Moscow City Council

Regular Meeting
~Minutes~

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Laurie M. Hopkins
City Clerk

208.883.7015

Monday, May 3, 2021	**7:00 PM**	**Council Chambers 206 E. Third St.**

The meeting was called to order at 7:00 p.m.
PRESENT: Mayor Bill Lambert, Art Bettge, Sandra Kelly, Maureen Laflin, Brandy Sullivan, Gina Taruscio, Anne Zabala (virtual)
STAFF: Gary J. Riedner, Mia Bautista, Bill Belknap, Aimee Hennrichs, Bill Belknap, Mike Ray, David Schott, Tyler Palmer, Jen Pfiffner, Laurie M. Hopkins

PLEDGE OF ALLEGIANCE
Councilmember Taruscio led the Pledge of Allegiance.

PROCLAMATION - BIKE MONTH
Mayor Lambert read the Bike Month proclamation.

CONSENT AGENDA

1. **All Consent Items (ACTION ITEM)**

   A. **Approval of Moscow City Council April 19, 2021 Minutes - Laurie M. Hopkins**

   B. **Public Art Guidelines 2021 - Megan Cherry**

   The Moscow Arts Commission and City staff propose updates to the Public Art Guidelines, which were originally created in 2011. During the intervening years, MAC and Arts staff have recognized the need for greater clarity in the areas of location prioritization as well as selection processes and criteria for each part of the Public Art Collection. Additionally, the City of Moscow Legal Department has provided updates to ensure that the document is in alignment with City code. Following development by the Public Art Subcommittee of the Moscow Arts Commission (MAC), the full MAC discussed these proposed updates during their March 9, 2021 meeting, and voted to recommend the guidelines on April 13, 2021. This was reviewed by the Administrative Committee on April 26, 2021 and recommended for approval.

   ACTION: Approve the 2021 Public Art Guidelines.

   C. **Personnel Policy Updates, Pay and Leave Sections - Jen Pfiffner**

   Updates to the City of Moscow Personnel Policies continue. Leave, time and attendance, and pay policy drafts include updates to current policies and a new proposed policy. Updates to language throughout are included in the presented drafts, with significant changes to Military Leave and Sick Leave Bank policies. A new proposed Paid Parental Leave Policy is also included for consideration. The Administrative Committee reviewed the policies on April 26, 2021 and recommended approval of the policies with the changes noted below.

   Changes made per the Administrative Committee's direction include:

- Paid Parental Leave -added language to read, "birth, adoption, or permanent full-time custody of a child nor previously under the employee's care"; "caregiver" with mention of parents; and "domestic partner" and "caregiver" as well as "assuming significant parental and financial responsibility for a child"
- Compensatory Pay - added "or if repeated requests to use compensatory time are unable to be scheduled and reasonable opportunities to use such time are unavailing.
- Compensatory Time - added In the event the supervisor or employee feel repeated requests for time have not been met or are not able to be accommodated, a request for such payout is to be directed to Human Resources for review.
- Holidays - “Columbus Day” corrected to “Indigenous People’s / Columbus Day"

All changes are noted in track changes in the attached document. Policy sections will continue to be presented for review. As policies are approved, each section will become the current version for use. Timeline for completion for all policies to be updated, reviewed and approved is estimated to be completed by July 2021.

ACTION: Approve the leave, time and attendance, and pay policy drafts as presented.

D. Paradise Pathway Lighting Project - 2021 Bid Results and Contract Award - Nate Suhr

The City published an advertisement for bids on April 2nd, 2021 for the Paradise Pathway Lighting Project. The bid for the project includes the installing an electrical service connection, eighteen (18) lighted bollards, and twenty-nine (29) overhead lighting fixtures along the Paradise Pathway between Main Street and Styner Avenue located in Moscow, Idaho. Work also consists of the trenching and installation of approximately two thousand eight hundred and fifty (2,850) feet of conduit, accompanying electrical wire, and installing seven (7) junction boxes to power the lighting system. The Engineer's estimate for the project was $178,035.40. Bid opening for the project took place on April 20th, 2021, at which one (1) bid was received. The bid received was in the amount of $358,458.00 and was submitted by Germer Construction, Inc. A bid tabulation is attached. This was considered by Public Works/Finance Committee on April 26th and the Committee made the recommendation to reject all bids.

ACTION: Reject all bids.

E. Slurry Seal - 2021 Bid Results and Contract Award - Nate Suhr

The City published an advertisement for bids on April 2nd, 2021 for the Slurry Seal -2021 Project. The bid for the project consists of applying an Asphalt Slurry Seal Coat (Type II) at the following locations: Area 1 - Concord, Eisenhower, and Moser (56,717 SY); Area 2 – Adams, Spotswood, and Styner (44,320 SY); Area 3 – Jackson and “D” Street (3,186 SY). On April 12, 2021 an addendum was issued adding Area 4 - Lanny, Highland, and Kirk Drive (11,844 SY). The Engineer's estimate for the project, including the addendum, was $197,313.90. Bid opening for the project took place on April 16th, 2021, at which four (4) bids were received. Of the responsive bids received, numbers ranged from $207,759.93 to $247,222.71. Blackline, Inc. was the low bidder on the project and a bid tabulation is attached. This was considered by the Public Works/Finance Committee on April 26, 2021 and recommended for approval.

ACTION: Accept the low bid from Blackline, Inc. and award the contract in the amount of $207,759.93, and authorize staff approval for construction change orders in an amount not to exceed 10% ($20,775.99) of the contract amount.

F. Acceptance of the Southview Extension Right-of-way Dedication - Bob Buvel

On June 17, 2019, the City Council approved a lot division on the parcel of land east of the Southview Avenue / Alice Street intersection. Every buildable lot is required by city code to abut public right-of-way so the lot split required a dedication of right-of-way that would extend Southview Avenue approximately

128 feet. The public improvements associated with the lot split have been completed and the right-of-way containing those improvement needs to be accepted by City Council per state code. The dedication was reviewed by the Public Works / Finance Committee on April 26, 2021 and recommended for acceptance.

ACTION: Accept the right-of-way dedication extending Southview Avenue.

Bettge moved and Taruscio seconded approval of the consent agenda as presented. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REGULAR AGENDA

2. Staff Recognition Report - Gary J. Riedner

None offered.

3. Mayors Appointments (ACTION ITEM)

Mayor Lambert presented appointments of Drew Davis to the Planning & Zoning Commission and Rebecca Couch to the Transportation Commission. Taruscio moved and Bettge seconded to approve the two appointments. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

4. Public Comment and Mayor's Response Period (limit 15 minutes)

Schott presented a few pictures of the Arbor Day celebration and presented Mayor Lambert with the 2021 Tree City growth award for the 21st year.

5. Citizen Commission Report – Moscow Pathways Commission – David Schott / Jonathan Gradin

Schott introduced Jonathan Gradin, chair of the Moscow Pathways Commission. Gradin presented the mission statement and members of the Commission. Over the last two years, the Commission had an over/under community bike ride and grand opening, a socially distanced path tour and discussed memorial naming opportunities for pathway sections. The Commission also updated a brochure for the public, updated display banners with an updated map, and requested money for lighting from US95 to Styner Ave. Future goals include safety improvements at road crossings, continue to pursue an underpass at US-95, and pathway planning in new developments. The Commission continues to foster increased inclusivity and accessibility in the pathway system, organize volunteer cleanup project, and explore Highway 8 underpass beautification options.

6. Appeal of Conditional Use Permit at 1400 E Seventh Street (ACTION ITEM) - Aimee Hennrich

On February 19, 2021, PI Tower Development LLC applied for a Conditional Use Permit (CUP) to construct an 80-foot-tall Wireless Communication Facility (WCF) that would resemble a church tower, located at 1400 E Seventh Street. The Board of Adjustment (BOA) conducted a public hearing for the proposed CUP on March 29, 2021, and subsequently voted to deny the application. On April 16, 2021, the Community Planning and Design Department received an appeal letter from Wireless Policy Group on behalf of Parallel Infrastructure, stating that they wish to appeal the Board of Adjustment's decision to City Council.

PROPOSED ACTIONS:

1. After considering the record and appeal request; sustain the decision of the Board in whole or in part; reverse the decision of the Board in whole or in part; or remand the matter in whole or in part to the Board with comments and/or instructions for further consideration by the Board; or take other such action deemed appropriate.
2. Direct staff to prepare a written decision based on the Council's action.

Hennrich introduced the item by giving a history of the application and appeal. Height and location details were given. A site analysis of alternate locations was conducted and included the Vista water tower, Carol Ryrie Nature Park, 8th Street water tower, and East City Marketplace. The application met all development standard requirements. Three emails were received in opposition and 5 individuals testified in person, in which one was neutral. The BOA denied the application finding that the proposal did not meet Criteria #2: the character of the proposed use will be in harmony with the neighborhood and surrounding land use.

Kim Allen, Wireless Policy Group and represents the applicant Parallel Infrastructure. Allen explained the decision of the BOA is unsupported by substantial information, not supported by the City Code, Comprehensive Plan, State Statutes or the evidence in the record. The BOA did find the application met all the other six criteria for CUP approval. The factors the BOA cited for Criteria 2 were cell tower looked out of place and not in harmony with surrounding neighborhood; surrounding neighborhood is primarily residential; scale of the proposed tower is significantly larger than other structures/trees in the surrounding neighborhood; public comment concern was regarding scale, noise and aesthetics; and lack of in-person testimony support from AT&T customers.

Kelly explained each: the bell tower structure was designed to reflect and compliment the design of the church and is a common feature on church properties; wireless facilities are a conditionally permitted use in the NB Zone and meets all the required setback requirements; the scale of the proposed facility is subjective and not supported by the record; citizen concerns regarding noise and aesthetics for denial were found to meet criteria 3 and 9 in regards to noise reduction and aesthetics, including the option for a decibel reading should there be a complaint; AT&T was not the applicant so their customers would not have known about the application.

Reasons the alternate sites were not chosen varied from site being too low, lack of availability, zoning, too far south to provide coverage for the needed area, etc. Staff added attaching directly to a water tower has adverse effects on the water and constructing a tower next to the tower would go beyond 80 feet and be in a residential area.

Taruscio felt there was improvement from the tree design to church tower however still has an issue with the scale of the tower. Two generators are proposed, one for AT&T and one for T-Mobile. A generator is in a double wall container and if noise became an issue, remediation can occur. Maintenance of the generators can be scheduled at whatever time during the day to not intrude on residents. Laflin also had an issue with the scale of the tower. The towers need a minimum height in order to accommodate three carriers with spacing between each.

Sullivan felt the tower had a larger presence than the tree and was more separate from the church. She asked if locating it closer to the church would be a possibility. Allen responded the position was based on the availability of power as well as church service parking. Sullivan asked if the council can remand for sizing and location. Bautista said if there is additional evidence that wasn't able to be presented at the BOA meeting and could have changed their decision, Council could remand with instructions. She explained further the BOA had the opportunity and could have addressed the issue of standards and design. Zabala asked for clarification on the height of the towers. Belknap explained a tower 80 feet or taller must allow for co-location of three carriers. A shorter tower can be approved but the applicant would be required to enter into an agreement to swap the existing tower for a taller one to accommodate additional carriers in the future should they desire to locate at that site. The City Code was intended to minimum the amount of structures and encourage co-location.

Kelly doesn't feel it meets the criteriafor being aesthetically pleasing and common ground with neighborhood. She felt it is very large and looks like a guard tower. She understood the BOA decision because it should be pleasing to the entire neighborhood and she doesn't feel it is welcoming.

Laflin asked if there will ever be a tower at 80 feet tall that will ever be acceptable?

Bettge felt the application was much better thought out than the tree design. Churches everywhere tend to have steeples and bell towers, but he felt the robustness of the structure is in excess of what is needed. If the proposed tower could be slimed down, Bettge feels it would be able to fit in. Taruscio agreed it is robust but it is within the Code and what was asked for. Bettge added that a motion could include directing staff to require reduction of the robustness of the building during the development and permitting process. Belknap suggested the Council establish a specific standard so staff isn't determining "skinny enough". Any new design would be new information would be better to remand it to the BOA for a different proposal, new record, new hearing. Bautista read from the City Code and advised the Council to provide enough informtion to present and anticipate what is required. Riedner said if the Council wanted a percentage reduction of the footprint of the tower and the applicant needs to go back to the clients, the Council is not a fact finding body, so the only option is to remand.

Bettge moved to remand to BOA with instructions to consider a plan with reduced horizontal area of the cell phone tower and wait and see if applicant can fulfill that obligation. Motion died for the lack of a second. Taruscio moved to reverse the decision of the BOA in favor of the appellant. Bettge seconded.

Laflin said approving it as is doesn’t answer whether it can be reduced in size. Kelly agrees coverage is needed but she feels now is the time to help the carriers to make towers more aesthetically pleasing. Roll Call Vote: Ayes: Two (Bettge, Taruscio). Nays: Four (4). Abstentions: None. Motion failed.

Laflin moved to remand the decision back to the BOA for purpose of determining whether or not the structure can be reduced in diameter. Kelly seconded. Belknap said that is difficult guidance to the BOA and wants to make sure the application is not in limbo. Laflin understood the concern but doesn't think people are comfortable with “what we have is what we need”. She would like to know whether the applicant can scale the structure any further. Bettge commented something that reflects the design or appearance of the religious facility but something without that much mass. Sullivan added, because of that mass and distance from the main structure, the tower doesn’t appear to be part of the church.

Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried. It is understood the motion included direction to staff to draft the instructions of remand to the BOA.

Mayor called a recess at 8:28 p.m. The meeting reconvened at 8:35 p.m.

7. BBC LLC Developer Participation Request (ACTION ITEM) - Bill Belknap

On April 8th of this year, City Staff received a request from Rich Beebe, representative of BBC LLC, owner of 232 acres located to the south of the City's playfield property located on W. Palouse River Drive, requesting the City’s financial participation in the construction of the extension of Conestoga Road and the accompanying bridge construction as it provides mutual benefit to both parties. The total cost of the construction of the roadway, bridge and attendant utilities to the southerly boundary of the City’s property is estimated at $2,372,062. Staff will present information on the history of the City's property and prior proposed playfield development of the property for the Council's consideration.

PROPOSED ACTIONS: Review request and provide Staff direction.

Belknap introduced the item as written above and gave a brief history of the Palouse River Drive property and project cost breakdown for each segment in 2011. At the time, the City Council felt it was cost prohibitive to develop the property and suggested working with the MSD for the Joseph Street property. Staff determined that with an additional $526,707 of allocation, the City would be able to fund all planned projects within FY2021 and continue to fund the anticipated future projects on the City’s CIP. Staff recommends the City condition the financial contribution upon the requirement that BBC LLC improve West Palouse River Drive from the intersection with Conestoga Drive east to US95 to a minimum width of 34’ with curbing and sidewalk on the south side of the roadway to the minor arterial standard. Improvements would accommodate the anticipated vehicle traffic that will result from the future development of the playfield property and the proposed residential development to the south.

Sullivan was concerned regarding additional traffic on Conestoga to the north. Bettge said having someone cooperate on Palouse River Drive is an advantageous proposal. Taruscio confirmed the participation wouldn't negatively impact the street improvement line in which Riedner explained when opportunities present themselves, monies can be reallocated and he gave an example. The ball field property has not in the capital improvement plan due to the cost and prioritization of others parks in the city. If done in a phased approach, it could be development within seven to ten years but development of ballfields on the property is not set in stone, it is at the discretion of the City Council. Concerns from 2011 were primarily the cost of development. Sullivan said this is investing money now but is long term planning and could be a better opportunity with BBC LLC stating in his letter his interest in affordable housing development. Sullivan suggested a fair housing incentive for developers.

Taruscio moved the City's financial contribution would be limited to no more than 50% of the actual cost of construction, shall not to exceed a total amount of $1,078,210, and shall not be disbursed until completion and city acceptance of the Conestoga extension, bridge, and improvements to West Palouse River Drive. Bettge seconded. Riedner clarified staff prefers Council give staff direction to meet with the developer to move forward with an agreement with the above criteria. Taruscio amended her motion and Bettge accepted the amendment.

Zabala said fair housing discussion is pertinent now and supports the proposal. Kelly asked if this was a good time to direct staff to find chances to work with the developer to look at ways for incentives. Mayor Lambert and Taruscio feel it is a needed discussion but don't feel this is the time. Laflin would like more details about the BBC LLC April 8 letter in regards to the affordable housing comment. Bettge said the sequencing of discussion is important and negotiations should come along during the platting phase. This is the opportunity to develop infrastructure and premature to discuss at this point. Zabala didn't see a sense of urgency and want to discuss more. Sullivan pointed out the City has a developer that has same goal for affordable housing. Infrastructure participation is a tool for incentivizing.

Belknap explained the reason why affordable housing is mentioned in the letter is that BBC LLC does know affordable housing is a goal of the City Council. BBC LLC has talked with the Affordable Housing Trust about a particular parcel. Sullivan supports this proposal but wants to incentivize affordable housing and have staff explore options for that to be ensured. Roll Call Vote: Ayes: Two (Bettge, Taruscio). Nays: Four (4). Abstentions: None. Motion failed.

Riedner suggested there could be a motion along the same lines and include negotiation with the developer on an affordable housing proposal. Sullivan said she would move to direct staff to engage with the developer and Moscow Affordable Housing Trust to see if there are options that staff would recommend. Taruscio said this item is only a road improvement.

Belknap explained this is a unique circumstance as the only reason the City is entertaining the idea of participation is because it involves City property and provides access to that City property. By paying for improvements in exchange for housing, it could open the door for any private developer to ask the City to participate because they are providing some sort of reduced housing. Zabala doesn't see that as a risk as the City Council can always say no. Taruscio cautioned this could be perceived as a requirement and is not the time. Bettge pointed out Palouse River Drive is not infrastructure that would have been included in BBC's development which means they are participating in City property improvements. He feels negotiations for affordable housing should be when a plat is submitted. Sullivan reiterated her desire for incentives for affordable housing.

Taruscio moved Council give staff direction to meet with the developer to move forward with an agreement for Council consideration recommending that the City's financial contribution would be limited to no more than 50% of the actual cost of construction, shall not to exceed a total amount of $1,078,210, and shall not be disbursed until completion and city acceptance of the Conestoga extension, bridge, and improvements to West Palouse River Drive and direct staff to negotiate with the developer the potential for affordable housing participation, and report back to council. Sullivan seconded. Staff suggested the motion be phrased "direct staff to prepare an agreement for the financial contribution as outlined by staff and to include exploration of an affordable housing component for Council consideration." The amendment was accepted by both Taruscio and Sullivan. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

PBAC workshop – Taruscio said the workshop was for an interim update from consultants of project management of alternatives. The bulk of the discussion was around construction costs. A technical memo from the consultants will be ready in June and Council should see the memo shortly thereafter.

Parks & Recreation Commission – Sullivan said the Commission discussed the Palouse River Drive property and a proposal for delaying parkland dedication to a later phase in development.

Planning & Zoning Commission – Laflin said the Commission discussed Harvest Hills Addition.

Mayor

Mayor Lambert said the Airport Board is still discussing a Boise flight and U of I is helping with that. The AIC Legislative Session met and the legislature continues. He attended an Arbor Day celebration, Farmers Market, and the Martin Luther King essay and art awards.

Staff

No report.

ADJOURN

The meeting adjourned at 9:40 p.m.

Bill Lambert

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Bill Lambert, Mayor

ATTEST:

CITY OF MOSCOW
INCORPORATED
JULY 12
1887
STATE OF IDAHO

Laurie

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Laurie M. Hopkins, City Clerk