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**CITY COUNCIL  
MEETING MINUTES**

**December 6, 2022  
6:00 PM**

**Location: City Council Chambers, 408 N. Spokane Street, Post Falls, ID 83854**

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**WORKSHOP – 5:00 pm Basement Conference Room**

**ROLL CALL OF CITY COUNCIL MEMBERS**

Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove - **Present**

Topic: Planning and Zoning – Revenue Per Square Foot

Jon Manley, Planning Manager presenting: Jon showed several GIS maps that had data sets pertaining to property taxes per square foot. This included historical information and changes depending on homeowners' exemptions.

Workshop ended at 5:38pm

**REGULAR MEETING – 6:00 pm City Council Chambers**

**CALL TO ORDER BY MAYOR JACOBSON**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL OF CITY COUNCIL MEMBERS**

Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove - **Present**

**CEREMONIES, ANNOUNCEMENTS, APPOINTMENTS, PRESENTATION:**

**None**

**AMENDMENTS TO THE AGENDA**

*Final action cannot be taken on an item added to the agenda after the start of the meeting unless an emergency is declared that requires action at the meeting. The declaration and justification must be approved by motion of the Council.*

**None**

**DECLARATION OF CONFLICT, EX-PARTE CONTACTS AND SITE VISITS**

*The Mayor and members of the City Council have a duty to serve honestly and in the public interest. Where the Mayor or a member of the City Council have a conflict of interest, they may need to disclose the conflict and in certain circumstances, including land use decisions, they cannot participate in the decision-making process. Similarly, ex-parte contacts and site visits in most land use decisions must also be disclosed.*

**None**

**1. CONSENT CALENDAR**

*The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order*

*that it be discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.*

**ACTION ITEMS:**

- a. Minutes – November 15, 2022, City Council Meeting
- b. Minutes – November 22, 2022, Special City Council Meeting
- c. Payables – November 8, 2022 – November 28, 2022
- d. Hydrilla Estates Master Development Agreement
- e. Frontage Improvement Waiver Request for 513 W. 14<sup>th</sup> Ave
- f. Disposal of a 2013 John Deere Mulching Mower by the Parks Department
- g. Revised Schedule 1 Agreement with Gunnerson Consulting and Communications Site Services.
- h. Cash and Investment Report for September 2022
- i. Jacklin Highway 41 Project Construction Improvement Agreement

Mayor Jacobson: Had a question about payables, under the Mayor's budget lines was a chipseal payment that should not be from the Mayor's budget but probably should be on the Streets budget. (from the Audience) Jason Faulkner, Finance Director: He will look into it and change it to the correct code.

**Motion by Malloy to approve the Consent Calendar as presented with a double check on the coding for the chipseal.**

**Second by Borders**

**Vote: Shove-Aye, Borders-Aye, Ziegler-Aye, Malloy-Aye, Walker-Aye, Thoreson-Aye**

**Motion Carried**

**2. PUBLIC HEARINGS**

*There are generally two types of public hearings. In a legislative hearing, such as adopting an ordinance amending the zoning code or Comprehensive Plan amendments, the Mayor and City Council may consider any input provided by the public. In quasi-judicial hearings, such as subdivisions, special use permits and zone change requests, the Mayor and City Council must follow procedures similar to those used in court to ensure the fairness of the hearing. Additionally, the Mayor and City Council can only consider testimony that relates to the adopted approval criteria for each matter. Residents or visitors wishing to testify upon an item before the Council must sign up in advance and provide enough information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for submission of information from City staff, then presentation by the applicant (15 min.), followed by public testimony (4 min. each) and finally the applicant's rebuttal testimony (8 min.). Testimony should be addressed to the City Council, only address the relevant approval criteria (in quasi-judicial matters) and not be unduly repetitious.*

**ACTION ITEMS:**

- a. Update to Fee Resolution FY 2023

**Public Hearing opened at 6:02pm**

**Staff Report**

Jason Faulkner, Finance Director presenting: There are some updated fees in the resolution for FY 2023. Ross Point Water District wanted to up their fees to \$50 for us to be able to reimburse them. There was also an issue with the Fire and EMS fees on hotels per square foot. Parks also had some changes for next year. The changes are highlighted in the staff report in yellow.

**Testimony – None**



**Public Hearing closed at 6:03pm**

**Motion by Malloy to bring back a resolution for the updates to the FY 2023 Fees**

**Second by Borders**

**Vote: Thoreson-Aye, Walker-Aye, Malloy-Aye, Ziegler-Aye, Borders-Aye, Shove-Aye**

**Motion Carried**

### **3. UNFINISHED BUSINESS/RETURNING ORDINANCES AND RESOLUTIONS**

*This section of the agenda is to continue consideration of items that have been previously discussed by the City Council and to formally adopt ordinances and resolutions that were previously approved by the Council. Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements.*

#### **ACTION ITEMS:**

- a. Ordinance – Hydrilla Estates Zone Change to R1

**Motion by Thoreson to place the Ordinance Hydrilla Estates Zone Change to R1 on its first and only reading by title only while under suspension of the rules.**

**Second by Borders**

**Vote: Walker-Aye, Malloy-Aye, Ziegler-Aye, Borders-Aye, Shove-Aye, Thoreson-Aye**

**Motion Carried**

AN ORDINANCE OF THE CITY OF POST FALLS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR A CHANGE IN ZONING CLASSIFICATION FOR THE LAND DESCRIBED IN SECTION 1 OF THIS ORDINANCE FROM SINGLE-FAMILY RESIDENTIAL SUBURBAN (R1S) TO SINGLE-FAMILY RESIDENTIAL (R1). PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING THAT ALL PRIOR ZONES APPLICABLE TO LANDS DESCRIBED IN SECTION 1 ARE HEREBY SUBERSEDED; AND PROVIDING AN EFFECTIVE DATE

**Motion by Thoreson to approve the Ordinance Hydrilla Estates Zone Change to R1 and to direct the clerk to assign the appropriate number and that it be published by summary only.**

**Second by Malloy**

**Vote: Walker-Aye, Malloy-Aye, Ziegler-Aye, Borders-Aye, Shove-Aye, Thoreson-Aye**

**Motion Carried**

- a. Tertiary Treatment Upgrade – Amendment 7 to the Professional Services Agreement with JUB Engineers

Andrew Arbini, Public Works Project Manager presenting: This presentation is for both amendments to the contracts for the Tertiary Treatment Upgrade. Construction will not be completed per the original contract schedule. The extended deadline for the NPDES permit has been approved and previously presented to Council. The new construction completion deadline is November 30, 2023. Delays are mainly due to global supply chain impacts (labor issues are in this category as well), extended lead time for the generators, and masonry work at the Membrane building. These changes add 308 additional days to the construction schedule, hence the need for updates to these two contracts. The JUB amendment is \$1,756,060 plus a 2% contingency, which also includes their



separate consultants. The second amendment with PAC is for \$26,194 plus a 10% contingency to complete wage compliance services required with our loan. \$1M of the cost of the amended agreements will come from Federal funds (ARPA) with the remaining balance from cap fees. In FY 22 the city exceeded projections on cap fees by \$600k which will provide most of the remaining needed funds for these amendments. They don't anticipate any changes to existing projects because of the use of these funds on the Tertiary Treatment Upgrade Project at this time. Public Works will provide another overall update on the project in early 2023.

Mayor Jacobson: \$1.7M for an additional 308 days of contract seems like a significantly large number.

Arbini: This is not an insignificant increase to the project. This isn't just JUB Construction Management, it also includes several other consultants. The amendment also considers the last two years of historical information on the project. They've seen increased submittals from contractors on individual items, which causes more time needed for JUB to review items. It seems to be in line with what Public Works has seen in the past.

Jacobson: We have a good working relationship with JUB but that seems like an extreme number. Second question is what do you mean by "excess Capacity fees" because we just increased our Capacity fees, so if we had excess why did we ask to increase those fees?

John Beacham, Public Works Director: That was simply looking at the budget for FY 2022. Every year we have an estimate for cap fees based on how much gets built out, and we budget conservatively. Based on those conservative estimates, the cap fees came out above what we estimated. That's a result of the increase in the cap fees that were mentioned and just the almost record amount of growth we had in the last year. Those funds are put right into the capital funds budget to work on projects such as this. In a perfect world you could use an excess like what we saw this year towards a project that would decrease future rates, but that project isn't identified yet, and in this case is being used for cost overages.

Jacobson: Will that cause us an issue in the future?

Beacham: We are midway through an update to the Water Reclamation Facility Plan that looks at all the projects out twenty years and that looks at where we are with finances today and in the next twenty years. I don't see any foreseeable major issues.

Jacobson: You guys have done a great job managing a very difficult project, I just wanted to make sure I understand what "excess" cap fees entails and I wanted to make sure you folks are completely comfortable with the increase contract amount for JUB.

Beacham: We are still at about 20% of the contract value for the entire engineering services contract, which is typical for a wastewater project. This project has been a lot more taxing on the engineers because there's more things coming at them than in the past.

Malloy: A lot of the reason for the extension in the project is supply chain issues and lead time on the generators, so the assumption is there's a lot of waiting around. Is JUB charging us more to wait around for the generators to show up?

Beacham: There's not a lot of waiting around, there's a lot of working around. For example, if you don't have piece A that you need for now, you go work on something else while you wait for piece A, but then when you come back with piece A, it's more complicated to complete the first thing you were working on.

Shelly Enderud, City Administrator: There's also a lot of negotiating that our staff and JUB do with our contractors when it comes to some of the pricing because they are overpricing some of the time.

**Motion by Malloy to approve the Tertiary Treatment Upgrade Amendment 7 to the Professional Services Agreement with JUB Engineers.**

**Second by Borders**



**Vote: Malloy-Aye, Ziegler-Aye, Borders-Aye, Shove-Aye, Thoreson-Aye, Walker-Aye**  
**Motion Carried**

- b. Tertiary Treatment Upgrade – Panhandle Area Council, Request for Increase of Contract Amount

**Motion by Malloy to approve the Tertiary Treatment Upgrade Panhandle Area Council Request for Increase of Contract Amount**

**Second by Borders**

**Vote: Ziegler-Aye, Borders-Aye, Shove-Aye, Thoreson-Aye, Walker-Aye, Malloy-Aye**  
**Motion Carried**

#### **4. NEW BUSINESS**

*This portion of the agenda is for City Council consideration of items that have not been previously discussed by the Council. Ordinances and Resolutions are generally added to a subsequent agenda for adoption under Unfinished Business, however, the Council may consider adoption of an ordinance or resolution under New Business if timely approval is necessary.*

#### **ACTION ITEMS:**

- a. Pursuit of Ordinance to Maintain Protections of Sensitive Resource Aquifer

Craig Borrenpohl, Utility Manager presenting: We have some representatives of the Panhandle Health District here and they may be able to provide more insight on this issue. This is introducing a topic for future consideration. Giving some background on the topic and talking about questions or concerns that you might see. Critical materials are anything that might be a contaminant that could get into our drinking water system. The Critical Materials Program as it is administered now looks at the storage of any of those contaminants and make sure that it's done appropriately. Right now, the Critical Materials Program is a set of rules administered by the Panhandle Health District. What we are considering is taking those rules and converting them into a Post Falls Ordinance. The ordinance would provide for continuation of existing special protections for the Rathdrum Prairie Aquifer. Consideration of an ordinance would be at a future date through the normal process. We are considering this because the rules that are currently protecting our sensitive resource aquifer are in a temporary status which is expected to expire at the end of the next legislative session. City staff and Health District staff met to discuss options. An ordinance with the city would support a local solution to a local problem. Currently there is no treatment required in our system now, we pump, store, and distribute. The existing protections give the Post Falls Citizens a direct benefit by protecting our drinking water and they would benefit from continuation of those protections. If those protections were to go away, we would see direct harm to the citizens. Installing and operating treatment systems at each well would be extremely costly. If adopted, the program would be funded and administered via existing mechanisms (it is currently administered by Panhandle Health District Staff and funded through Aquifer Protection District Appropriation). There are other governing bodies looking at converting these rules. Kootenai County recently adopted the state's five acre rule where it limits the density of septic systems over the aquifer. The state rules have been in place for decades, but it is now in a temporary status and expected to expire.

Eric Kempner, Panhandle Health District: The Health District (PHD) has been involved in aquifer protection since 1977. We are talking about the drinking source for the entire area. Why this is important now is because in the 2019 Legislative Session the Legislature did not move all the administrative rules forward, so they expired. We spent three years trying to get the rules reauthorized. It is a very onerous process, and it wasn't completed. It was considered a local issue



and not a state issue. The current effort is to work with municipalities to continue those same protections that the community has benefited from for the past four decades.

Jacobson: If Council wants to move forward with this, you would bring back a proposed ordinance?

Borrenpohl: Correct. The rules are existing so its not a heavy lift to convert them to the city ordinance.

Councilor Thoreson: The appropriation that pays for this, its \$5.75 is what everyone pays annually for this.

Borrenpohl: That funds more than just this.

Malloy: For all practical purposes nothing changes?

Borrenpohl: Yes. Its analogous to our pretreatment program, this is similar on the drinking water side. I would look to Warren to if we have the ability to delegate to another entity the administration of this ordinance, but that's my understanding.

Warren Wilson, City Attorney: We should be able to do it.

**Motion by Malloy to direct staff to prepare an ordinance and bring it back**

**Second by Borders**

**Vote: Thoreson-Aye, Borders-Aye, Malloy-Aye, Ziegler-Aye, Walker-Aye, Shove-Aye**

**Motion Carried**

## 5. CITIZEN ISSUES

*This section of the agenda is reserved for citizens wishing to address the Council regarding City-related issues that are not on the agenda. Persons wishing to speak will have 5 minutes. Comments related to pending public hearings, including decisions that may be appealed to the City Council, are out of order and should be held for the public hearing. Repeated comments regarding the same or similar topics previously addressed are out of order and will not be allowed. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, either by subsequent appointment or after tonight's meeting, if time permits. In order to ensure adequate public notice, Idaho Law provides that any item, other than emergencies, requiring Council action must be placed on the agenda of an upcoming Council meeting. As such, the City Council can't take action on items raised during citizens issues at the same meeting but may request additional information or that the item be placed on a future agenda.*

**None**

## 6. ADMINISTRATIVE / STAFF REPORTS

*This portion of the agenda is for City staff members to provide reports and updates to the Mayor and City Council regarding City business as well as responses to public comments. These items are for information only and no final action will be taken.*

**None**

## 7. MAYOR AND COUNCIL COMMENTS

*This section of the agenda is provided to allow the Mayor and City Councilors to make announcements and general comments relevant to City business and to request that items be added to future agendas for discussion. No final action or in-depth discussion of issues will occur.*

Jacobson: The City's Facebook posts on snow plowing - there's always those that have an issue or concern, and they should reach out and let City Staff know. For each negative comment there were probably four of five positive ones. The Streets Department spent a lot of time and effort in creating a plan and keeping people updated. During that first snowfall there was a crew on throughout the night until 6am, then another crew started at 6am until 6pm, and they continued to do that until the entire city was plowed. There are times that streets will be missed so call in and let staff know. Thank you to the people who are out there clearing the streets while we are sleeping in our warm houses. Secondly, we lost a true gentleman's gentleman, Ron Oran, who passed away yesterday. He was a banker, there was no finer banker. Keep his family in your thoughts and prayers. Continue to drive safely as we see additional snow approaching, the roads will be slick.

Thoreson: Shoutout to Short Green Company and the beautiful lighting display at the Post Fall Police Department. This is the sixth year they have donated the labor and the lights. It makes a difference for the Police Officers and those that work at the Police Department. Also, Holidays and Heroes was two days ago. The generosity to the people who contribute the funding and time to that is incredible. Thank you to Kootenai County Fire and Rescue and Post Falls Police for doing that.

### 8. EXECUTIVE SESSION

*Certain City-related matters may need to be discussed confidentially subject to applicable legal requirements; the Council may enter executive session to discuss such matters. The motion to enter into executive session must reference the specific statutory section that authorizes the executive session. No final decision or action may be taken in executive session.*

#### **ACTION ITEM (To enter into executive session only):**

- a. Idaho Code 74-206(1)(c) To acquire and interest in real property which is not owned by a public agency

**Motion by Thoreson to enter into Executive Session pursuant to Idaho Code 74-206(1)(c), to acquire and interest in real property which is not owned by a public agency, further that no action will be taken during the session and the session will last approximately 10 minutes.**

**Second by Malloy**

**Vote: Shove-Aye, Walker-Aye, Ziegler-Aye, Malloy-Aye, Borders-Aye, Thoreson-Aye**

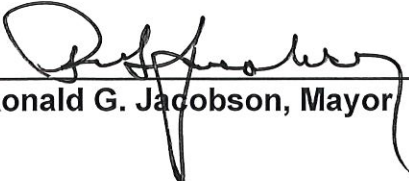
**Motion Carried**

**Entered Executive Session at 6:44pm**

**RETURN TO REGULAR SESSION 6:54PM**

**ADJOURNMENT 6:54PM**



  
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Ronald G. Jacobson, Mayor

  
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Shannon Howard, City Clerk

Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 408 Spokane Street or call 208-773-3511. City Council and City commission meetings are broadcast live on Post Falls City Cable on cable channel 1300 (formerly 97.103) as well as the City's YouTube Channel (<https://www.youtube.com/c/CityofPostFallsIdaho>).



Mayor Ronald G. Jacobson

Councilors: Kerri Thoreson, Josh Walker, Joe Malloy, Nathan Ziegler, Lynn Borders, Kenny Shove

Mission

The City of Post Falls mission is to provide leadership, support common community values, promote citizen involvement and provide services which ensure a superior quality of life.

Vision

Post Falls, Idaho is a vibrant city with a balance of community and economic vitality that is distinguished by its engaged citizens, diverse businesses, progressive leaders, responsible management of fiscal and environmental resources, superior service, and a full range of opportunities for education and healthy lifestyles.

“Where opportunities flow and community is a way of life”