

# *City of Kootenai*

## Special MEETING MINUTES

DATE: November 17, 2021

TIME: 6:00 p.m.

### **Comprehensive Plan/City Code Review Workshop**

**Members Present:** Mayor Lewis, Councilwoman Bauer, Councilman Schock was not able to attend, Councilwoman Mjelde, and Councilman Sundquist.

**Staff Present:** City Clerk/Treasurer, Ronda L. Whittaker, City Planner, Clare Marley, and assistant Susan Bowman, and City Attorney, Benjamin Allen.

**Others Present from the Sign-In Sheet:** Jared Johnston, City Business Owner

Mayor Lewis brought the meeting to order at 6:00 p.m.

**Comprehensive Plan Review** – Councilman Sundquist stated that he wanted to make sure that the City’s Comprehensive Plan absolutely addressed connectivity throughout the City; walking connectivity wherever it is possible. Clare assured Councilman Sundquist that his concern is addressed in several areas of the City’s Comprehensive Plan. Council and Staff went on to discuss the following:

- Policies/Goals

Clare stated that Susan Bowman had tightened up the Comprehensive Plan subject to the last workshop that was held and handed the meeting over to Susan. Susan and Council addressed the following additional proposed revisions:

- School Facilities & Transportation – Susan suggested the following Policy and Action Plans.
  - Policy 5 – Encourage the School District to be involved with pre applications for subdivisions and development. Council agreed and suggested this be added to the policy section. Council suggested that the actions for this section indicated that the City work with the school district and not the school board as that was the normal procedure.
  - Action Plan 1 – Coordinate with the school district for bus routing within city limits to ensure pedestrian safety and determine impacts to city streets. Council agreed
  - Action Plan 2 – Coordinate with the school district early in the subdivision process to review sidewalk plans, pedestrian connectivity and to determine any traffic impacts. Council agreed.
  - Action Plan 3 – Begin discussions with the school district to determine usage and design of vacant school property. Council agreed.
- Economic Development – Susan advised Council that she had added some additional options within the policies specifically:
  - Policy 5 - Encourage and promote the location of more quality, visible commercial retail and service business that would be central to residential areas and enhance the quality of life for City residents, including but not limited to such business as:
    - Dance studios, exercise-oriented businesses, music stores, thrift stores, educational organizations, or other similar community organizations.
  - Policy 11 – Discourage “big box” retail that does not adequately mitigate the impacts such as traffic and other neighborhood impacts. Councilman Sundquist stated he did not like the word “big box.” Susan stated that the wording could just leave out “discourage big box” Benjamin suggested the City not use “big box” as it was indicates ownership or possession that is non-local meaning some sort of brand that may be regional or national and did not want to give way to a discrimination issue as to location. He advised just using one word such as large so that the City can mitigate things such as traffic. Mayor Lewis advised leaving discourage “big box” out and have the policy say mitigate the impacts.... Clare suggested adding commercial and industrial development. Councilwoman Bauer stated that the City wanted to keep the

vision of a small city with local businesses. Council agreed and suggested using the word “entities” in place of “big box” or businesses and that 11, 12, and 13 all say the same thing and should be reworded as one policy.

Council agreed. Susan advised that there were many policies related to this section but only one action. She suggested adding the following:

- Action Plan 1 – Council agreed that some word smithing was needed.
  - Action Plan 2 – Clare suggested adding an action to adjust ordinances to help with Policy 5.
  - Action Plan 3 – Councilman Sundquist suggested adding some marketing suggestions in order to invite businesses into the City. Council discussed this action and agreed that the City needs to work with the Bonner County Economic Development group and Panhandle Area Council along with other entities for some marketing suggestions. Susan suggested adding an action to provide a study as to what types of land areas that can be developed for businesses.
- Land Use – Susan advised that Councilman Schock had suggested the following during the last workshop:
    - Policy 12 – Encourage policies that will provide opportunities for annexation of proposed subdivisions adjacent to city limits when those subdivisions will adhere to City standards.

Susan suggested the following Action Plans:

- Action Plan 1 – Review the Area of City Impact (ACI) Agreement with Bonner County to allow the City to have a meaningful voice in land uses and development within the ACI. Councilman Sundquist stated that Ben Allen/Silver Valley Law was a meaningful voice and asked Ben Allen if he could provide some kind of a plan to do so as a first step. Ben advised that he was familiar with the County’s legal representative and would be happy to work with the City’s clerk to be a part of those discussions. Councilwoman Bauer stated that she did not feel comfortable with even trying to communicate with the present Commissioners. She advised that the City wait until there was a change in commission. Councilman Sundquist stated that the City could bypass the commission and have our attorneys talk with their attorney to keep our voice heard. Ben suggested that an open dialog be kept open with the County’s attorney. Council agreed.
  - Action Plan 2 – Proactively work with landowners to promote a downtown center.
  - Action Plan 3 – Work with landowners of the museum property to encourage development that provides public interest and includes public input.
  - Action Plan 4 – Clare suggested that a 4<sup>th</sup> action be included to address the City’s office overlay zoning area. Council agreed.
- Natural Resources – Council discussed several policies that needed revision:
    - Policy 2 - Review and enforce effective stormwater treatment regulations to minimize impact to Lake Pend Oreille. Council agreed that “surrounding properties, surface waters, and groundwater should be added to this policy.
    - Policy 6 –Develop zoning regulations that encourage and support sustainable energy practices. Council confirmed that sustainable energy practices would include things like solar energy, etc. and realized that this is a policy and not an action. Councilwoman Bauer asked what the definition of “sustainable energy” was. Susan advised that what she understood from Councilman Schock’s request for this policy was mostly directed to wetlands but that we did not want to be so descriptive so it may involve solar energy or maybe bio stormwater systems for instance.
    - Policy 7 –Recognize and protect wetland resources within the City. Council agreed with this policy and went on to discuss Action Plans related to this section. Susan suggested the following actions related to this policy:
      - Action Plan 1 – Require mapping of wetlands for all development.
      - Action Plan 2 – Encourage retention of existing wetlands
      - Action Plan 3 – Develop mitigation strategies to reduce impacts to wetlands

- Action Plan 4 – Proactively work to ensure that stormwater systems that are adjacent to existing wetlands continue to function while reducing impacts to the functions and values of those wetlands.
  - Action Plan 5 – Develop strategies to maintain the functions of existing wetlands through by encouraging native plantings that contribute to improving the quality of the wetland and stormwater capacity
- Council agreed with the action plan additions.
- Hazardous Areas – Council discussed this section:
    - Action Plan 1 – Work with Idaho Department of Transportation to ensure that ditches along Highway 200 are culverted and maintained to reduce flooding incidence. Council suggested that the wording should also include maintaining such ditches.
    - Action Plan 2 – Develop an All-Hazards Mitigation Plan together with Bonner County to have a rail and highway emergency plan in place and practice.
  - Public Services – Council discussed several policies related to this section: Council agreed that the policy section of this section were in order. And went on to discuss the Action Plan section specifically:
    - Action Plan 1 – Develop a water capacity plan with the city of Sandpoint that identifies the boundaries where water and sewer will be provided to the City residents and ACI. Identify current and projected capacity and the growth potential possibilities with the city of Sandpoint water services. Council discussed the city of Sandpoint’s water boundaries and agreed that water should not reach out beyond the city of Kootenai unless the properties are annexed into the city of Kootenai. Council expressed their concern that the city of Kootenai would be used as a go between for properties outside of the City’s boundaries which do not benefit the City. Council agreed that the City should have discussions with the city of Sandpoint regarding this issue. Council also agreed that this Action Plan should include communication with the Kootenai – Ponderay Sewer District.
  - Transportation – Council discussed several policies that needed revision. Susan proposed adding language to:
    - Policy 9 – Encourage annexation of adjacent subdivisions in the unincorporated County only when it benefits the city’s goals for connectivity and does not place undue burdens on the residents or the City for road maintenance. Council agreed
    - Policy 13 – Work with Idaho Transportation Department (ITD) to establish safe and convenient bicycle and pedestrian crossings on SH200. Council agreed that this Policy needed to be stronger. Susan advised she would work on it. Councilman Sundquist advised that he would like this policy to state the City encourage multimodal to get from one section of town to the other. Council suggested stronger wording for this policy.
    - Policy 14 – Consider establishment of a truck route along McGhee Rd and/or load limits to limit the number of large trucks traveling on N. Main Street. Susan suggested that this Policy be moved to an Action Plan. Council suggested this policy state that the City will work to limit heavy truck traffic within the City and on main arterials.
    - Action Plan 9 – Work with the railroad to improve existing railroad crossings on N Kootenai Rd and McGhee Road by installing “arms”, signals and/or other safety measures with annexation and build out in those areas. Clare suggested removing this Action Plan as this project had already been initiated.
    - Action Plan 10 – Susan suggested adding this Action Plan to include the continuance of looking for grant opportunities. Council agreed.
    - Clare suggested adding an action to include seeking grant opportunities.
  - Recreation – Council agreed that the Policies of this Section were in order and went on to discuss Action Plans. Susan advised that there were no action plans to this section and added the following:
    - Action Plan 1 – Explore the establishment of a larger city hall or other community meeting hall to allow for community functions where the development of an expanded

- city hall may include an adjacent park.
- Action Plan 2 – Explore the establishment of a Parks and Recreation Center.
- Action Plan 3 – Coordinate with local agencies, the school district and city residents to develop passive and active recreational activities that serve a broad range of abilities. Some possible recreation activities include: Pickle ball courts, skate parks, playgrounds, walking paths, native gardens, sports fields, and other recreational activities.
- Action Plan 4- Seek funding opportunities to finish McGhee Park.
- Action Plan 5 – See to develop or support the development of local sports/recreational fields.
- Action Plan 6 – Seek opportunities to complete a trail connector with Pend d’Oreille Bay Trail. Council agreed to add funding to this Action.
- Action Plan 7 – Explore the development of a dog park.
- Action Plan 8 – Evaluate opportunities for the provision of a community garden. Council agreed that Farmers Markets be added to this Action.
- Action Plan 9 – Create a City Park Committee/Commission that would help plan and facilitate development of park facilities and recreation opportunities for residents of Kootenai. Susan asked if Funding should be added to this Action Plan. Council agreed.
- Action Plan 10 – Develop Maggie’s Park. Council agreed that a commission should be developed to address this Action.

Council agreed that the City should always continue to look at options and grants to address the need for recreational facilities, trail connectors, and parks to ensure a better quality of life for its community.

- Special Areas or Sites – Susan stated that there were no Action Plans related to this section and proposed the following:
  - Action Plan 1 – Create historical markers and/or a centralized historical map with way-finding information throughout the City where appropriate and as funds become available. Council agreed.
- Housing – Susan suggested the addition of the following Policies and Action Plans:
  - Policy 6 – Investigate the need for Accessory Dwelling Unit (ADU) regulations.
  - Policy 7 – Investigate the need for Short Term Rental regulations. Council disagreed with this Policy.
  - Action Plan 1 – Develop and adopt code enforcement code
  - Action Plan 2 – Develop and adopt codes that are specific to tiny houses, ADU’s and Short-Term Rentals. Council disagreed with this action.

Council discussed accessory dwelling units and vacation rentals. Council agreed that most lots within the City are not large enough for accessory dwelling units. They agreed that vacation rentals would be considered a business and a review would need to be conducted to ensure that there was enough parking availability, but other than that they could not see where this issue was addressed in the City’s Zoning Code. They stated that this should be a subject discussed during a code regulation workshop. Council wanted to ensure that the City regulated density.

- Community Design – Susan advised she had added the following Policy and Action Plans:
  - Policy 9 – Explore solutions for parking availability for existing development. Council agreed with this policy as more families have more than two vehicles.
  - Action Plan 1 – Require review of street trees for new development and infrastructure projects. Add specific standards for species, placement and planting time and survival rate.
  - Action Plan 2 – Fund a parking study that includes new and existing development to determine if the current parking standards are adequate.
  - Action Plan 3 – Formulate and adopt a strategy for local of small and large wireless devices that protects the public health and safety of the community. In general, these devices should not be located next to schools or prevalent in residential areas. The number of wireless devices should be limited to the minimum necessary. Council

agreed that wireless devices should be changed to wireless.

- Agriculture – Susan advised she had added the following Policy and Action Plans to this section.
  - Policy 1 – Protect and enhance existing farms that grow produce or provide feed for animals. Council agreed.
  - Action Plan 1 – Create opportunities for community gardens.
  - Action Plan 2 – Encourage retention of existing farms within the city limits. Look for opportunities to encourage larger parcels to provide produce. Council agreed that larger parcels were not available within the City but could encourage parcels to provide produce.
  - Action Plan 3 – Explore a Farmer’s Market concept on sites that are appropriate for this use. Council agreed.
- Implementation – Susan stated that she had added a narrative and an Action Plan to this section.
  - Land use planning is an on-going process aimed at providing a public forum for citizens to effectively determine the future of their communities while balancing the needs of the individual against the needs and desires of the citizens, as a whole. A comprehensive plan is a general framework and vision of future land use decisions that must include an analysis of how the city will carry out the goals and objectives it has set forth.
  - Setting action plans and establishing timetables and budgets help to ensure the document will be meaningful. Each component contains an implementation or action plan detailing specific measures needed to address goals and objectives. Not all goals and policies require legislative action. Sometimes bringing about public awareness through town hall meetings, brochures, or media messages are better tools for some goals. Careful consideration of action plans will ensure that the comprehensive plan is a “living document,” not a shelf-sitter.
  - Action: Schedule a yearly audit of progress taken on the actions in this plan. Note which actions have been accomplished, add actions as necessary and prioritize those actions that have yet to be undertaken.

City Code Review – Susan began the discussion with the topic of Wireless Facilities. She explained that there are basically two types of signals 4G and 5G. 5G has a shorter high frequency, and is affected by structures, vegetation, weather, has fast signal and increases speed and capacity and 4G has a longer wave signal that travels for miles, less affected by weather, slower signal. She stated that 5G is a shorter wave signal and requires more facilities. It is mostly used in “Smart cities” and is usually mounted on existing infrastructure. She advised that there will be an estimate of 769,000 new cell sites by 2026. Mayor expressed her concern that 5G will soon be all that one can use. Susan disagreed stating that studies are showing that 5G does not work well in rural areas because there is so much vegetation. Susan stated that the U.S. Code provides an umbrella code for all wireless services. She advised that this code does allow municipalities to make their own laws or code restricted by zones. She also advised that the U.S. Code is regulated by the FCC and states that one shall not prohibit or have the effect of prohibiting the provision of personal wireless services and also that no state or local government may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions. Meaning you can restrict by zone but not environmental effects. Susan also advised that the FCC added sweeping changes in 2018 imposing restrictions on municipalities in regard to application fees, limited aesthetic requirements. Susan advised that on August 13, 2021 the Children’s Health Defense won their case in U.S. Court of Appeals for the DC circuit. The court case provided evidence that 5G causes radiation sickness, cancer, and affects flora and fauna also causing a myriad of other health problems. The court remanded FCC rules back to the FCC we must take the studies into account for new rules concerning health and the environment. Susan advised that she would like the City to add additional Policy to the City’s Comprehensive Plan to protect the City:

- Community Design – Goal Develop land use regulations and development standards that

preserve and promote a community design that preserves community values and enhances the community's image, living environment and quality of life.

- Policy 1 – Protect the City and residents from unwanted cell towers and overuse of small cell facilities. Councilwoman Bauer stated that she did not want to see cell devices on lamp posts in residential areas. Susan stated that these cell tower facilities cannot be within residential areas. Clare stated that the U.S. Code had stated that wireless can be on existing structures. Mayor stated that that would mean existing utility poles. Susan stated that the City would be able to regulate where these facilities can be placed. She advised that that would be regulated by ordinance/code.
- Policy 2 – Allow wireless communication facilities within commercial and industrial areas as long as they are needed to serve residents of the City and are the bare minimum needed.
- Policy 3 – Wireless communication facilities should not be located in residential areas or near schools or daycares or within the rights of way in these areas.
- Policy 4 – All wireless communication facilities should be visually screened with vegetation and fencing. Clare stated that this the City may not want to be restrictive on screening and maybe just say screened. Councilman Sundquist asked if the City would need to specify what type of signal should be screened. Susan stated that no you would not regulate the type of signal, but that an ordinance would further define wireless.
- Policy 5 – Minimize number of wireless facilities by encouraging co-location on existing facilities.
- Action 1 – Formulate and adopt a strategy for location of small and large wireless that protects the public health and safety of the community. In general, these devices should not be located next to school or prevalent in residential areas. The number of wireless devices should be limited to the minimum necessary.

Susan advised that the City's existing Code would need the proposed updates:

- New definitions and title “WIRELESS COMMUNICATION FACILITIES”
- Clarify location standards
- Clarify existing use charts that do not allow wireless in residential zones to include rights of ways.
- Location of facilities
  - Distance of facilities to residential/school/daycares. Councilwoman Bauer suggested higher is better.
  - New wireless that does not serve Kootenai citizens.
  - Service provider submit assessments providing proof of need for service in Kootenai.
  - Third party review by a radio frequency engineer – fees paid by applicant. Needed a report for reasoning to put a wireless tower in. Does it serve the City? Susan asked Ben for his input as to whether the City could asked for such a report. Ben advised that he would to do some research as to if that the City could require such a report.
  - Existing facilities – new antenna- special use permit required.

Clare stated that Council needed to talk about how to get the community involved. She stated that the City has tried to have events that invited the community and have not experienced an effort by the community to get involved. Council discussed different methods such as a comp plan date night or a publication of some kind. Ronda stated that Councilman Schock had suggested a 5-question form to put on the City's web site or within the Kootenai-Ponderay Sewer Newsletter and on social media. Councilwoman Bauer wanted to make sure that all comments be from residents living within the City of Kootenai.

Mayor Lewis adjourned the workshop at 8:30 p.m.

Ronda L. Whittaker/City Clerk