would allow for a zone change that would allow for a higher density of residence within the Safety Overlay of the Airport. Maybe she is referring to herself as the uncared for citizen in this matter.

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As much as the residents in this area have the perception of the need for "affordable" housing, it is certainly socially irresponsible to place financially challenged individuals in harm's way just because some land owners wish to profit off of their property by standing behind the mantra of "the need for affordable housing". Poor lives matter also.

Moreover, and I have said this for years, it seems to me that the City profits and benefits from the existence of the Airport, but the County bears all of the responsibility and pays all of the bills associated with the Airport. There is little incentive for the City to act responsibly in any aspect regarding the Airport if they don't have any skin in the game. Maybe the idea of intentionally placing people in harm's way is enough to get both the City and County to start talking about the cause and effects of the actions and decisions each party wishes to implement when it comes to the Airport. Allowing further encroachment on the Airports Safety Overlay Zone by the City, will only jeopardize the County's ability to comply with the Federal Grant Assurances and the available funding that comes with it, as well as placing the lives of innocent people in imminent danger. Not to mention the liability aspect imposed in the City if, heaven forbid, any event commences that results in bodily injury or death resulting from the obvious high density structure(s) this zone change will foster.

Finally, Aviation and the Airport environment are statistically safe. But, things do happen. Just recently there was a twin engine aircraft full of fuel and people that took off at the Airport in Addison Texas. The left engine, (the critical engine), of the aircraft failed in some capacity and caused the aircraft to veer and roll to the left. It eventually rolled inverted before impacting a human unoccupied hangar. With every action, there is an equal and opposite reaction. In the case of the majority of the twin engine aircraft in the fleet, when the left engine fails, the torque and thrust generated by the right engine will roll the aircraft to the left, as observed by the aforementioned incident. We have kind of a morbid saying in the aircraft maintenance profession, "The right engine will always take you to the scene of the crash". Unfortunately, there is a lot of truth to that saying.

So, place this scenario here at KSZT. An over-anxious pilot has "gotta go-itis", has a full cabin of ten passengers, full fuel tanks, all baggage compartments are packed full, the aircraft is slightly over gross weight, it's a hot 90 degree plus day, the aircraft departs north on Runway 2, the aircraft reaches rotation speed, the pilot prematurely coaxes the aircraft into the air because the end of the runway is fastly approaching, the aircraft gets airborne and is sluggishly clawing for altitude, it gets above Runway 20 threshold and at 200 to 300 feet AGL, the aircraft experiences a left engine failure. Guess where the right engine will take the perilous aircraft. Exactly where the Tillberg's proposed zone change property currently lies. Who will the attorneys for the deceased occupants of the high density housing that was approved going to sue first? Not the Tillberg's. It will be The City of Sandpoint for allowing this zone change that resulted in so many people perishing in the high density structures on the ground.

In closing, I hope this letter is informative and constructive. I mean no disrespect or dissent to any and all parties involved. This is a very serious issue that dictates very serious scrutiny on the part of the local government while staying in compliance with the rules, regulations and mandates of the Federal government regarding this community's very important asset.

Sincerely, Chuck Luetzgerodt, GM

(1) 21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce

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its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

Deb Reitz, City resident, stated that her house can be seen on the map displayed of the subject property and surrounding area, and she represents her neighborhood Homeowners Association (HOA) and neighborhood watch area. She believes the Mayor was right to take a better look at this area. Living close to the Airport, she hears a lot of noise. The neighborhood is concerned about higher density that would bring more traffic and more noise. They like the current buffer of trees between their neighborhood and the Airport. She knows more apartments are needed; she just does not believe this property is an appropriate location for this type of housing. With the City's sewage problems and low rating, there should be a moratorium on all building, particularly high density building, until the sewage problem is resolved.

Mr. Taylor offered a rebuttal to the comments in opposition, stating that there are no substantial facts supporting denial of this request, based on the facts that actually surround the proposal. You need only look across the street to the west to find MUR properties, one of which is the jail facility with an average daily population of 130 inmates and 42 full-time staff occupying the facility 24/7. There is no evidence in the record suggesting that the requested rezone will, in any way, affect existing airport operations. This project is consistent with height and noise standards, and the more restrictive height standard applies, whether a building is 7 feet tall or 40 feet tall. The FAA has stated that grant assurances are predicated on the adoption of zoning laws to restrict land uses that aren't compatible with airport operations. What Sandpoint did was to adopt the Airport Overlay Zone. This project is consistent with Overlay Zone standards. If the Council desires additional standards, then it should adopt them, but tomorrow's codes can't be applied to today's project.

Steve Tillberg offered a rebuttal, stating that the letter mentioning the left turn is "bullshit". It's necessary to go past the end of the runway before making a left turn. He believes the person who wrote it, pointing to left hand pattern departing traffic needs to go back to airport school. It's not possible; it's against the law. The airport runs northeast. Heading north places one further and further from his property. It's not possible to just make a left turn and go over his property. It's stupid. Approve the rezone, as done before and be done with it.

Mayor Rognstad left the meeting at 7:55 and returned at 7:57.

Mr. Qualls displayed a slide, showing "4 Options for Consideration", providing four motion / decision options for Council, as follows:

1. approve the rezone or
2. deny the rezone or
3. approve the rezone for the portion of the property more than 1000 feet from the runway centerline (allowing MUR standards on approximately .75 acres) or
4. approve the rezone subject to a negotiated development agreement per 9-9-11. The Development Agreement will need to be negotiated with the Planning & Zoning Commission. Council advises P&Z that the agreement must prohibit multi-family housing within 1000 feet of the runway center and the development agreement must be executed within one year. (July 17, 2020). *(The land owner must consent to this option before the ordinance is brought to the Council. Without consent, the existing zoning will remain unchanged.)*

There has been no request for development at this point, only a rezone.

Mr. Qualls replied to Mr. Taylor that these options were generated earlier in the day. Mr. Taylor wondered, as a professional courtesy, why these options are being brought to their attention at the close of the hearing, requiring him to attempt to digest these options "on the fly." Mr. Qualls stated, regarding Option 4, the development agreement option, that he mentioned this option to Mr. Taylor before the application was submitted.

Mr. Taylor stated that, with Option 3, the partial rezone option, less than an acre of the 8-acre property would be authorized for MUR zoning. He doesn't know where 1,000 feet is

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from the runway centerline. Option 4 references a prohibition within 1,000 feet, which is new information. They're aware that there are development agreement opportunities, but not until tonight has there been any discussion of prohibiting what the applicant has requested within 1,000 feet of the runway centerline. He suspects only the non-overlaid northwesternmost corner is that .75 acre. He is unprepared to speak on behalf of the applicants on this short notice as to whether they should consider these options, which are, essentially, a de facto denial of the rezone and deferred to the Tillbergs.

Mr. Tillberg stated that the City is using an illegal procedure, because, when they applied for their rezone, the map displayed was never available, so the City is changing the rules. **Mayor Rognstad** stated that the entire property is within the Airport Overlay Zone. Mr. Tillberg stated that it is now, as depicted on the map displayed, but it was not when they applied for the rezone, and the City changed the rules in the middle of the process. **Mayor Rognstad** stated again that the entire property is within the Airport Overlay Zone. What is depicted on the map is a reduction of the requested MUR zone to try to allow them some flexibility, offering a concession that would allow for a rezone of .75 acre to MUR, which portion is not within 1,000 feet of the runway centerline. Mr. Tillberg stated that, if they'd seen this map at the time of application, they wouldn't have even started the process and wasted \$15,000. **Mayor Rognstad** stated again that the entire property is within the Airport Overlay Zone and was at the time of their application.

Councilman Aispuro explained that the map shown depicts a scenario where, as opposed to the entire 8.5 acres requested, only the triangular .75 acre piece that is not within 1,000 feet of runway centerline would be approved for MUR zoning, as provided for in Option 3.

Mrs. Tillberg stated that Option 3 was presented previously, and they declined. Mr. Qualls explained to Option 4, stating that this comes from a section of the City's zoning administration code, 9-9-11, which specifies the discretionary option by Council to enter into a development agreement in alignment with a rezone. This is a tool that is used when a straight rezone is not deemed entirely appropriate for a specific parcel. It's a way for a plan for development to come before Council in context with a rezone in order to make an "upzone" more compatible as deemed by Council and the Planning and Zoning Commission.

Mr. Qualls replied to **Councilman Aispuro** that, if Council chooses Option 4, it would be up to Council to direct and give instructions to the Planning and Zoning Commission as to what should be considered, including a rezone of just that .75 acre triangular piece that is not within 1,000 of runway centerline. Option 4 could open other opportunities, besides just MUR zoning, such as more substantial commercial opportunities, if that is of interest.

Mrs. Tillberg stated that they do not intend to develop this property by themselves. They have already been through an eight-month process and thousands of dollars of their own money spent defending themselves. If Council selects Option 4, it means that, if they're not developing the property, then whoever purchases the property would need to follow this process, and the property would not have a specific zone upon sale. The sale would come with conditions for a buyer. This option would also continue to drag out this process.

Mr. Qualls stated that they would retain their right to develop the property under the current RS zoning. With Option 4, what they would get is a record of decision that they have a year to come up with a plan for potential additional density on that .75 acre or as Council directs or other potential scenarios. **Mayor Rognstad** added that it would also provide for more flexibility in terms of commercial use through the entire parcel.

Mrs. Tillberg stated that they don't believe commercial is the best use of their property.

Mayor Rognstad recessed the meeting at 8:11 p.m.

Mayor Rognstad called the meeting back to order at 8:16 p.m.

Mr. Taylor, after consultation with his clients, reported that they prefer Option 1.

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Mayor Rognstad closed the public hearing.

Councilman Eddy moved to approve the rezone. **Councilman Aitken** seconded the motion.

Councilman Eddy stated that he appreciates everyone's time in attending the meeting and speaking this evening. He understands the concerns and the safety risks, but we have our Code, and that's what he has to base his decision on.

Councilman Aitken concurred. He did not hear anything different tonight than he did the first time Council approved this rezone. He thinks the Tillbergs followed the rules, and the decision to approve is in alignment with what Council should do in this instance.

Councilwoman Ruehle stated that this is probably the number one hardest decision she's had to make as a member of Council. Planes fly, planes crash. She does not want to put the Airport in another Silver Wing type of jeopardy and cost to the County or the City. She believes affordable housing is needed. She's unsure whether this property is the best place for such housing. She is going to go with everything she has heard. She believes her fellow Council members will agree that it's not an easy decision. We don't know what the FAA is going to do if the property is developed. We don't know if it will result in lawsuits. We simply don't know. She has to rely on her knowledge and background and everything she has heard. She doesn't believe anything new has been presented, but the Council members are not experts and are doing the best they can. She appreciates everything the Tillbergs and everyone from the Airport has shared. It's not an easy decision.

Councilman Aispuro stated that situations like this can be very difficult in a small town like Sandpoint, where it's likely we all know each other to some degree, especially those who have businesses. It's not about who we know, though, especially for elected officials, but about the facts and what we perceive is right. Whether the Tillbergs want to build affordable housing or luxury homes is not up to us. It is up to them; it is their property, and we should not put any type of pressure on them to want affordable housing, whatever that may look like or luxury homes. We're not basing our decision on or dictating what they need to do with their property; that's up to them. And that should not dictate our decision. What should dictate our decision is the facts and whether the rules were followed. And in this particular case, it's not the rules of tomorrow, and he does not believe they are basing their decision on future rules but what is in front of them now and what was in front of them a few months ago. He said that he believes those who were opposed deserved a statement from Council.

Mayor Rognstad stated that he appreciated everyone's participation and involvement. This is the type of robust public participation that he would hope to see at every public hearing, especially on such an important issue.

Mayor Rognstad restated that the motion on the table is to approve the rezone to MUR, Option 1.

A roll call vote resulted as follows:

Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aitken	Yes
Councilman Aispuro	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent

The motion passed by a unanimous vote of Council present.

I. RESOLUTION NO. 19-33 – DOWNTOWN PHASE II CONSTRUCTION BID AWARD AND CONTRACT

Mayor Rognstad announced that Two bids were received for Downtown Phase II Construction, and staff recommends awarding the bid to Sonray Enterprises, LLC, the lowest responsive responsible bidder, in the amount of \$2,192,652.20.

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Ms. Wilson reported that this project has a long history, going back to the early 2000s, and the project has been moved along in a variety of ways. The parameters for the design are substantially based upon the Downtown Streets Plan and Design Guide (Guide), which provides the intent and overall guidance for the decision-making that went into this project. Accomplishments to date, since adoption of the Guide, includes reverting the streets that were previously one-way to two-way. Diagonal parking was also implemented on Church Street and, last year, the Phase I construction project on Cedar Street from Fifth Avenue to Second Avenue was completed. Phase II of the project is slated to begin, primarily along First Avenue, beginning where we left off at Second Avenue on Cedar Street, working east onto First Avenue, south on First Avenue, ending on the north side of Church Street.

At the March 6, 2019, meeting, Council authorized staff to complete the final design and advertise for bids. Century West was the design engineering firm on this project, and they completed the design in accordance with the March 6th discussions and direction from Council.

On July 11, the City received two bids for Phase II construction. The lowest responsive and responsible bidder was Sonray Enterprises, bidding a total price of \$2,192,652.20. The term "responsive and responsible bidder" is frequently used. When bids are received, the City is required to verify that the bids are compliant with the bid documents and instructions to bidders. For this particular project, a State of Idaho Public Works License was required. That process includes some vetting, such as a financial review of the contractor, references, and proven experience. Additionally, the project required a performance bond, with the bonding company verifying that the work can be completed. If it is not, then the bonding company steps in. Acknowledgement by the contractor of all addenda is also required, along with the documents signed accordingly and a complete bid. The bid amount includes two additive options: colored crosswalks at the Main Street intersection and an acceleration bonus. Sonray Enterprises is the same contractor that is performing the work on the Ontario and Florence sidewalk project. The acceleration bonus is an option for the contractor to provide a price that would be an incentive for them to complete the project by Thanksgiving of this year. Contractually, the project doesn't have to be completed until June 5, 2020, but, if they complete by Thanksgiving 2019, they receive a bonus of \$200,000.00. Incentive bonuses are relatively common in the industry. The bid documents stated that, if a contractor did not price this acceleration bonus additive alternate, they would still be incentivized with early completion of milestones that were set in the documents. With successful early completion of all milestones, the total of all incentives would be \$100,000.00. If Council were to award the acceleration bonus option, that would void these other milestone incentives; it's all or nothing. Alternatively, if Council did not award the acceleration bonus, then the contract, as it was bid, would still include those \$100,000.00 in available milestone incentives. For a multitude of reasons, it was determined that early completion of this project does result in a public benefit, from both a business and fiscal perspective.

Based on feedback from downtown business owners, the decision was made to hold off starting this project until after Labor Day in order to mitigate any potential impact to their summertime revenue. First Avenue will be closed to motorists from Main Street to Cedar Street and Second beginning September 3. Then, on September 15, the remainder of First Avenue, from Main Street to Church Street, will be closed, resulting in a full closure of all of that portion of First Avenue and Cedar from First to Second. Although the street will be closed to motorists, pedestrian access will be maintained at all times. The road will be open and travel will resume by Halloween, with parking allowed on one side of the street as they complete their work. All work must be substantially complete by Lost in the 50s in May of 2020. The contractor is permitted to work around the clock in order to achieve early completion by Thanksgiving.

At the March 6th meeting, Council also voted to earmark the remaining balance between the bid price and the budget, excluding contingency, for stormwater treatment. If the contract is awarded in the amount presented this evening, staff will make a recommendation and intends to move forward with \$60,000.00 in additional stormwater treatment, as requested. This will still allow for a contingency amount that is considered

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industry-standard. With that \$60,000.00, the most viable option is additional “tree in a box” solutions, with locations to be determined. Each existing tree at the determined locations would be replaced with a tree in a box so that tree is more effectively addressing pretreatment of stormwater.

Councilman Aitken moved for approval of the proposed resolution, Downtown Phase II Construction Bid Award and Contract. **Councilwoman Ruehle** seconded the motion.

A roll call vote resulted as follows:

Councilman Aispuro	Yes
Councilwoman Ruehle	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent
Councilman Aitken	Yes
Councilman Eddy	Yes

The motion passed by a unanimous vote of Council present.

NEW BUSINESS

J. PUBLIC HEARING – PROPOSED MORATORIUM ON THE ACCEPTANCE OF ZONE CHANGE APPLICATIONS WITHIN THE AIRPORT OVERLAY ZONE DISTRICT FOR A PERIOD OF ONE YEAR

Mayor Rognstad announced that the public hearing rules and procedure outlined earlier this evening are still in effect for this hearing.

Mr. Qualls stated that the Sandpoint airport is absolutely critical to the local economy and the community, as are opportunities for housing. This moratorium will offer Council and the Planning and Zoning Commission an opportunity to continue work on a Comprehensive Plan update. Since adoption of the Comp Plan in 2009, the Idaho Legislature has mandated a more robust element in comp plans regarding public airports. The Sandpoint airport adopted a master plan in 2012. Idaho Code allows for a moratorium of up to one year on certain classes of permits when a municipality is undergoing a planning effort, which is the proposal before Council at this time.

Mayor Rognstad opened the public hearing.

The following submitted forms to sign up to speak but were not present when called. All indicated that they were in support: Dave Mundell, Maryann Rowe not present, Jacob Klingensmith, and Nick Guida.

The following spoke in support of the proposal:

Mr. Berrey stated that he agreed with Councilman Eddy’s statement that Council’s decisions must be based on current laws. This moratorium is an opportunity to make future laws that will help ensure the continued viability of the Airport. This is the time to pause any additional rezone requests in order to take the time to get our Code up to par.

Mr. Schuck stated that the Tillberg rezone perfectly illustrates the need for an overhaul of the Comp Plan and the Airport Overlay. When the Overlay was adopted, it addressed only height restrictions. New and updated guidelines will provide Council the tools needed to make sound decisions in the future.

Mr. Sampson urged Sandpoint City Council to place a “non-residential zone” all around the Airport to stop any further residential construction. Clearly, any construction inside or close to the Airport boundary should be restricted to construction which has a direct connection to aviation or the future use and growth of the Airport as an aviation service hub for Sandpoint. This could include a larger terminal building, air traffic control, maintenance and service hangars, electricity generation, fuel storage etc., but any building construction must be kept away from the ends of the runways to allow a safety zone for both incoming and outgoing aircraft. With these plans in place, the potential for any future complaints and resulting restriction on flying, via court order, is negated, allowing Sandpoint Airport and the City of Sandpoint to take advantage of the future

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growth in all types of aviation. We need to avoid, as has happened in the U.K. frequently recently, complaints related to fumes and noise where the aircraft population has increased. Even if that increase has actually happened slowly over time, neighbors view it as a sudden increase, and they're suddenly noticing the noise and fumes in their homes that they did not have or notice when they moved there 20 years ago. Airports grow. At some point, the Sandpoint Airport is going to grow rapidly from next year onward. With electric aircraft, one will be able to fly for \$.40 per mile, which is cheaper than an SUV and a lot faster.

Leonard Wilson submitted a letter on the date of the meeting, expressing concerns over the rezoning of areas surrounding the Airport. It was too late to include the letter within the meeting packet, and there was no request for the letter to be read aloud during the meeting, but it will be included as a part of the record for this meeting.

No one spoke who was neutral to the proposal. Lori Sharp submitted a form to sign up to speak but was not present when called. She did not indicate on her form whether she was in support, neutral or in opposition to the proposal.

The following spoke in opposition to the proposal:

Mrs. Tillberg stated that she opposes the proposed moratorium. If a one-year moratorium is adopted, Mr. Qualls has stated that the intent is to rewrite the Comp Plan specifically in terms of the Airport Overlay Zone around the airport and implemented by December 2019. It doesn't seem reasonable to her for Council to place a moratorium on the landowners around the airport for a year, restricting their ability to request a rezone, if so desired, and then implement new standards by December 2019. Landowners will have their hands tied and then be required to adhere to the new rules. It seems to her that, once again, the City is trying to shuffle the cards, so to speak, to accomplish their intended outcomes. She has heard that Daher, the French company that recently acquired Quest Aircraft, has closed one of their maintenance and repair sites elsewhere and that they're going to bring in other planes to service in the Sandpoint area. According to their press release, their hope is that the new U.S. facility will attract more business from North American air framers, and the company will expand the Sandpoint footprint to accommodate extra contracts. She asks the Council to consider, instead of passing this moratorium, the City working with the Airport Board and local land owners to come up with mutually beneficial agreements that can be incorporated into the intended Comp Plan. By the City working with the Airport Board and the local landowners, she believes conflicts can be avoided. There will be conflict between the local landowners and the Airport Board; it would be of benefit to the City to work in conjunction and come up with a plan with all of the shareholders and invested parties, rather than just "slapping" this moratorium on local landowners.

Mayor Rognstad announced that, once the public hearing is closed, no new information may be provided, and questions may be directed only to City staff during Council deliberation.

Mayor Rognstad closed the public hearing.

Councilwoman Ruehle moved to approve the Moratorium on the Acceptance of Zone Change Applications Within the Airport Overlay Zone District for a Period of One Year. **Councilman Aispuro** seconded the motion.

In response to **Councilman Aitken's** question about the need for an entire year and his concern about possibly taking two building seasons off the table, Mr. Qualls clarified that the moratorium does not prohibit development, only rezone requests. It should be noted that, with the exception of the past few months, it has been several years since the City has received a rezone request. Ms. Stapleton reminded that staff has committed to update the portion of the Comp Plan related to the Airport immediately, which may result in other changes to the overall Comp Plan update, so there may be other changes that need to be made to that chapter over the course of the year as the full Comp Plan is completed, but staff will get the work on the Airport portion of the Plan first. Mr. Qualls

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stated that one year is the maximum allowed under the law, but Council can lift the moratorium earlier, before the end of that one-year period, if desired.

Mr. Qualls responded to **Councilwoman Ruehle** that there are certain elements required for a Comprehensive Plan. After the City's Comp Plan was adopted, the Legislature tweaked the Local Land Use Act in 2014 to require additional elements, including agriculture and airports. The City's Comp Plan mentions the Airport, but it is not as robust as the statute now requires, and the Airport deserves that attention, given its significance and the development pressures. The plan is to bring all stakeholders to the table, including property owners and the broader community in order to determine the best path forward. This update will bring our Plan into alignment with what State law requires.

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilman Eddy	Yes
Councilman Aispuro	Yes
Councilwoman Williamson	Absent
Councilwoman Ruehle	Yes
Councilman Darling	Absent

The motion passed by a unanimous vote of Council present.

K. ORDINANCE NO. 1366 – MORATORIUM ON THE ACCEPTANCE OF ZONE CHANGE APPLICATIONS WITHIN THE AIRPORT OVERLAY ZONE DISTRICT

Mayor Rognstad read the title of the Ordinance as follows:

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, IMPOSING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF ZONE CHANGE APPLICATIONS WITHIN THE AIRPORT OVERLAY ZONE DISTRICT; STATING THE PURPOSE OF THE MORATORIUM; STATING THAT THE DURATION OF THE MORATORIUM SHALL BE ONE (1) YEAR; PROVIDING THAT THESE PROVISIONS SHALL BE DEEMED SEVERABLE AND THAT REMAINING SECTIONS OF SANDPOINT CITY CODE SHALL NOT BE AFFECTED BY A FINDING THAT THESE PROVISIONS ARE UNLAWFUL OR UNENFORCEABLE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Councilman Aispuro moved that the proposed ordinance pass its first reading by Title only and that the summary be approved. **Councilman Aitken seconded the motion.**

A roll call vote resulted as follows:

Councilwoman Williamson	Absent
Councilman Aitken	Yes
Councilman Darling	Absent
Councilman Eddy	Yes
Councilman Aispuro	Yes
Councilwoman Ruehle	Yes

The motion passed by a vote of Council present, the proposed ordinance passed its first reading by Title only, and the summary was approved.

Councilman Aitken moved that the rules requiring three separate readings, once in the ordinance's entirety be suspended and that the proposed ordinance pass its second and third readings under suspension of the rules. **Councilman Aispuro seconded the motion.**

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilman Aispuro	Yes
Councilman Eddy	Yes
Councilwoman Williamson	Absent
Councilman Darling	Absent
Councilwoman Ruehle	Yes

The motion passed by a vote of Council present, and the Ordinance was considered read, passed, and adopted under suspension of the rules. This is Ordinance No. 1366.

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L. REQUEST FROM SELKIRK PEND OREILLE TRANSIT (SPOT) TO FUND SERVICE YEAR OCTOBER 1, 2019, TO SEPTEMBER 30, 2020

David Sims from SPOT recognize the dedication of Sandpoint's representative on the SPOT Board, Zale Palmer, who is now the Board Treasurer and chair of their Finance Committee. SPOT operates two fixed routes, the blue route and the green route, around Sandpoint, Dover, Kootenai, and Ponderay. In 2018, the fixed routes had 61,269 rides. They offer a curb to curb paratransit service for those who aren't able to use the fixed route due to disability. In 2018, they provided 4,403 paratransit rides in Bonner County. They also offer a service in Boundary County, which includes two days of local service and two days of service when they bring riders down to Sandpoint. In 2018, they provided 2,608 rides in Boundary County. This year, they started the Mountain Route, which provides service between the Red Barn and the Schweitzer Mountain Village. Between February 14 and April 9, they provided 19,245 rides. Both the Boundary County operations and the Mountain Route are accounted for separately from the rest of the Bonner County services; they have their own budget and their own match funding. They also operate a vanpool for Quest Aircraft, which is self-supporting.

SPOT's funding comes from two sources. One is the local match that his provided by entities such as the City of Sandpoint. Current match entities and amounts:

Sandpoint \$75,000
Ponderay \$75,000
Dover \$3,000
Kootenai \$1,500
Schweitzer Community Association \$3,000
The Festival at Sandpoint \$1,500
Schweitzer Mountain Resort \$65,000
Idaho Area Agency on Aging \$20,000 (State of Idaho entity that provides funds on a per-ride basis for seniors)
Bonners Ferry \$10,000
Boundary County \$3,500

Match funding totals \$257,000. The balance of their funding comes through the State of Idaho in the form of Federal Transit Administration (FTA) grants. They're currently in the first year of a two-year grant cycle and are still finishing the budget for next year, but it will be very similar to the current year for operations, which is why they are requesting the same match amounts as they did last year.

Mr. Sims replied to **Councilman Eddy** that ridership has been gradually decreasing over the past four years, which is a trend seen throughout the State due to the improved economy. Many who use SPOT may be trying to get to work or they may be unemployed and do not have a car. As the economy improves, ridership is countercyclical with the economy.

SPOT was successful in approval of about \$30,000 in federal funds from the State to help with marketing efforts over a two-year period, beginning October 2019. The State is interested in watching this process to see if it can be applied throughout the State. Expenditures may include uniforms for drivers, possibly print ads, social media, and signage at the bus stops to try to boost ridership.

Councilman Eddy moved for approval of City match funding in the amount of \$75,000 for Selkirk Pend Oreille Transit in Fiscal Year 2020. **Councilwoman Ruehle seconded the motion.**

A roll call vote resulted as follows:

Councilman Aispuro	Yes
Councilwoman Ruehle	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent
Councilman Aitken	Yes
Councilman Eddy	Yes

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The motion passed by a unanimous vote of Council present.

M. BUDGET PRESENTATION

Ms. Stapleton reported that this will be an overview that will lead into the next several agenda items. The more in-depth budget workshop will be scheduled for the next Council meeting. The official proposed budget has been posted on the City website, along with a notice on the City Facebook page with a link to the budget document on the website.

The proposed FY2020 City budget totals \$39,322,035.00, which is a decrease of just over \$5 million or 11% from FY2019. Looking at how the budgets have trended over the past several years, there has been significant increases overall for the about the last three years, anticipating construction primarily related to downtown revitalization. Those dollars are now being spent as this project enters its final stage. There was about \$1.6 million budgeted last year for a potential sewer main extension when acquisition of the University of Idaho property on North Boyer Avenue was a possibility. That has been removed from the budget. If development did occur on the north side of that property, existing sewer infrastructure would be sufficient. Development on the south side of the property would require sewer extension and potentially upsizing a main line. There is an offer and contingent acceptance on that property, which the U of I Board of Trustees will be considering next month. City staff has met with the individual who has made the offer; he and his team are in the early stages of vetting possibilities for the property. Additionally, after analysis of immediate upgrades and improvements at the wastewater treatment facility, the costs have decreased.

In terms of budgeted priorities, guidance for the development of this budget is the Strategic Plan adopted by the Mayor and City Council last year, which continues to assist and provide structure for what is included in the budget.

As a reminder, Council had adopted some fiscal policies, which were expanded this year. As of a couple of years ago, those policies provided specific guidance related to reserve accounts. Emergency and Operating Reserves are currently funded at the maximum recommended amount. It is anticipated that additional funds will be added for FY2020, allowing these funds to remain fully funded. That transfer of funds will not take place until completion of the audit, most likely in February. The Construction Reserve account is currently funded at \$3 million. The cash to fund the Downtown Revitalization Project is coming primarily from this account. Tax increment will come in over time in order to replenish that account from SURA dollars, but SURA does not sunset until 2029, so full reimbursement of that account is not anticipated until close to that time.

Councilman Aispuro left the meeting at 9:12 p.m. and returned at 9:13 p.m.

A summary of Special Revenue and Enterprise Fund Reserves is included, providing an opportunity to see the projected beginning balances, projected revenue, and the projected ending balance on September 30, 2020. There is a decrease between the beginning balance and ending balance. Many of these fund balances are set aside to fund capital projects. We've been in planning stages for the last couple of years as we've been going through a strategic plan. Continuation of master plans is funded into next year, but, accordingly, there is a plan in this budget for some of the capital reserves to be available for execution of those plans. Capital reserves have been budgeted that are not specifically identified, other than being associated with a master plan, so that, when Council sorts through the priorities with the master plans adopted, guidance is provided as to which projects those reserves should go toward.

There is a quick summary of the Capital Project Fund, which represents impact fees. As an example, under the Capital Project Fund is listed:

- Master Plan – Identified Street Projects
- Master Plan – Identified Pathway Projects
- Master Plan – Identified Park Projects

All are contingent upon completion of master plans. A community member just today was asking where in the budget are the asphalt overlay monies? There are asphalt

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overlay/street improvement monies in fact budgeted. It's consistent with what has been done in prior years; it's at the high end of what's been done, and it's sitting in Master Plan – Identified Street Projects. Rather than choosing a street that looks like it needs to be repaired – and there are many – or rather than looking at what money is available; decisions will be data driven in order to determine where those dollars should be invested and which streets are priority to be repaired first. In other words, the money is allocated under “master planning”, rather than “asphalt overlay” for a specific street.

Likewise, in the Parks Improvement Fund, a significant amount of money has been allocated for the Parks Master Plan and Plan-identified projects. We've identified \$250,000 this year in the Parks Improvement Fund. Typically, our course of action would be to determine what projects are needed in parks: A restroom improvement? A Project at the Marina? This isn't backing away from our investments in the community. Instead, this process involves budgeting and setting aside funds and associating those funds with priority projects as determined by our master plan.

The Water Capital Reserve Fund is decreasing, as it has been doing for many years, related to payoff of bond debt for the new water treatment plant. Rate studies are planned for both water and sewer. There needs to be a determination regarding allocation to water capital, as opposed to unrestricted water fund balance.

The Sewer Fund Reserves budget reflects investment in immediate improvements at the wastewater treatment plant, what is referred to as “bridge” improvements, with anticipation of significant upgrades in the next four to five years.

The proposed budget reflects just over \$4.1 million in projected General Fund property tax revenue. This reflects an approximate 3% increase over the adopted FY2019 budget. There is an approximate \$10,000 increase in the Recreation Fund portion, for a total property tax revenue projection of \$4,387,790.00. The table shown is prepared each year for information and for the City's taxpayers, so that they understand the impact that property taxes will have on their household budgets going into the next year. There is an anticipated \$40,754.00 available for property tax relief as a result of Resort City Tax received, over and above what was budgeted in a prior year. That additional revenue benefits our taxpayers in the form of property tax relief in a subsequent year. The maximum for Council to adopt as a ceiling is \$27.49, based on a home valued at \$200,000. This contemplates the allowed homeowner's exemption.

As a result of adopted personnel policies adopted at the end of calendar year 2018, there has been some reorganization. The displayed organizational chart shows how employees and positions are now organized across the City. There is a decrease in FTE employees between 2019 and the proposed FY2020 budget, primarily related to the elimination of the Legal Department. As a result of contracting legal services, there is an anticipated approximately \$250,000 in savings. Those dollars have been reallocated into staffing cost increases. The proposed budget includes a 1.5% COLA this year. There will be no increases in medical or dental expenses for employees with the recently-negotiated 19-month health insurance contracts.

A reminder that Council will be adopting the maximum preliminary budget this evening. During the budget public hearing and budget adoption in August, there will be an opportunity to move money around and to cancel projects and decrease the total budget amount, but, after adoption of the maximum preliminary budget, it cannot be increased.

Councilman Aitken moved to adopt the Fiscal Year 2020 Preliminary City Budget and to schedule the budget public hearing for the regular City Council meeting on August 21, 2019. **Councilman Aispuro seconded the motion.**

A roll call vote resulted as follows:

Councilwoman Ruehle	Yes
Councilwoman Williamson	Absent
Councilman Darling	Absent
Councilman Eddy	Yes
Councilman Aispuro	Yes
Councilman Aitken	Yes

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The motion passed by a unanimous vote of Council present.

O. RESOLUTION NO. 19-34 – INTENT TO USE FOREGONE LEVYING AUTHORITY

Mayor Rognstad announced that State law requires the adoption of a resolution stating the governing board's intent to use foregone levying authority, as well as a public hearing and publication of a notice on the foregone levy.

Finance Director Sarah Lynds reported that the forgone amount is \$88,774.00, which will be included in the budget and used for police vehicles.

Councilman Aispuro moved for approval of the proposed resolution, Intent to use Foregone Levying Authority. **Councilwoman Ruehle seconded the motion.**

A roll call vote resulted as follows:

Councilman Aispuro	Yes
Councilwoman Ruehle	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent
Councilman Aitken	Yes
Councilman Eddy	Yes

The motion passed by a unanimous vote of Council present.

P. REVIEW CITY FEES AND SCHEDULE PUBLIC HEARING

Ms. Stapleton reported that the entire City fees schedule is included in the meeting packet, consistent with what has been provided in years past. If a new fee is introduced or an existing fee is set to increase more than 5%, those fees must first be approved by Council. There will be no fee adoption this evening. Tonight's Council action will be to set a public hearing for the second meeting in August.

There is a new fee for the Honorary Street Sign Program, which Council approved several months ago. This reflects the amounts that are included in that policy. At that time, it was decided to work with some of the existing fees in order to handle the formal adoption of these fees as part of the public hearing in August and not incur associated charges with advertising for just those fees.

A new fee is being proposed for a boat slip parking violation. The marinas are getting busier, with more tourists coming into town. At the City-owned marinas, there has been a problem with illegal "poachers", who are individuals just coming in off the lake and taking a boat slip reserved by someone who is paying for seasonal moorage at that slip. This came up last year, and boaters were not sure who to call. This year at the marinas there are "reserved" signs on all of the slips that are reserved for seasonal moorage customers. There will be additional signs at the marina for people who need assistance. A program has been worked out where they can call dispatch, and dispatch can then go through the Parks and Fire Departments. If someone has illegally poached the slip you're paying for, the City will come down and move the offender's boat to a reserved spot. This will most likely occur during the evening and on weekends, therefore a charge will be incurred. The courtesy charge proposed is \$100, if the City is required to move your illegally-parked boat. The Parks crew has done a great job of getting the spots marked this year.

Per the City's contract with Waste Management, also proposed is a new \$25 charge for contaminated recycling bins. If the recycling bin contains items that cannot be recycled, the bin will be tagged with a warning two different times. After that, repeat offenders will incur a contamination charge. Ms. Stapleton responded to **Councilman Aispuro** that staff is working with Waste Management on an education campaign that will be launched this summer before the fee goes into effect this fall, so that citizens know what can and cannot be recycled and how recycling should be done. Recycling has become a real challenge, and this is not a local issue; it's a problem worldwide.

A new \$25 occupancy permit fee is proposed that will be presented to Council with a policy and Code change prior to implementation. Information generally required for an

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occupancy permit is currently being requested on and combined with the City's business license application. Under current City Code, each location of a business with multiple locations is required to get a business license for each location, which, among other issues, is skewing economic development data. With the policy and Code changes, a business with multiple locations would obtain one \$50 business license and then an occupancy permit for each additional location. Under the current fee structure, a business would have to obtain a full license for each location at \$50 each. There is a cost associated with permitting each location, as the Fire Department makes annual inspections of business locations, and an occupancy permit is issued when a new business opens in town. This will be a decreased cost for those businesses in town that operate from multiple locations.

There is an increase in garbage fees for extra cans and rollout carts over 15 feet. Again, these increases reflect the City's new contract with Waste Management.

There is the annual increase in moorage rates, which reflects a Consumer Price Index (CPI) increase of 1.9%.

There are increases in fees where staff time is associated with review of permit applications, building services, and sampling, among others. These fees have not increased for 5, 10, or more years, when staff costs have been increasing over time. A full, in depth analysis is planned to look at staff time with the implementation of the new ERP/financial software beginning October 1. In discussions with the Mayor, the recommendation currently is a 5% increase to bring fees in line with increases in staff costs over the last few years and mitigate "sticker shock" once the analysis is complete. The plan is to take a hard look at the City's planning and building service fees and search for ways to simplify the fee structure. It can be difficult for those obtaining permits to determine costs. The same analysis will be conducted on the City's New User Facility Fees (NUFF) for both water and sewer.

Again, no adoption of fees tonight, just scheduling the public hearing.

Councilman Aispuro moved to schedule a public hearing for the regular City Council meeting on August 21, 2019, on proposed new City fees and existing fees proposed to increase more than 5%. **Councilwoman Ruehle seconded the motion.**

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aispuro	Yes
Councilwoman Williamson	Absent
Councilman Darling	Absent

The motion passed by a unanimous vote of Council present.

Q. RESOLUTION NO. 19-35 – ACCEPTANCE OF MEMORANDUM FROM GREENPLAY, LLC, FOR REQUESTED ADDITIONAL PARKS MASTER PLANNING SERVICES

Ms. Stapleton reported that these proposed master planning services have been included in the budget for next year and had been planned for and included in the Request for Proposals (RFP) when the City was looking for a Parks and Recreation master planning consultant. The original proposal provided was for the overall master planning services, but, as previously discussed, as the City moves forward, there will be a need for very specific M&O analysis, revenue analysis for some facilities, such as City Beach, Cedar Street parking lot, and downtown waterfront, to include Farmin's Landing and possible board walk expansion, also the sports complex, watershed recreation, and War Memorial Field. Budgeted this year is local option tax and capital funds with the intention that a decision will be made next fiscal year and construction will occur at Memorial Field with the remaining local option tax dollars.

Parks and Recreation Director Kim Woodruff explained that, for economy of time and

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travel, there is value in the consultants moving forward with these services now.

Councilman Aitken moved for approval of the proposed resolution, Acceptance of Memorandum from Greenplay, LLC, for Requested Additional Parks Master Planning Services. **Councilwoman Ruehle seconded the motion.**

A roll call vote resulted as follows:

Councilman Aitken	Yes
Councilwoman Williamson	Absent
Councilman Aispuro	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Darling	Absent

The motion passed by a unanimous vote of Council present.

R. RESOLUTION NO. 19-36 – SALARY ADMINISTRATION POLICY AMENDMENT

Human Resources Director Nicole Goes stated that the City's greatest asset is its employees, and she wanted to create a program that would motivate employees to become more highly skilled, aid retention and allow the City to become cross-functional. For instance, a wastewater treatment plant employee with a dual license could, if necessary, help out in water distribution. Additionally, there is a certification program, providing a one-time \$100 incentive payment upon completion of a certification program related to their job. This would require at least two continuing education units (CEU). One hour of classroom training time is equivalent to 0.1 CEU. Therefore, they would need to complete at least 20 hours of classroom training that would result in job-related certification. Ms. Goes responded to **Councilman Eddy** that, yes, the City would fund that training.

Councilman Aispuro moved for approval of the proposed resolution, Salary Administration Policy Amendment. **Councilman Aitken seconded the motion.**

A roll call vote resulted as follows:

Councilman Aispuro	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aitken	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent

The motion passed by a unanimous vote of Council present.

S. RESOLUTION NO. 19-37 – AMENDMENT TO MEETING RULES OF ORDER ALLOWING PARTICIPATION IN DISCUSSIONS WITHOUT THE NECESSITY OF A MOTION

Mr. Herrington reported that, at Council's last meeting, an ordinance was adopted, allowing Council to amend the meeting rules of order by resolution, so that is now being followed up by a resolution that will allow Council to discuss an action item without the necessity of a motion first. As Council understands from the rules of procedure, before Council can discuss an item, a Council member must make a motion. Particularly in regard to planning and zoning issues, Council may not have yet formulated thoughts based on the presentation enough to feel comfortable making a motion. Yet, under the current rules, some brave soul must step forward and make a motion that may be supported by no other member of the Council and die for lack of a second. This resolution would allow discussion of any action item prior to the necessity of a motion. Clearly, in regard to planning and zoning matters, this will allow Council to more comfortably discuss an issue that is before the body without the necessity of someone "jumping into the pool" with a motion. He recommends passing this resolution. Rules of order that the City follows and Robert's Rules of Order are designed for large legislative groups, not small city councils, so it is not inappropriate to waive the requirement of a motion before discussion.

Mr. Herrington replied to **Councilman Aitken** that the Mayor would, henceforth, as opposed to first entertaining a motion, instead asking if there is any discussion.

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Mr. Herrington replied to **Councilwoman Ruehle** that Council still has the ability, under the rules of order, to call for the question at any time, but everyone will still have an opportunity to speak if desired.

Mayor Rognstad stated that this will not fundamentally change meeting procedure and how business is done. This is designed to provide Council the ability to discuss a matter without first formulating a motion. For most items before Council, it still makes sense to propose a motion because of the efficiency that provides.

Councilwoman Ruehle commented that she is hesitant to change rules that are so widely accepted and used and is concerned that failing to follow these established rules of procedure may result in some type of legal quagmire. Mr. Herrington responded that many jurisdictions have adopted alternate rules. The City of Sandpoint is actually one of those and does not follow Robert's Rules of Order. The City follows Washington State University's student government rules. Some governing bodies have even eliminated the requirement for a motion to be seconded. On a board of county commissioners, for instance, where there are three commissioners, it seems silly to require a motion and a second with a total of only three members making up the body. With this proposal, he seeks to make it easier for Council to discuss issues without the necessity having a motion first. This has been discussed during land use training conferences for several years. He used to assist with this training, and it was suggested during that training to actually do away with Robert's Rules of Order.

Ms. Pardini stated that she has served on a couple of small boards in Sandpoint, and Robert's Rules of Order and parliamentary procedure work for everyone. Some of it seems redundant, but it's clear how it works. She is most concerned about the clause in the proposed Resolution that states "Whereas: The City is authorized to adopt or amend the Rules of Order by resolution without the need for amendment of City Code." She does not believe Council should have the power to make these types of changes without amending City Code.

Mr. Herrington explained that City Council's authority to adopt or amend the Rules of Order by resolution without the need for amendment of City Code is already in place; the clause of concern is simply a statement of what is already allowed. This Resolution does not seek to implement this policy; it already exists upon City Council's adoption of an ordinance at the last meeting. It's simply providing history regarding this issue and pointing out that Council is authorized to adopt or amend the Rules of Order, such as the amendment proposed, by resolution without the need for an amendment to City Code (i.e., by resolution/policy as opposed to ordinance/law). Additionally, the City's rules of order aren't in City Code; there is just a reference in City Code to the rules of order the City Council utilizes.

Mrs. Tillberg stated that she has the same concerns as Ms. Pardini regarding the clause in the proposed Resolution that states "Whereas: The City is authorized to adopt or amend the Rules of Order by resolution without the need for amendment of City Code." This will leave the door wide open for City Council to make any decision on any issue without any restraint and make decisions without having to follow the rule of law. If City Council is not following City Code in making these decisions, where are the checks and balances in the process? She believes this particular clause does not need to be included in the Resolution.

Councilman Aispuro stated that this Resolution pertains only to the rules of order and City Code, and Council's rules of order aren't even in City Code. Mr. Herrington confirmed.

Councilman Aispuro moved for approval of the proposed resolution, Amendment to Meeting Rules of Order Allowing Participation in Discussions Without the Necessity of a Motion. **Councilman Aitken seconded the motion.**

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A roll call vote resulted as follows:

Councilman Aispuro	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aitken	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent

The motion passed by a unanimous vote of Council present.

T. RESOLUTION NO. 19-38 – CONSENT TO ABANDON/VACATE PUBLIC RIGHT OF WAY

Mayor Rognstad recited the first clause in the proposed resolution, as follows:

In accordance with the requirements of Idaho Code § 40-203, the City of Sandpoint found that the public right of way known as the alleyway situated in part between the properties at 527 S. Fourth Ave., 509 S. Fourth Ave., and 612 S. Third Ave., more particularly described in Exhibit A (hereinafter "subject public right of way"), was no longer useful to the City and set a joint public hearing before City Council and the Independent Highway District for 5:00 p.m. on July 17, 2019, at which time any person could appear to show cause why the subject public right of way should not be abandoned/vacated.

Mr. Herrington suggested the following amendments to the Resolution:

1. The addition of a new Findings of Fact #6, stating that Brent Heiser, Residential Appraiser with the Bonner County Assessor's Office, testified and disputed the suggested valuation, stating that the subject right of way should be valued at \$32,956. Additionally, Mr. Heiser stated that he was opposed to the vacation, as it would limit public access to the river at this location.
2. What was Findings of Fact #6 becomes #7, the word "appraisal" should be replaced with "recommended determination of value", and the fair market value should be changed to match the staff recommendation of \$15,488.16.
3. Conclusions of Law #1 should indicate that consideration paid should be fair market value for the property.
4. The first "Be it Further Resolved" clause should be changed to state, "The Independent Highway District is hereby authorized to sign a Resolution vacating the subject public right of way, as well as closing instructions and other instruments and documents as are required by the vacation."
5. The second "Be it Further Resolved" clause should be changed to state, "The subsequent vacating of the right of way shall be subject to retention of easements for existing utilities under said described public right of way and/or the provisions for the relocation or replacement of existing facilities."

Mr. Herrington explained to **Councilwoman Ruehle** that he has changed the dollar amount to staff's recommended determination of value. Council is simply recommending the value of \$15,488.16 to IHD. Council is consenting to the vacation and recommending that amount for consideration from the property owners. IHD will adopt a resolution that actually vacates the ROW, and they will determine the amount they will demand from the property owners benefitting from the vacation.

Ms. Wilson replied to **Councilman Aitken** that, yes, after this evening's testimony, staff still recommends that amount as fair market value for the property.

Ms. Stapleton felt it important to note that the method staff used to arrive at that dollar amount was an agreed-upon methodology between City staff and the IHD Chairman. IHD may ultimately choose a different methodology for arriving at fair market value, but there

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was concurrence between City staff and IHD on the methodology prior to the meeting.

Mr. Herrington replied to **Councilman Aitken** that it appears IHD may be seeking a greater value than that which has been recommend by City staff, so it is unlikely IHD will choose a lesser amount. In the end, it is only a recommendation from the City and ultimately IHD's determination and decision. Mr. Herrington reiterated that Council is consenting to the vacation and recommending an amount for consideration from the property owners. He does not believe that it would be appropriate for the City to dictate anything additional, such as the City consenting to the vacation only if at least the City's recommended amount is collected from the property owners. Sandpoint is in a unique situation, different from any other situation in the State of Idaho, having joint jurisdiction with a highway district over the rights of way within the City. It's necessary for the City to weigh in on proposed vacations, as there may be a situation where the City would be aware of a legitimate public use for the property and not consent to vacation.

Councilwoman Ruehle moved for approval of the proposed resolution, Consent to Abandon/Vacate Public Right of Way, with the amendments recommended by the City Attorney. **Councilman Aitken seconded the motion.**

A roll call vote resulted as follows:

Councilwoman Ruehle	Yes
Councilman Aitken	Yes
Councilman Aispuro	Yes
Councilman Darling	Absent
Councilwoman Williamson	Absent
Councilman Eddy	Yes

The motion passed by a unanimous vote of Council present.

U. RESOLUTION NO. 19-39 – CONSENT TO ABANDON/VACATE PUBLIC RIGHT OF WAY

The first clause in the proposed resolution states:

In accordance with the requirements of Idaho Code § 40-203, the City of Sandpoint found that the public right of way known as 379.48 feet of Third Ave., from Great Northern Road to the west line of the old (vacated) 2nd Street projected south, more particularly described in Exhibit A (hereinafter "subject public right of way"), was no longer useful to the City and set a joint public hearing before City Council and the Independent Highway District for 5:10 p.m. on July 17, 2019, at which time any person could appear to show cause why the subject public right of way should not be abandoned/vacated.

Mr. Herrington suggested the following amendments to the Resolution:

1. The addition of a new Findings of Fact #6, stating that Steve Klatt, Bonner County Road and Bridge Director, testified that the subject public right of way is not providing any public benefit.
2. The addition of a new Findings of Fact #7, stating that Brent Heiser, Residential Appraiser with the Bonner County Assessor's Office, testified and disputed the suggested valuation, stating that the subject right of way should be valued at \$1.50 per square foot or \$14,712.
3. What was Findings of Fact #6 becomes #8, the word "appraisal" should be replaced with "recommended determination of value".
4. Conclusions of Law #1 should indicate that consideration paid should be fair market value for the property.
5. The first "Be it Further Resolved" clause should be changed to state, "The Independent Highway District is hereby authorized to sign a Resolution vacating the subject public right of way, as well as closing instructions and other instruments and

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documents as are required by the vacation.”

Councilman Eddy moved for approval of the proposed resolution, Consent to Abandon/Vacate Public Right of Way, with the amendments recommended by the City Attorney. **Councilwoman Ruehle seconded the motion.**

A roll call vote resulted as follows:

Councilman Eddy	Yes
Councilwoman Williamson	Absent
Councilman Darling	Absent
Councilman Aispuro	Yes
Councilman Aitken	Yes
Councilwoman Ruehle	Yes

The motion passed by a unanimous vote of Council present.

ADJOURNMENT

Mayor Rognstad adjourned the regular meeting at 10:06 p.m.



Shelby Rognstad, Mayor

ATTEST:



Melissa Ward, City Clerk