

REGULAR COUNCIL

April 2, 2018

Mayor Kling called the meeting to order at 6:30 p.m.

Clerk made note that Councilmembers Skaug, Haverfield, Levi, Hogaboam, Bruner, and Rodriguez were present

Mayor Kling amended the agenda by removing item #15 - 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to IL for Self Storage at 908 W. Karcher Rd. for Civil Site Works representing Charles and Carmela Ham and by amending the wording on number #29 - 1<sup>st</sup> Reading of Ordinance for Name Change of Idaho Center Advisory Commission to ~~Auditorium District Advisory Commission~~ to Venue Management Advisory Commission and by adding discussion on the EPA Letter that Council and Mayor signed.

**MOVED** by Haverfield and **SECONDED** by Bruner to **approve the Consent Agenda as presented; Special Council Minutes of March 19, 2018; Bicycle and Pedestrian Advisory Committee Minutes; Board of Appraisers Minutes; Airport Commission Minutes; Planning & Zoning Commission Minutes of March 13, 2018; Library Commission Minutes; IT Steering Committee Minutes; department reports, bills paid; The City Council dispenses with the three (3) reading rule of Idaho Code § 50-902 for all ordinances; final and preliminary plat approvals: 1) None; Authorize Public Hearings: 1) None; Authorize to Proceed with Bidding Process: 1) None; Authorization for execution of Contracts and Agreements: 1) Authorize the Mayor and Public Works Director to Sign a Contract with Jim Buffington Construction to Construct the Zone D Sewer Rehab FY18 (ITD Manhole Replacements) Project; Monthly Cash Report: 1) None; Financial Reports: a) Council Memo; b) FY19 Budget Calendar; c) CBI Recommendation; Resolutions: 1) Declare Various Vehicles as Surplus Property and Authorize Disposal for Parks Department; License for 2018: Liquor License: Taco Aguililla, 324 11<sup>th</sup> Avenue North, on-premise beer; Buffalo Wild Wings #592, 2101 North Cassia Street, on-premise beer, wine and liquor; El TeNampa, 248 Nampa Caldwell Boulevard, on-premise beer, wine and liquor; Alondras Store, 515 South Third Street, on and off-premise beer; The Olive Garden Italian Restaurant #1731, on-premise beer, wine and liquor; Smoky Mountain Pizzeria Grill, 2007 North Cassia, on-premise beer, wine and liquor; Shari's of Nampa #235, 1807 Caldwell Boulevard, on-premise beer and wine; Kickback Bar, 3116 Garrity Boulevard Suite 145, on-premise beer, wine and liquor; Eagles Aerie #2103, 118 11<sup>th</sup> Avenue North, on-premise beer, wine and liquor; Miscellaneous Items: 1) None. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. Mayor Kling declared the**

**MOTION CARRIED**

**Item #13 – Communication – Republic Services – Rachele Klein was not in attendance of the meeting so this item will be placed on the next agenda.**

Mayor Kling asked if there was anyone wishing to speak on any agenda item were: there was no one wishing to speak on an agenda item.

Mayor Kling asked if there was anyone wishing to speak on any item that was not on the agenda: Sid Freeman – spoke about himself and that he was running for County Commissioner; Robert

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Hall, 643 Queens Drive – spoke on the City Collection contract with CBI; Randy Haverfield – spoke on updating the Council on NDC.

**Item #21** - Mayor Kling presented the request for **appointment of new NDC Commissioner Claudia Dina**.

Mayor Kling presented a staff report explaining that with the vacant position on the NDC we had the opportunity to appoint a new commissioner. The process that we have done this time, which I don't think has been done in the past, rather than the Mayor just nominating, I actually formed a committee and that committee consisted of Ivan Castillo, Councilmember Rick Hogaboam, Bobby Sanchez, Dr. Dan Nogales, former chair of NDC.

We had a number of candidates and I would like to read the letter that was sent from the committee with their recommendation. – Multiple citizens applied to fill the open position on the Nampa Development Corporation. Each application was evaluated based on the applicant's expertise and abilities to contribute to the success of the NDC.

Five applicants were invited to complete a questioner to interview and four applicants accepted that invitation. All four candidates should be commended on their commitment to their community and their willingness to serve. We recognized that only one person could be selected for this position, each of the applicants may find a place to utilize their strengths and to contribute to the City and their community. The committee discussed the pros and cons of each applicant following the interviews. All of the applicants brought different strength, and could serve Nampa well, but one candidate emerged as the best to serve and that is Claudia Dina. Mrs. Dina is a long time Nampa resident and business owner who is committed to making Nampa a great place to live and work. Her expertise as an entrepreneur and real estate agent skill were identified as beneficial to the corporation. We feel that Mrs. Dina will bring a diverse perspective to the NDC.

This committee said thank you for the opportunity to serve the City of Nampa in this small way. They respectfully submitted their recommendation to me which I accepted and I am in turn recommending to the Council as my nomination which is Claudia Dina.

**MOVED** by Hogaboam and **SECONDED** by Rodriguez to **confirm the appointment of Claudia Dina for the new NDC Commissioner**.

Councilmembers made comments concerning the recommended appointment of Claudia Dina.

Mayor Kling introduced Claudia Dina.

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City Attorney Mark Hilty explained that the Mayor can break a tie for this appointment. It takes four for appointed officials and that is clear that the Mayor can not break tie, it requires the majority of Council. The language in the statue for NDC commissioners is different and it allows the Mayor a vote in the event of a tie.

Mayor Kling talked about the process.

The Mayor asked for a roll call vote with Councilmembers Levi, Rodriguez, Hogaboam voting **YES**. Councilmembers Skaug, Haverfield, Bruner voting **NO** the Mayor voted **YES** to break the tie. The Mayor declared the

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**Item #33** - Mayor Kling opened a **public hearing** for a **vacation** of the 40 ft right-of-way running south 628.62 ft from **Wagon Rd** along the eastern boundary of Canyon County Parcel R24705000; and Vacation of the westerly 110 ft of the 40 ft right-of-way of Wagon Rd traversing Canyon County Parcel R24705000, for **Matt Schultz** of Schultz Development, representing Rocky Mountain District Christian Missionary Alliance.

Matt Schultz, 8421 South Ten Mile, Meridian presented the request.

Councilmembers asked questions of the applicant.

Robert Hobbs presented the following staff report explaining that the request is for a vacation Of a forty-foot (40') right-of-way running south 628.62 ft. from Wagon Road along the eastern boundary of Canyon County Parcel R24705000, and, to the westerly 110 ft. of the forty-foot (40') right-of-way of Wagon Road traversing Canyon County Parcel no. R24705000 (see the attached zoning "Vicinity Map" and right-of-way vacation exhibits hereafter attached)... for Rocky Mountain District Christian Missionary Alliance/Matt Schultz of Schultz Development.

**Applicable Regulations**

Respecting right-of-way vacation requests, our code presently states that:

**10-27-12: CORRECTING/VACATING/AMENDING PLATS:**

...

**D. Correcting Plats:**

**3. Vacation To Erase Easement Or Right-Of-Way: Vacation approval shall be required in order to either erase some or all or part of an easement or right-of-way. Vacation approval**

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**shall be required in order to move the location of all or part of an already platted and recorded right-of-way or easement. Processing of vacation requests for easements and/or rights-of-way shall be executed in accordance with provisions of Idaho State Code. Right-of-way vacations shall be done by ordinance of the City Council and approved first by the same during a public hearing. (Ord. 4340, 9-18-2017)**

**General Information/Narrated Findings**

Respecting right-of-way vacation requests, our code presently states that:

**10-27-12: CORRECTING/VACATING/AMENDING PLATS:**

...

**D. Correcting Plats:**

**3. Vacation To Erase Easement Or Right-Of-Way: Vacation approval shall be required in order to either erase some or all or part of an easement or right-of-way. Vacation approval shall be required in order to move the location of all or part of an already platted and recorded right-of-way or easement. Processing of vacation requests for easements and/or rights-of-way shall be executed in accordance with provisions of Idaho State Code. Right-of-way vacations shall be done by ordinance of the City Council and approved first by the same during a public hearing. (Ord. 4340, 9-18-2017)**

**Recommended Conditions of Approval**

Should the City Council vote to vacate the land(s) associated with this application as described in certain documents and by exhibit(s) hereafter attached and made a part of this record, then Staff recommends that the Council condition their approval to vacate on Applicant/application compliance with the following Conditions of Approval:

1. N/A

Councilmembers asked question of staff.

No one appeared in favor of or in opposition to the request.

**MOVED** by Haverfield and **SECONDED** by Bruner to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

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**MOVED** by Bruner and **SECONDED** by Haverfield to **approve** the **vacation** of the 40 ft right-of-way running south 628.62 ft from **Wagon Rd** along the eastern boundary of Canyon County Parcel R24705000; and Vacation of the westerly 110 ft of the 40 ft right-of-way of Wagon Rd traversing Canyon County Parcel R24705000, with the **understanding that public hearing 35** is approved for **Matt Schultz** of Schultz Development, representing Rocky Mountain District Christian Missionary Alliance and authorize the City Attorney to draw up the appropriate ordinance. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #35** - Mayor Kling opened a **public hearing** for **modification of zoning development agreement amendment** between Regal Development LLC and the City of Nampa recorded 11/7/2008 as Inst. No. 2008059426 amending and reinstating the Original Development Agreement for **Pheasant Meadows Subdivision** to include a new preliminary plat and additional annexed property to expand the subdivision to 101 buildable lots and 10 common lots on 30.3 acres, and **Annexation and Zoning to RS 7** at **0 S. Happy Valley Rd.** for **Matt Schultz** representing Second Chance Equity Partners and Rocky Mountain District of Christian Missionary Alliance.

Matt Schultz, 8421 South Ten Mile, Meridian presented the request.

Robert Hobbs presented the following staff report explaining that the request is for modification of an annexation & zoning development agreement between Regal Development LLC and the City of Nampa recorded 11/7/2008 as Instrument No. 2008059426 (Ord. no. 3847 – a correcting ordinance) and to the original Agreement recorded No. 3828 recorded 10/20/2008 (not advertised) [by] amending and reinstating the original Development Agreement for Pheasant Meadows Subdivision to include a new preliminary plat exhibit and additional annexed property as a part thereof to recognize of 101 building lots and 10 common lots on 30.3 gross/aggregated acres; and, Annexation and Zoning to RS 7 (Single-family residential, 7,000 sq. ft. min. building lot size) of 16.52 acres (to add to 13.58 [13.8 per Applicant’s narrative] acres already made a part of the original Pheasant Meadows Subdivision) for Matt Schultz of Schultz Addition as applicant representative on behalf of Second Chance Equity Partners, LLC and Rocky Mountain District of Christian Missionary Alliance/ISG as engineers.

**Property Area and Location(s):** Collectively, some 30.30 acres of land located in a portion of Tracts 9, 10, 13 and 14 and a portion of the vacated rights-of-way adjacent to Tracts 10, 13 and 14 of Nampa Orchard Tract Co. Subdivision as filed in Book 2 of Plats at Page 48, and, a portion of the SW ¼ of the NE ¼ of Section 25, T3N, R2W Boise Meridian, Canyon County, Nampa on the east side of S. Grays Lane, west of S. Happy Valley Road and north of E Amity Avenue (hereinafter the “Property” -- the land proposed for annexation and addition to that ground already

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once annexed as platted as the original Pheasant Meadows Subdivision, when referenced specifically and separately herein, shall be termed as the “Additional Acreage”).

**Abbreviated History:** As explained by the Applicant, “The west 13.8 acres of the [P]roperty was previously annexed into the City of Nampa in August 2008 and zoned RS 7 with a Preliminary Plat [approval] and Development Agreement (#2008059426) for 45 lots averaging 8,700 sq. ft. Due to the economic downturn, no construction was accomplished, the preliminary plat has expired, and the property was purchased by Second Chance Equity Partners in October 2017, with the RS 7 zoning and [D]evelopment [A]greement in place on the [P]roperty.”

The Applicant gives us a current history regarding the Property noting that, “The eastern 16 acres currently owned by the Rocky Mountain District of the Christian Missionary Alliance is under contract to be purchased by Second Chance Equity Partners LLC in 2018 and is currently a farm field.”

The Nampa City Planning and Zoning Commission, during their regularly scheduled public hearing of February 27, 2018, after reviewing the subdivision application, a Staff report, and, receiving public testimony, voted to recommend approval the above referenced entitlement requests. The Commission subsequently voted to approve the associated preliminary plat. The Commission made their recommendation(s) and plat approval contingent on Developer/Development compliance with the following conditions:

**Development Agreement Modification/Rezone Based:**

1. That the Owner/Developer, [shall] enter into a Modified Development Agreement (contract) with the City of Nampa for the Property. The Agreement shall contain such conditions, terms, restrictions, representations, exhibits, acknowledgments and timelines as necessary to facilitate development of the properties as contemplated by the Developer and agreed to and conditioned by the City through its Council or executive departments or outside agencies properly involved in the review of the Developer’s request(s).
2. Developer/Development shall emplace a two-foot (2’) high berm with a six-foot (6’) high fence thereon around the entire perimeter of the Project which condition shall be made a part of the Development Agreement and also the plat conditions.

**Plat Based:**

1. Generally: The Developer/Development shall comply with all requirements imposed by City agencies involved in the review of this matter including, specifically the following:

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- a. Those listed in the February 16, 2018 memorandum from the Nampa Engineering Division authored by Daniel Badger (1 page – copy hereto attached); and,
  - b. Those noted in the January 26, 2018 memorandum from the Nampa Engineering Division, GIS Section, authored by Alex Main (1 page – copy hereto attached); and,
  - c. That stated in the February 13, 2018 memorandum from the Nampa Planning and Zoning Department authored by Karla Nelson (1 page – copy hereto attached); and,
  - d. Those noted in the January 16, 2018 letter from the Nampa & Meridian Irrigation District authored by Greg Curtis (1 page – copy hereto attached); and,
  - e. Those listed in the January 16, 2018 the Nampa Highway District email printout (save as may be redacted or amended by City Engineering) as authored by Eddy Thiel (1 page – copy hereto attached); and,
  - f. That listed in the undated letter from the Community Planning Association of Southwest Idaho (COMPASS) save as may be redacted or amended by City Engineering; and,
2. The water system for the Development shall be completely installed and able to deliver water prior to any Building Permits being issued within the development. The water shall be sufficient in volume and pressure to provide sufficient adequate fire suppression for the Development in accordance with Fire Department policy or International Fire Code requirements as applicable; and,
  4. Developer's engineer shall correct any spelling, grammar, punctuation and/or and numbering errors that may be evident on the plat face and/or in the proposed plat development notes and include said corrections in a revised preliminary plat; and,
  5. Any exceptions to City adopted subdivision design standards shall/will require separate design [exception] approval from the City Council; and,
  6. That prior to submittal of a final plat, the Applicant shall submit a revised preliminary plat with all corrections/revisions etc. required by the City or outside agencies as denoted in those items of correspondence listed above.
  7. Developer/Development shall emplace a two-foot (2') high berm with a six-foot (6') high fence thereon around the entire perimeter of the Project.

**Development Agreement Modification**

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Development Agreements are land use contracts [and treated as contracts by Idaho's Supreme Court versus a form of zoning related entitlement] authorized in state code in the Local Land Use Planning Act section (Title 67) thereof.

Criteria to guide the Commission and Council regarding the requested Development Agreement Modification(s) are absent from state statute or City ordinance. Thus, approving -- or not -- that aspect of the application package becomes a purely subjective matter/decision on the part of the City in reaction to the Development Agreement contract modification application associated with this report.

Attached hereto is a copy of Ordinance no. 3847 -- the [original] Development Agreement bears on the Property. The basic nature of the amendments proposed to said Agreement are as aforementioned and would spurn language amendments in the "RECITALS" and "EXHIBITS" sections of this report.

#### **Annexation/(Re)Zoning Findings of Facts**

**(PERTAINING TO THE APPROXIMATELY 16.52 ACRES OF LAND REQUESTED TO BE ANNEXED AND ZONED RS 7 – THE ADDITIONAL ACREAGE):**

**Zoning: Regarding Applicant's Proposed/Desired Annexation/Zoning Assignment Request(s), Staff finds:**

**1. Contiguity:**

The Additional Acreage portion of the Property abuts land already within the incorporated limits of the City of Nampa -- including the land that forms the balance of the Development; and,

**2. Surrounding Zoning:**

That City RS 7 lies due west of the Additional Acreage, that City RS 6 zoning overlays those lots south of the land of the RS 7 zoned land, that RS 22 land (assigned to Columbia High School) lies south of the Additional Acreage portion of the Property, to the east is County land and some RS 22 zoning and to the north RA and County land; and,

**2. Immediately Surrounding Land Uses:**

That single-family residential housing largely on subdivision lots, but also on parcels of ground, along with open land and a High School populate those properties closest to, and in the area surrounding, the Property; and,

**3. Reasonable:**



That the Developer may argue that consideration for annexing and zoning the Additional Acreage portion of the Property and assigning the same a zoning district of RS 7 is, at least in part, reasonable given that: a) the City has received an [acceptable] application to amend its official zoning map as endorsed by the Property's owner and prospective ; and, b) annexation and zoning assignment is a legally recognized legislative and quasi-judicial composite act long sanctioned under American administrative law; and, c) within the City of Nampa, annexation and zoning assignment is a long standing (and code sanctioned) practice; and, d) the Additional Acreage is eligible by law for annexation; and, e) that the Additional Acreage area adjoins residential zoning, including the balance of the Property that is already in the City, zoned residentially, and, previously approved for a residential subdivision effectually mirroring that proposed in conjunction with the application made the subject of this report; and, f) that the proposed RS 7 Zone proposed for the Additional Acreage portion of the Property would provide a transition zone to larger lot assigned properties to the north and smaller properties to the south and, g) City utility services are available to the Property; and, h) emergency services are available to the Property; and, i) that the Property (as assembled for the proposed Development, lies along, and is proposed to take access from, a street classified as a "collector", and, is proposed to also access S. Happy Valley Road – an "arterial" right-of-way; and, j) that the City's Planning and Zoning Commission recommended favorably on the Development Agreement Modification and Annexation/Zoning requests that facilitate development of the proposed plat made the subject of this report...they have also approved the plat subject to conditions (the plat's viability is also necessarily made contingent upon the Council's approval of the afore-noted entitlement applications)...

The appropriateness or compatibility of what the Applicant proposes for emplacement on the Property is an issue that the Council (with the Commission's input) will [have to ultimately] determine as you/they review the Application package associated with this report and as will be dictated by the land use district that may be superimposed thereon; and,

**4. Public Interest:**

That Nampa has determined that it is in the public interest to provide varied/mixed residential development living opportunities. Expressions of that policy are made in Nampa's adopted Comprehensive/Master Plan as well as embodied in its decisions to date regarding similar applications; and,

**5. Promotion of Zoning Purpose(s):**

Among the general (and Nampa endorsed) purposes of zoning is to promote orderly, systematic development and patterns thereof which preserve and/or enhance public health, safety and welfare. Included in our zoning regulations, therefore, are development standards governing allowable land uses, building architecture, building setbacks, building

heights, provision of parking and service drives, property landscaping, signage controls, street lighting regulations, subdivision design, etc.; and,

**6. Comprehensive Plan:**

The City's Comprehensive Plan is intended as a guiding document to community growth. Each community (and county) in Idaho is required to have a development plan by state law. Associated therewith is a "Future Land Use Map" that, in this case, designates the Property as being within a "Medium Density Residential" (MDR) "setting" [the term "setting" is used by Staff to distinguish the Future Land Use Map's color coded, designated areas from the zones/land use districts employed by the City's adopted zoning map]. The nature of the MDR setting is interpreted as being one that would facilitate development of a residential subdivision developed in a RS 7 Zone

*if* any dwelling unit density proposed therein is kept under the MDR's suggested density cap of 9.0 dwellings unit per acre for a given project. The proposed overall dwelling unit gross density for the Property has been purported by the Applicant's representatives to be ~3.38 [rounded] dwelling units per acre [101 units across 30.30 acres]), 4.41 du/a per net calculation.

While, as above stated, a community's comprehensive or master plan is a guide to its development, it is really the zoning ordinance that actually implements, in large measure, the land use and community design objectives, goals and policies of such a plan. It is the implementational zoning tool that regulates land development (not to be confused with land division). Nampa's zoning ordinance, common to many others throughout the country, has a listing of uses that are permitted, or that may be allowed upon receipt of a special or "Conditional Use Permit", and, those that are not allowed in a given land use district [zone] that overlays varying properties. That said, short of use of a land use "Development Agreement" [which is a contract] to control build-out, if a zone is applied to one or more properties, then a very large variety of uses may be emplaced upon those properties in accordance with that zone's allowances – though some zones specialize in catering to certain uses more than others do. In this case or the matter at hand, again, the MDR setting pairs with the RS 7 Zone (as well as other City residential zones); and,

**7. Services:**

Emergency services are available to the Property. City public utilities (i.e., sewer, water and pressure irrigation) are also available to the Property and are affirmed to have capacity to absorb the impact of the proposed Development at full build-out per City Engineering; and,

**8. Public/Agency/City Department Comments:**

Staff has received one letter with two accompanying exhibits from a family with a property that abuts the intersection of S. Grays Lane and [proposed] E. Whistling Height Street (at

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the southeast corner of that intersection) and another email response to the Council's hearing (copy [also] hereafter attached).

Any correspondence from agencies/City departments or the citizenry regarding the northwest Property's application package [received by noon March 28, 2018] is hereafter attached.

Staff received the following comments via items of correspondence from City departments/divisions and/or outside agencies:

- a. The City Engineering Division has not expressed opposition to the Project and has provided requirements in the event it is approved; and,
- b. City Engineering, GIS Section, has not expressed opposition to the Project and has provided requirements in the event it is approved; and,
- c. The City Parks Department has not expressed opposition to the Project; and,
- d. The City Forester has not expressed opposition to the Project; and,
- e. The City Planning and Zoning Department's, the long-range planner, has not expressed opposition to the Project and has provided a requirement in the event it is approved; and,
- f. The City Building Department has not expressed opposition to the Project; and,
- g. The Nampa & Meridian Irrigation District has not expressed opposition to the Project; and,
- h. The Nampa Highway District has not expressed opposition to the Project, has provided recommendations and a requirement in the event the Project is approved; and,
- i. The Idaho Transportation Department has provided comment respecting the Project; and,
- j. The Community Planning Association has not expressed opposition to the Project, and has provided a recommendation respecting the Project...

**Note:** The preceding general statements (1-8) are offered as possible [preliminary] opinions and findings and are not intended to be all inclusive or inarguable, nor to construe unfailing Staff

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support of the proposal(s). Rather, they are simply provided to the Commission and Council in the event that the requested Entitlement package is considered for approval recommendation.

**In summary, a portion of the Property may be annexed and zoned RS 7, but nothing compels the Council to annex the Property and assign the requested zone when they you in your legislative and quasi-judicial capacities/authority in voting on the annexation and zoning assignment requests for the Property as petitioned for/by the Applicant.**

**Note(s):**

- Staff has provided the Council with all of the relevant report/packet documentation or visual information available to us at the time this report was generated; and,
- Notification of the Council’s hearing was done in accordance with legal requirements; and,
- An environmental impact study (EIS) was not called for in conjunction with the Application package submittal as such is not normal required saved when called for by City Engineering under special circumstances; and,
- Street frontage improvements along E. Grays Lane and a small portion of So. Happy Valley Road, should the Application be approved, will be required to be emplaced at the time of Project build-out per adopted City policy and practice; and,
- No taking of other parties’ property(ies) will be effectuated should the Additional Acreage be annexed, zoned and developed; and,
- In Nampa’s case, street improvements and school construction accompany and follow, respectively, property development; and,
- A Traffic Impact Study was conducted for this application and a copy of its summary is hereto attached; and,
- A copy of the Development Agreement recorded against the original Pheasant Meadows portion of the Property is also hereafter attached; and,
- City Engineering has affirmed utility capacity exists to serve the Project at build-out; and,
- Sample house elevations have also been provided by the Applicant and are hereafter attached...

**FYI Only – 2018 Subdivision Statistics**

Overall Property Area-	30.3 acres
Net Buildable Property Area-	29.81 acres
Total, Proposed RS 7 Res. Lot Count-	111
Total Proposed RS 7 Common Lot Count-	107
Total Proposed RS 7 Building Lot Count-	101

**Regarding “RS 7 Building Lots”:**

Min. Allowed RS 7 Bldg. Lot Size-	7,000 sq. ft.
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Min. Proposed Project RS 7 Bldg. Lot Size-	7,203 sq. ft. per Applicant's engineer
Min. Allowed Avg. RS 7 Bldg. Lot Size-lots) average	8,000 sq. ft. weighted (median 60% of bldg.)
Proposed Avg. RS 7 Bldg. Lot Size-	8.643 sq. ft./8, 371 sq. ft. weighted

**Periphery Compatibility Applicability**

Applicable vs. Park Ridge Meadows Subdivision (No. 1)

All affected Project building lots appear to exceed 8,000 or 80% of adjoining lot sq. footage as requisite

Min. Req. St. Frontage RS 7 Zone-	22'
Min. Allowed RS 7 Bldg. Lot Widths-	50' @ the 20' front setback mark
Min. Allowed RS 7 Bldg. Lot Depths-	70'

Total Open Area: 2.36 acres of 7.9 % of Project  
Plat Development Data/Notes: See plat sheets

**Recommended Condition(s) of Approval**

Should the Council vote to approve the requested entitlement applications for the Property as proposed by the Applicant, then Staff would suggest that the Council consider recommending the following [non-plat related] Condition(s) of Approval against the application package request submitted by the Developer/Applicant:

**Development Agreement Modification/Rezone Based:**

1. That the Owner/Developer, [shall] enter into a Modified Development Agreement (contract) with the City of Nampa for the Property. The Agreement shall contain such conditions, terms, restrictions, representations, exhibits, acknowledgments and timelines as necessary to facilitate development of the properties as contemplated by the Developer and agreed to and conditioned by the City through its Council or executive departments or outside agencies properly involved in the review of the Developer's request(s).
2. Any other condition(s) as the Council concludes benefit(s) the Application package and should be adopted...>

Councilmembers asked questions of staff.

Matt Schultz answered questions and made comments.

No one appeared in favor of or in opposition to the request.

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**MOVED** by Rodriguez and **SECONDED** by Skaug to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

**MOVED** by Skaug and **SECONDED** by Haverfield grant the **modification of zoning development agreement amendment** between Regal Development LLC and the City of Nampa recorded 11/7/2008 as Inst. No. 2008059426 amending and reinstating the Original Development Agreement for **Pheasant Meadows Subdivision** to include a new preliminary plat and additional annexed property to expand the subdivision to 101 buildable lots and 10 common lots on 30.3 acres, and **Annexation and Zoning to RS 7 at 0 S. Happy Valley Rd.** for **Matt Schultz** representing Second Chance Equity Partners and Rocky Mountain District of Christian Missionary Alliance with only a requirement of a burmon the north boundary of the property and with other conditions.

Councilmembers had questions concerning the improvements of Grays Lane.

Councilmember Skaug withdrew his motion along with the Councilmember Haverfield for his second.

**MOVED** by Haverfield and **SECONDED** by Skaug to **approve the modification of zoning development agreement as written with the conditions of approval and also add the language that development would defer the requirements for road improvements per the engineering study that has been completed to make sure that Grays Lane is widened to the width that it needs be to meet that traffic study and berm on the north side needs to be the height that is requested and the annexation and zoning to RS-7 and authorize the City Attorney to draw the appropriate Ordinance.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #34** - Mayor Kling opened a **public hearing** for a **variance** to Nampa Zoning Ordinance Section **10-22-6.B**, requiring 1 Parking space per 75 sq. ft of gross floor area, for the proposed 3.27-acre parcel located on the south side of **E Badger Dr**, portions of Canyon County parcels R3182201200, R31822012A0, R31822012B0 and R31822012C0, west of S Kings Rd, within an IL zoning district. The proposed 29,436 sq ft building requires 393 parking spaces. The applicant anticipates 161 paved parking spaces, along with an overflow gravel parking area that would provide approximately 84 additional parking spaces. The applicant considers that due to the timing of the facility usage and the type of recreational use, the full 393 parking spaces will not be necessary, for Klint Keller.

Gene Omar presented the request.

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Councilmember asked questions of the applicant.

Robert Hobbs presented the following staff report explaining that the request is for a variance(s) to Nampa City Code(s) to the minimum required number of parking stalls required for a recreational facility/building as required by N.C.C. § 10-22-6.B. The property is a 3.27 acre portion of a set of parcels identified as . #s R31822012C0, R31822012A0, R31822012B0, and R31822012C0 located west of South Kings Road within an IL (Light Industrial) Zone – hereinafter the “Property” (see attached Vicinity Map)... for Klint Keller as the applicant with Gene Ulmer as the architect.

### **Applicable Regulations**

#### 10-24-1: [VARIANCE] PURPOSE:

The council is empowered to grant variances in order to prevent or to lessen practical development difficulties, unique site circumstances and unnecessary physical, geographical hardships inconsistent with the objectives of zoning as would result from a literal interpretation and enforcement of certain of the bulk or quantifiable regulations prescribed by this title.

A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity, and b) the variance is not in conflict with the public interest. Hardships must result from special site characteristics relating to the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions, or from population densities, street locations or traffic conditions or other unique circumstances.

Variances are not intended to allow something that others do not have a permitted right to do. The purpose of a variance is to provide fair treatment and to see that individuals are not penalized because of site characteristics beyond their control. (Ord. 2140; amd. Ord. 2978)

#### 10-24-2: ACTIONS:

- A. Granting Of Variance Permit: The council may grant a variance permit with respect to requirements for fences and walls, site, area, width, frontage, depth, coverage, front yard, rear yard, side yards, outdoor living area, height of structures, distances between structures or landscaped areas as the variance was applied for or in modified form if, on the basis of application, investigation and evidence submitted, the council concludes the following:

1. Literal interpretation and enforcement of the regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance.
2. There are extraordinary site characteristics applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.
3. Literal interpretation and enforcement of the regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
4. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.
5. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

...

C. Parking Reduction(s): The council may grant a variance permit with respect to requirements for off street parking facilities (e.g., number of spaces required) or off street loading facilities if, on the basis of the application, investigation and the evidence submitted, the council concludes the following (exclusive of those listed in subsection A of this section):

1. Neither present nor anticipated future traffic volumes generated by the use of the site(s) in the vicinity reasonably require literal interpretation and enforcement of the regulations.
2. The granting of the variance will not result in the parking or leading of vehicles on public street in such a manner as to interfere with the free flow of traffic.
3. The granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of the zoning ordinance. (Ord. 2140; and. Ord. 2978)

#### Staff Findings and Discussion

##### **I. Variance Introduction:**

Variations are traditionally offered zoning tools used as remedies to seek jurisdictional waivers or reductions of quantifiable, measurable development code requirements (e.g., setbacks, property dimensions, height standards, min. or maximum quantities or sizes, etc.) with which compliance in a given situation could not be attained due to site constraints (such as unusual topography) inherent to a property, rather than being the result of an applicant's own action(s)/development



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desires. Normally, economic considerations or “self-imposed hardships” or predicaments are not qualifying grounds to support a Variance application or its approval. As noted in the planning text The Practice of Local Government Planning (ICMA, 1988, 2<sup>nd</sup> ed.),

“Many requests for variances are for minor bulk variances in existing neighborhoods: for example, expansions of patios or carports one or two feet into designated side-yard setbacks. On such matters the zoning board becomes a sort of neighborhood arbitration board, dealing with physical hardships. Although these hardships are rarely great, this should be weighed against the extent of the public sector’s stake in the somewhat arbitrary determination that a 10-foot- side yard is superior to a 9-foot one.”

In Nampa, in order to justify a Variance Permit request, an applicant is tasked with arguing successfully to the City’s Council that there is some aspect of the Property that physically, topographically or based on code requirements puts them at a disadvantage in trying to accomplish what they wish in comparison to like properties, especially in the surrounding area.

If the Council believes that there is no real topographical hardship associated with a Variance application (e.g., a river, a highway or a mountain in the way, etc.), then left to the applicant is the opportunity to argue that there is a “unique site circumstance” sufficient to justify their request. In times past, Variance Permits have been issued on a case by case basis where a unique situation could be determined to exist that pertained to a Variance application. Thus, historical matters, errors by the City or County, demonstrated lack of knowledge concerning a code by an applicant or their contractor, common sense “solutioning”, development precedent and a variety of other mitigating factors have been evaluated in conjunction with these kinds of applications for relief from quantifiable, measurable standards adopted as law via Nampa’s zoning ordinance.

Council is at liberty to approve or deny a Variance. And, their vote should not necessarily be construed as setting precedent -- for nothing binds them to vote the same way twice other than their own perceptions and those of others that they may be concerned with. Still, consistency is a desirable goal when dealing with case by case Variance requests. As a Variance decision is a “quasi-judicial” matter, any vote to approve or deny should be accompanied by a reasoned statement listing the rationale for the decision made.

## **II. This Application:**

As Variance Permits have been used to provide opportunity for an applicant to seek relief from a dimensional or quantifiable, metric standard, this request was received to ask the Council to consider approving a reduction in the required quantity of parking spaces for a proposed, 29,436 sq. ft. recreational building (similar in nature to a YMCA).

As this is a Variance request, it is the obligation of the Applicant to present such facts and persuasive arguments as to convince the Council that there exists some form of hardship or other unique site circumstance to justify issuance of the requested permit. The review criteria the Council is to use in assessing the application are those in bold font listed at the beginning of this report under the heading of “Applicable Regulations”, “Actions” A.1-5 and C.1-3. Those two set of criteria groups serve as the “Conclusions of Law” to be associated with this matter.

**III. General, Possible Findings:**

1. The Property (legal description within City case file VAR 045-18) made the subject of this Variance request is located within the incorporated limits of the City of Nampa; and,
2. The Applicant has a controlling interest in the Property and is authorized to represent the same or allow another party to represent the same in this matter; and,
3. As authorized and mandated according to Idaho statute, the City has adopted a comprehensive zoning ordinance that applies to all properties within the City’s incorporated limits, and (by limited form and fashion) to areas within its negotiated Impact Area; and,
4. The City’s zoning ordinance requires that “recreational...establishments” classified as “participating types” (e.g., skating rinks, etc.) be provided with one parking space/stall for every 75 of gross floor area of the structure within which they are located; and,
5. That the City’s adopted zoning ordinance [§ 10-22-06.B] requires that the minimum number of parking spaces for a 29,436 sq. ft. recreational facility be 393 spaces; and,
6. The Applicant seeks a Variance Permit from the City of Nampa in order to be allowed to have 161 paved parking spaces plus 84 additional spaces proposed on a gravel overflow area on the Property); and,
7. The Applicant has submitted to the City a complete Variance Permit Application together with the requisite fee, and the City has received the application; and,
8. The Variance Application is being processed in conjunction with procedures compliant with the Local Land Use Planning Act, and Nampa Zoning Ordinance standards appertaining to such an application type; and,
9. Variances, as a rule, are not to be issued simply for economic reasons or convenience; they “shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity”; and,

10. A statement has been provided that attempts to justify the Variance request as some type of topographical or other physical site hardship or “unique site circumstance” that restricts Property development or “buildout” or use of land as allowed to other City properties or as granted already to City properties developed and/or used in similar fashion to the business plan(s) of the Applicant; and,
11. Adjacent property owners have not provided comment regarding the application; and,
12. The City’s Engineering Division has commented on the Variance proposal; and,
13. The City’s Building Department has noted the requirement for ADA parking to be included within the parking lot area proposed by the Applicant; and,
14. The Idaho Transportation Department has provided comments regarding the proposed application; and,
15. Physical impact on the general public by this request is foreseen by virtue of this request were it to be approved may entail congested parking and site access/bypass for the recreational facility proposed by the Applicant and, perhaps, the question any approval raises as to its propriety, possibly including a perceived setting of precedence for similar setback code deviations given compliance to setback standards demonstrated by other persons/parties in the City; and,
16. Attached to this report is all of the information Staff had by the time this report was ready to go to print (12 noon, March 28).

**IV. Analysis/Opinion:**

In Nampa, as pertaining to land use Variance Permit requests, a burden rests upon an applicant to argue persuasively to the City’s Council that one or more conditions related to the property they represent interfere(s) with the applicant’s use of their land in manner and form commensurate with that enjoyed, most particularly, by their neighbors or other properties in a similar situation and zoning district as that applicant’s land. Each land use Variance Application is reviewed on a case by case basis and the merits of the matter are weighed in the public venue. Public testimony received by the Planning and Zoning Department, and, the opinions of other City departments or outside agencies are submitted to the Council for their consideration.

With respect to the matter made the subject of this report, Applicant, per their narrative argues for their Variance request, essentially as follows:

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- A) That the Applicant is purchasing the Property; and,
- B) That the Applicant desires to have, effectually, a reduced parking space count allowance to be authorized via procurement of a Variance Permit....

The Applicant argues the merits of their request essentially as follows (see Applicant's representative's narrative hereafter attached):

- A) Operating hours and days of operation of the proposed facility (i.e., "gyms, dance studios, and a speed and agility center") will not conflict with times and days that other businesses in the area surrounding the Property and thereby create traffic congestion issues around the Property; and,
- B) That a comparable use/business (Treasure Valley Family YMCA) in Meridian has been approved/operates with 173 parking stalls; and,
- C) That the expected number of spectators and players using the Applicant's proposed facility would require circa 99 parking spaces given the proposed facility's seating capacity and vehicle occupancy of those that would come to the building; and,
- D) That an adjoining property has been offered for co-sharing of parking; the referenced area would serve as overflow, is paved/striped and within 300' of the Property as required; and,
- E) A second overflow parking area is available to the Applicant, howbeit that said area has a gravel base which does not comply with City code – but it is available...

In addition to the arguments made by the Applicant, Staff observes as follows:

- A) That the Engineering Division of the City's Public Works Department does not oppose the request which, concerning the matter at hand, is significant in that City Engineering serves as the administrative arm of the City as pertaining to rights-of-way [streets] as the City is its own highway district; and,
- B) Relatedly, that Staff has not received expressions of opposition to the Variance request from other City Departments/Divisions, or outside agencies, or the public; and,
- C) That the one parking space for 75 gross square feet of indoor area for a recreational type building such as that proposed by the Applicant is not known to be a "scientific number" but rather, perhaps, a factor based on an old, subjective opinion that has been codified; and,

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- D) Yet, in the majority, other properties throughout the City, when newly developed have routinely complied with the zoning code’s parking space and service drive design controls save, perhaps, in limited instances; and,
- E) That the proposed facility is in an industrial park setting (not zone) with surrounding residential use(s) – there is room to accommodate the use on the Property and it would not be in “tight quarters” given the surrounding land development pattern; and,
- F) All parking is proposed/intended to be kept on-site (i.e., not “on-street”)...

Staff believes the Variance request has merit for consideration. The relief sought by virtue of the Variance addresses in this report is not based on a topographical hardship; rather, it springs from a unique circumstance: the question is whether our code’s parking requirement is justifiable or too weighty as far as the proposed use on/of the Property is concerned.

**Recommended Condition(s) of Approval**

Should the Council vote to approve this Variance package request, then Staff recommends that they/you consider imposing the following Condition(s) of Approval against the same:

Generally:

1. Applicant(s) shall comply with all applicable requirements [including obtaining a Building Permit] and any requisite sub-permits) as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire [inspection], Building, Planning and Zoning and Engineering Departments, etc.) as the Variance(s) [Permit] approval(s) do/does not, and shall not, have the affect of abrogating requirements from those agencies or City divisions/departments...

No one appeared in favor of or in opposition to the request.

**MOVED** by Bruner and **SECONDED** by Hogaboam to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

**MOVED** by Bruner and **SECONDED** by Levi to accept the **variance** to Nampa Zoning Ordinance Section **10-22-6.B**, requiring 1 Parking space per 75 sq. ft of gross floor area, for the proposed 3.27-acre parcel located on the south side of **E Badger Dr**, portions of Canyon County parcels R3182201200, R31822012A0, R31822012B0 and R31822012C0, west of S Kings Rd, within an IL zoning district. The proposed 29,436 sq ft building requires 393 parking spaces. The applicant anticipates 160 paved parking spaces within the that 160, and 8 would be handicapped, along with an overflow gravel parking area that would provide approximately 84 additional

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parking spaces with the conditions recommended by staff for Klint Keller. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #36** - Mayor Kling opened a **public hearing** for **reconsideration** of a **condition** of **approval required** by the City Council in association with their approval of the annexation of, and assignment of RS 6 to, a certain area of land hereafter described said entitlement action intended facilitation of the development of Meadowcrest Subdivision -- Hayden Homes Idaho LLC as developer with Tim Mokwa representing. *The condition required temporary bollards to be placed at the end of the proposed Lancaster Drive where it links to the existing Lancaster Dr. road section in Roosevelt Park Subdivision No. 4 to deter civil construction contractors access through the Roosevelt Park Subdivision with removal of the bollards once the streets are fully constructed to allow for home construction contractors to access Meadowcrest Subdivision through/from Roosevelt Park Subdivision roads as may be necessary, with civil work construction traffic required to access the Property from S. Middleton Rd.; the property to which the annexation, zoning and subdivision approvals appertain is a 40-acre tract of land located at the Northeast corner of Lake Lowell Ave. and So. Middleton* Reconsideration requested by Carolann Norton, Secretary/Treasurer of Roosevelt Park HOA.

City Attorney Mark Hilty said that Robert did a great job of outlining really what this request for reconsideration is or has been understood by staff in the staff report. As you will recall when this originally came up there was discussion about access along Lancaster during construction. The truth is that there is two kinds of construction that are going to go on in this subdivision – one is the heavy civil construction where they will be installing roads, road services, curb, gutter, sidewalk and utilities and I think the proposal from the developer, I think what was approved was that there would be no access on Lancaster during civic construction. There was discussion about whether there should be access for a contractor engage in home construction and the way that staff understood the request for reconsideration is that restriction that exists for access at that point for the civil construction should be extended to the home construction as well for all of the phase until final build out of the subdivision. In the staff report you will see that there has been a guess for lack of a better term a middle ground proposed where there would be no contractor access there for a temporary period of time but as soon as the first phase was completed there would be bollards removed and some signage that talked about where access should be. The one thing that I want to stress here is that this is going to be a hearing (reconsideration) is about access along Lancaster it is not a reconsideration of the entire subdivision. We are looking at one condition that was the subject of the reconsideration, so the testimony and evidence that you receive tonight should be relevant to access along Lancaster.

Councilmembers asked question of the attorney.

Tim Mokwa, Hayden Homes Idaho LLC presented the request.

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Councilmembers asked the applicant questions.

Robert Hobbs presented the following staff report explaining that Mayor and Council, during the hearing of February 20, 2018, you voted to approve an annexation and zoning assignment request related to the above referenced subdivision development. Your approval was made contingent on developer/development compliance with varying conditions that were [in turn] a reiteration and reaffirmation of project requirements previously levied by the Planning Commission. One of those conditions that appertains to the plat reads as follows:

“Temporary bollards shall be emplaced at the end of the proposed Lancaster Drive where the same is slated to link to the existing road section in Roosevelt Park Subdivision No. 4 named Lancaster Drive. The bollards shall be used to deter civil construction contractor access across/through Roosevelt Park Subdivision. The bollards may be removed once the streets (with associated sidewalks, curbs and gutters are fully constructed and approved by the City to allow for home construction contractors to access Meadowcrest through/from Roosevelt Park Subdivision roads as may be necessary. (Civil work construction traffic for the Development shall access the Property from S. Middleton Road).”

Subsequent to your action(s), a request for reconsideration was filed by a homeowner with property in the Roosevelt Park Subdivision that adjoins the proposed Meadowcrest development. The homeowner acted on behalf of various other property owners in that same subdivision in their capacity of secretary/treasurer of the homeowners’ association (HOA). As an adjunct to their letter, a petition was later presented to the City. Both documents were reviewed by you, Mayor and Council, during your meeting of March 5<sup>th</sup>. The statutory criteria associated with a reconsideration procedure are prescribed by Nampa’s zoning code. Certain relevant standards are iterated thusly:

**“10-2-10: REQUESTS FOR RECONSIDERATION:**

A. On any application brought before the city council affecting the use, occupancy or development of real property, including, but not limited to, those matters governed by the Idaho local land use planning act, found at Idaho Code 67-6501 et seq., or the Nampa comprehensive zoning ordinance, found in this title, a party may request that the city council reconsider a decision pursuant to the terms of this section. Decisions and recommendations of the planning and zoning commission are not subject to reconsideration but may be appealed to the city council as provided in this title.

1. The requesting party must have been a party interested in the underlying action in one of the following ways: the property owner of the subject property; the

applicant for the project; or, any interested person who presented written or oral testimony at the public hearing on the application in question; and

2. The request must be made in writing and presented to the city clerk no more than fourteen (14) calendar days after the adoption of written findings of fact, conclusions of law, and/or an order of decision, or, if no such written decision is required or will be issued, within fourteen (14) days of the date on which the decision was made; and

3. The request must state the basis for the request, including a brief statement of the issues and decision that the requesting party is asking to be reconsidered; and

*4. The request must demonstrate either: a) the party requesting reconsideration has relevant information, the relevant information was not previously presented and is in response to something brought up at the previous hearing, and the information was not previously available; or b) the request for reconsideration is made pursuant to Idaho Code section 67-6535(2)(b), as amended.*

...

E. All noticing for the hearing at which the city council will reconsider a prior decision shall be completed in the same manner as was required for the original application. The new hearing shall be conducted in the same manner as all public hearings and shall be considered a de novo hearing.

F. Upon payment of fees, the planning director will schedule a new public hearing for the application as allowed by this code. The new public hearing and ultimate decision shall be the final action of the city council.

*G. Once the council has reconsidered any of its decisions relating to a given application, as set forth hereinabove, it may not entertain any additional or subsequent request for reconsideration, whether by the same or any other interested party. (Ord. 4189, 7-20-2015)”*

While the zoning ordinance specifies that the hearing for the reconsideration is of *de novo* (i.e., a new, open-ended hearing) form, Staff advertised the issue as being solely relegated to the discussion of the afore-quoted condition of approval. (This was done as the reconsideration request was keyed solely to that topic.) That is, should access to Meadowcrest Subdivision for/by housing contractors [not civil construction equipment] be barred until Meadowcrest Subdivision is wholly built-out (completed) as requested [again] by the neighbors in Roosevelt Park Subdivision, or not? Or, should a modification to the controversial condition of approval in



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question be instead made? Hence, Staff believes it would be improper as part of the reconsideration to again raise the question of whether Meadowcrest should be approved for development.

The Applicant's representative has conveyed to the City their client's willingness to emplace improvements in the Meadowcrest plat's confines and in so doing restrict construction access through Lancaster Drive in accordance with the City's plat approval conditions. They have also offered to install a "[secondary] temporary gravel construction access for phase 1 site civil and home building access" off Middleton Road -- see the attached exhibit. They are not, however, favorably inclined to keep access cut-off until their entire subdivision is "built-out" as the neighbors would prefer. *This is the crux of the issue then...should the original condition be modified such that home construction contractors be may be allowed to access phase 1 (that which lies abutting Roosevelt Park Subdivision) via Middleton until that phase is finished and then be able to use Lancaster once phase 2 is ready to commence, or, should they be barred from using Lancaster through the entirety of the subdivision's development?*

Those appearing in favor of the request were: Carol Kenfield; David Beverly; Carol Norton; Kimberly Ruffin; Clinton Thompson; Chris Walker.

No one appeared in opposition to the request.

Tim Mokwa addressed questions and made comments.

Councilmembers asked questions of the applicant.

**MOVED** by Bruner and **SECONDED** by Hogaboam to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

Councilmembers asked questions of the Assistant Fire Chief Davies on the emergency access.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **re-open the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

Councilmembers asked questions of the applicant and made comments.

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**MOVED** by Bruner and **SECONDED** by Rodriguez to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

Councilmembers made comments.

City Attorney Mark Hilty addressed the concerns that were brought forward.

**MOVED** by Haverfield and **SECONDED** by Bruner to **modify the original conditions** of approval to require that the barrier stay in place thru the first phase, the construction/development of 20 homes (completed) and at that time fire engine access will not be denied on Lancaster Drive and the installation of signage on both sides of Lancaster to indicate construction personnel that they cannot use that entrance point for construction purposes.

Councilmember asked for clarity of the motion.

The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #37** - Mayor Kling opened a **public hearing** for **modification of zoning development agreement** between **Greenbriar Estates LLC** and the City of Nampa recorded 5/12/2005 as Inst. No. 200526040 changing the use from that of exclusive RV Storage to 5 Residential Lots, 2 RV Storage Lots and 1 Common Lot for access to all, and Subdivision Plat Short Approval for Greenbriar Estates Subdivision No. 3 in an RP zoning district on proposed W. Bayberry Lane for a 1.7 acre portion for **John Esposito**.

Mark Butler, 1675 East Bishop Way, Eagle presented the request.

Councilmembers asked questions of the applicant.

Robert Hobbs presented the following staff report explaining that the request is for a **Modification of an Annexation & Zoning Development Agreement** between Greenbriar Estates LLC and the City of Nampa recorded 5/12/2005 as Instrument No. 200526040 (Ord. no. 3443) by amending the commitments/conditions/terms thereof cited under the "Witnesseth" section to re-purpose a portion of the "RV Parcel" [the Property hereafter referenced] for the development/construction of single-family detached houses thereon... for D. L. Evans Band as land owner/John Esposito as applicant & developer/Leavitt Engineers as engineer(s) Mark Butler as representative.

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**And, As/because (because the Commission took no action on the plat request made a part of the Applicant's application package) if the Council votes to approve the Development Agreement Modification request noted above, you may either remand for review -- or approve directly -- the Applicant's request for [a]:**

**Subdivision Short [combined preliminary and final] Plat Approval** for "Greenbriar Estates Subdivision No. 3" to in order to facilitate construction of five (5) single-family detached houses, two (2) RV storage lots and one (1) common lot on the land area referenced hereafter...)

**(Decision Required: *Remand or Decision*)**

(...Said application package hereinafter, collectively, referred to as the "Project", alternatively the "Development", or "Application Package", or "Entitlements")...

**Property Area and Location(s):** Some 1.7 acres of land located in a Residential Professional (RP) Zone within a portion of the SE ¼ of the SW ¼ of Section 04, T2N, R2W, Boise Meridian, Canyon County, Nampa on the north side of W. Locust Lane west of 12<sup>th</sup> Avenue South/Hwy and west of, and abutting, the northeast corner of Greenbriar Estates No. 1 Subdivision (hereinafter the "Property")...

**Abbreviated History and Commentary:** In 2004 application for annexation, zoning [to RP] and land division approval of/for the Greenbriar Estates development was first presented to the City by the Applicant. In 2005, the Applicant also applied for annexation and zoning assignment to seek approval to incorporate the Property made the subject of this report. The City Council approved that request predicated on the Applicant "entering" in to a Development Agreement [land use contract] with the City. Accordingly, an Agreement was crafted by one of our Staff associates, signed and recorded 5/12/2005 as Instrument No. 200526040 (Ord. no. 3443). The Agreement was purposed "to establish use of the [Property as a] recreational vehicle park to be for residents of the adjacent retirement center only, known as Greenbriar Estates."

Finding a lack of interest by property owners in Greenbriar to rent space(s) within the Property to store recreational vehicles, the Applicant applied to the City on December 13, 2006 to subdivide the Property into five residential building lots with a remnant of land for drainage and RV storage space. That plat, known as "Greenbriar No., 3" was approved by the City Council on February 05, 2007 (but has since expired). Please note that that plat should not have been approved by the City given the Development Agreement that encumbers the land. Application to modify the Agreement should have been first submitted to determine whether the City was willing to amend the restriction that the Property only be used for RV storage as a form of amenity to the larger Greenbriar development.

Comes now the Applicant a decade later to revisit use of the Property. This time around, application for a Development Agreement has been properly submitted, along with a new application to divide the Property (a new "Greenbriar No. 3") which is arranged in care and

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keeping with the Greenbriar No. 3 plat of 2007. The Property remains outside the bounds of the Greenbriar plat(s) but is recognized in/by Greenbriar's CC&Rs. Given the land use Development Agreement contract that affects the Property's usage, allowing the re-purposing of the same as proposed by the Applicant is strictly a discretionary decision to be made by the City Council. (It is not a guaranteed right of the Applicant nor an action that can be barred by opposing parties [e.g., the neighbors in Greenbriar]). The short plat appears to be compliant with relevant City subdivision design codes/standards/policies, contingent on compliance with varying conditions of approval iterated hereafter.

The Commission on February 27, 2018, following review of a Staff report, an assortment of exhibits, and, after receiving extensive Applicant and public testimony, voted to recommend to Council that you deny the entitlement request made the subject of this report. Correspondingly, the Commission took no action on the plat request.

The Commission, in deliberating before their motion, seemed to express concern that approving the requested applications would not be in the public interest nor in the interest of residents in Greenbriar, that other building lots are available in the City upon which to construct housing, that the service drive width leading to the RV Parcel was apparently sub-standard per the Fire Department and that issues raised by those opposing the applications were of concern. A copy of the written minutes of the meeting are hereto attached and are also available, in recorded form, online. Also attached, as typical of reports sent to Council, are those exhibits made a part of the original Staff report to the Commission as well as letters, memorandums, email printouts, petitions, visual aids (e.g., photos or images, maps, charts, plans, etc.) submitted to Staff by the time our report is due to go to print and distribution [4pm, March 28<sup>th</sup> in the case of this report/matter].

The Commission version of this report did not contain the exhibits that were brought in by Greenbriar residents and the Applicant (Greenbriar's original developer) as they were documents made a part of a lawsuit between the Applicant and the subdivision HOA as our desire was to try and keep the Commission focused on the land use question which centers on the propriety of the requested Development Agreement Modification.

During the course of the Commission meeting the Applicant displayed to the Commission -- on screen -- in response to neighbor testimony, a copy of a "Partial Settlement Agreement", that apparently vouchsafes the Applicant's disputed right of access. (In reviewing the Applicants' documentation supplied for this report, Staff has noted that a copy of that Agreement is therein [this time] enclosed.) Challenges to the standing of the Applicant to have granted easement to himself (or his company) over Lot 20 preceding, or in conjunction with, orchestration of the Settlement Agreement is not something that the City can readily arbitrate or determine in a/the public forum.

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Thus, in the February Commission report, we noted that, “[We are] aware of potential disputes concerning access to the site [i.e., the Property] by purchasers of the residential lots proposed in the new subdivision. Planned access is through the streets built to service existing Greenbriar Nos. 1 and 2. These streets are private and designated as a common lot in connection with the original plat. Further, use of such streets is governed by original plat notes and numerous private contracts including CC&Rs, easements, settlement documents relating to litigation between Developer/Applicant and the Greenbriar HOA/homeowners – and, possibly other instruments and/or legal claims. Neither City Staff nor the City Council are in position to resolve these disputes.”

At this juncture, Staff and legal counsel recommend that, if the Project is approved, a Condition of Approval should be imposed against the Applicant and the Project that delays the issuance of any permits for a period of thirty (30) days following [any such] approval so that any interested party may contest access in court. If an action is filed, the City should withhold permits if the Applicant is enjoined from proceeding with development as may be ordered by the court. Alternatively, a condition that was suggested to the Commission may be considered. The preferred condition and the alternative are listed as number 5 under the proposed plat conditions.

Respecting one matter argued by the Applicant’s representative; namely, prior approval of the Greenbriar No. 3 by the City in 2007, please note: The City did process as plat such a subdivision as correctly indicated by the Applicant’s representative. And, notwithstanding their commentary, the plat was processed in error as our available GIS records did not show the Development Agreement that binds the Property to RV use when the plat was being evaluated and that Agreement was crafted by another Staff member no longer with the City. In any event, the subdivision was left undeveloped by the current Applicant and expired almost a decade ago which information was conveyed recently to the Applicant. Thus, we find no merit in the contention that, “[a] reversal of Council decision [sic] would result in Mr. Esposito relying on the previous approval to his financial detriment.” ~~Thus, we find no merit in the that, “[a] reversal of Council decision would result in Mr. Esposito relying on the previous approval to his financial detriment.~~

### **Development Agreement Modification**

Development Agreements are land use contracts [and treated as contracts by Idaho’s Supreme Court versus a form of zoning related entitlement] authorized in state code in the Local Land Use Planning Act section (Title 67) thereof.

Criteria to guide the Council regarding the requested Development Agreement Modification(s) are absent from state statute or City ordinance. Thus, approving or not approving the Development Agreement Modification aspect of the Applicant/Developer’s application package becomes a purely subjective matter/decision on the part of the City as [controlling] party to/of the Development Agreement contract associated with this report. Your decision as a Council to

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approve or deny will be presumably based upon your view as to whether, or not, the proposed Project is agreeable for development on the Property or not. That decision is at the heart of this matter...plating the Property into lots is effectually just a mapping exercise.

Attached hereto is a copy of Ordinance no. 3443 -- the [original] Development Agreement that bears on the Property. The basic nature of the amendments proposed to said Agreement are as noted above in the "Requested Actions Summary" section of this report. Also attached is a copy of the 2004 Greenbriar Concept Plan which some parties may refer to in their testimony.

### **2018 Short Plat Subdivision Statistics**

**Overall Site Area-** 1.70 acres

**Total, Proposed RP Lot Count-** 8 (5 residential, 2 RV storage, 1 common lot)

**Regarding "RP Building Lots":**

**Min. Allowed RP Bldg. Lot Size-** 6,000 sq. ft..

**Min. Proposed RP Bldg. Lot Size-** 6,950 sq. ft.

**Min. Allowed Avg. RP Bldg. Lot Size-** N/A

**Min. Proposed Avg. RS 8.5 Bldg. Lot Size-** N/A

**Periphery Compatibility Applicability-** N/A

**Min. Req. Street or Common/Service Drive Frontage RP Zone-** 22'

**Min. Proposed Frontage for Building Lots -** 22'+ each lot off service drive

**Min. Allowed RP Zone Bldg. Lot Widths-** 50' required at the 20' setback mark

**Min. Allowed RP Zone Bldg. Lot Depths-** N/A

**Plat Development Data/Notes:** See plat sheets

### **Findings of Fact & Notes Regarding Plat**

This matter before the City respecting the plat portion of the Application Package is to determine whether, or not, the proposed preliminary plat is acceptable [if the requested Development Agreement is first approved].

Platting of this Project will serve to divide the land. It must be done in accordance with state law, Nampa City Code § 10-27, Nampa City Code § 10-13, and, in cooperation with the City's currently adopted Engineering Design and Specification manuals.

Thus, Plat review was done to analyze the Project's compliance to code in the context of this Project having already been annexed and zoned and in concert with the anticipated Development Agreement Modification's conceptual site layout plan made a part of the Application Package associated with the Project.

**Regarding the Plat, Zoning Staff finds:**

1. **Minimum Lot Areas:**

That because the proposed Plat is slated for development in conjunction with RP zoning, this requirement applies to all single-family slated building lots in the proposed Development. All such lots meet or exceed 6,000 sq. ft. in area; therefore, the Plat is deemed compliant in this regard; and,

2. **Average Lot Size:**

That because the proposed Plat is slated for development in conjunction with RP zoning, the average lot size requirement found in N.C.C. § 10-27-6.F(1)(a) is deemed non-applicable; therefore, the Plat is deemed compliant in this regard; and,

3. **Lot Compatibility:**

That because the proposed Plat is slated for development in conjunction with RP zoning, the lot compatibility requirement found in N.C.C. § 10-27-6.F(1)(b) is deemed non-applicable; therefore, the Plat is deemed compliant in this regard; and,

4. **Lot Width:**

That because each of the five (5) building lots proposed in the Development provide at least 50' of lot width at the 20' front setback mark, the Plat is deemed compliant in this regard; and,

5. **Lot Depth:**

That because the proposed Plat is slated for development in conjunction with RP zoning, a minimum [building] lot depth is not required by code; therefore, the Plat is deemed compliant in this regard; and,

6. **Right-Of-Way Dedication(s)/Improvements:**

N/A; Project building lots would take access off of a service drive that connects to a private street which in turn ties into a public street. The drive, while slightly substandard where it crosses Lot 20 has been accepted by the Fire Department. The proposed service drive extension that would be emplaced on the Property should the Plat be approved will/would be required to comply with the Fire Department's design standard minimums and the zoning code's paving requirement; and,

7. **Subdivision Landscaping:** N/A; to be provided on each building lot; and,

9. **Path/Trailway(s):** N/A; and,

10. **Misc./Correspondence:**

Any correspondence from agencies or the citizenry regarding this application (by noon, March 28, 2018) is hereafter attached to this report. (Agency comments are usually geared towards recommending conditions for the Project should it be approved.)

**Plat Action Recommendation(s):**

If the Development Agreement Modification application is approved by Council, the Staff recommends that the proposed Plat be approved with conditions – unless the plat is remanded back to the Commission for action.

**Recommended Condition(s) of Approval**

Staff recommends that if the Council votes to approve the requested Development Agreement Modification application [addressed by this report] as proposed by the Applicant, that you in turn consider imposing the following Condition(s) of Approval against the Development/Applicant in conjunction with that entitlement application request, to wit:

**Development Agreement Modification/Rezone Based:**

1. That the Applicant, as Owner/Developer, [shall] enter into a Modified Development Agreement (contract) with the City of Nampa for the Property. The Agreement shall contain such conditions, terms, restrictions, representations, exhibits, acknowledgments and timelines as necessary to facilitate development of the properties as contemplated by the Applicant and agreed to and conditioned by the City through its Council or executive departments or outside agencies properly involved in the review of the Applicant's request(s), including pathway deeding and dedication.
2. <Any other condition(s) as the Council concludes befit(s) the Development Agreement portion of the Application package...>

If the Council votes to approve the Development Agreement Modification and then wishes to take action to approve the subdivision short plat application as presented to the City (rather than remand to the Commission), then Staff would recommend that the Council consider, correspondingly, imposing the following Condition(s) of Approval on/against the Development/Developer:

**Plat Based:**

1. Generally: The Developer/Development shall comply with all requirements imposed by City agencies involved in the review of this matter including, specifically the following:
  - a. The Developer/Development shall comply with recommended approval requirements listed in the February 16, 2018 memorandum from the Nampa Engineering Division authored by Daniel Badger (1 page – copy hereto attached); and,



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b. The Developer/Development shall comply with the recommended approval requirement listed in the September 25, 2017 memorandum from the Nampa Parks Department authored by Cody Swander (1 page – copy hereto attached); and,

2. The water system for the Development shall be completely installed and able to deliver water prior to any Building Permits being issued within the development. The water shall be sufficient in volume and pressure to provide sufficient adequate fire suppression for the Development in accordance with Fire Department policy or International Fire Code requirements as applicable; and,

3. Notes Correction(s): Developer’s engineer shall correct any spelling, grammar, punctuation and/or and numbering type errors that may be evident on the plat face and/or in the proposed plat development notes; and,

4. Any exceptions to City adopted subdivision design standards shall/will require separate design [exception] approval from the City Council...

5. **[Recommended]** There shall be a delay of issuance of any permits for construction of any civil site work or building construction within the Development for a period of thirty (30) days following Project approval so that any interested party may contest access to the Development in court. If an action is filed, the City shall withhold permits if the Applicant is enjoined from proceeding with development as may be ordered by the court;

(Or, alternatively:

The Developer/Applicant shall, within one year’s time from the date of City Council action on the Development Agreement Modification request associated with the Greenbriar Estates No. 3 Subdivision plat, fully resolve any private disputes regarding access to the Property for the owners of the new residential lots proposed in Greenbriar No. 3 prior to final plat approval being given by the City [and the plat thereafter being signed by appropriate City officials and thus made acceptable for recording].)

No one appeared in favor of the request.

Those appearing in opposition to the request are as follows:

Name	Address	City	Spoke (Y/N)
Mark Butlor	Applicant		
Pat McMonigle	2701 Table Rock Road	Boise	Yes
Carolyn Hanson	520 Thorne Wood Street	Nampa	Yes
Paul Duty	3609 South Edgeview Drive	Nampa	Yes

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Linda Burleigh	3601 South Edgeview Drive	Nampa	Yes
Don D Draden	424 West Burnhill Drive	Nampa	Yes
Martin Duarte	3812 South Tapewood	Nampa	Yes
Jerry Hull	3620 South Edgeview Drive	Nampa	Had a letter for Council
Barbara Winter		Nampa	Agreed didn't speak
William Weather		Nampa	Agreed didn't speak
Steve Weather		Nampa	Agreed didn't speak
Jim Hansen		Nampa	Agreed didn't speak
Dot Hansen		Nampa	Agreed didn't speak
Barbara Smith		Nampa	Agreed didn't speak
Joe Smith		Nampa	Agreed didn't speak
Sue Woodworth		Nampa	Agreed didn't speak
Bob Woodworth		Nampa	Agreed didn't speak
Robert Peters		Nampa	Agreed didn't speak
Richland Ross		Nampa	Agreed didn't speak
Dorothy Gilbet		Nampa	Agreed didn't speak
Afina Roth		Nampa	Agreed didn't speak
Janette Jones		Nampa	Agreed didn't speak
Philip Brown		Nampa	Agreed didn't speak
Wesley Brown		Nampa	Agreed didn't speak
Kris Link		Nampa	Agreed didn't speak
Rod Link		Nampa	Agreed didn't speak
Peggy Hays		Nampa	Agreed didn't speak
Kerry Bamrick		Nampa	not in attendance
Kelsie DeArmond		Nampa	Agreed didn't speak
Travis DeArmond	3696 South Green Basin	Nampa	Yes
Sue Pastoor			Agreed didn't speak
Douglas Bolles		Nampa	Agreed didn't speak
Satina Duty		Nampa	Agreed didn't speak
Anna Duarte		Nampa	Agreed didn't speak
Judi Klippahn		Nampa	Agreed didn't speak
Bruce Haven		Nampa	Agreed didn't speak
Vern King		Nampa	Agreed didn't speak
George Rogers		Nampa	Agreed didn't speak
Nancy Martin		Nampa	Agreed didn't speak
Cora Nichols		Nampa	Agreed didn't speak
Barbara Hull		Nampa	Agreed didn't speak

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Robert Flynt		Nampa	Agreed didn't speak
Dick Weirich		Nampa	Agreed didn't speak
Elizabeth Day		Nampa	Agreed didn't speak
Mary Herrick	3721 Greenbriar Road	Nampa	Yes
Nathan Rosenthal		Nampa	Agreed didn't speak
Mary Allen		Nampa	Agreed didn't speak
Carmen White		Nampa	not in attendance
Dave DeAngelis		Nampa	Agreed didn't speak
Janice Wasmund		Nampa	Agreed didn't speak
Mary Muande			Agreed didn't speak
Sergio Muande			Agreed didn't speak

Mark Butler presented a rebuttal.

Councilmembers asked the applicant questions.

Mayor addressed the council.

Mark Hilty said that I have been familiar with some of these issues for some time. I did attend the planning and zoning meeting February on this and addressed many of these same folks that evening. As Robert pointed out in the staff report and in the packet there is a pair of decisions tonight, the first one is whether to modify the development agreement. The development agreement calls this property out as an RV storage unit for Greenbriar so in order to change that use to a RV storage unit and 5 additional residential lots you would need to amend that development agreement. This is as Robert pointed out of discretion for the City Council to decide. Your opinion should not be made upon whether you are related to somebody or have a financial interest in it or those types of things, but you can refuse to modify that development agreement if you have heard things that are of concern about the manner which it would be modified and the effect on the neighborhood. Those would be perfectly legitimate reasons to deny the development agreement modification. Conversely if this is based on you listening to the testimony and evidence is something that should work in the neighborhood based on the needs and uses then you are free to modify that. That is the first decision.

If you decide to allow the modification of the development agreement then there are some additional issues that were argued on both sides and for the most part or perhaps entirely they revolve around a relative rights of private parties that are based upon private documents governing that relationship and as you may have gathered there is a long history here that has been very difficult for everybody involved. The relative rights are based on the litigation settlement agreement, they are based on private convene, the fact that they are private streets in the Greenbriar subdivision and who has the rights to drive on them and for what purpose. Going back further

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there are questions about whether there was valid easements retained or given. Those are not questions that we have the ability or the jurisdiction to resolve for these parties.

The way that I see the legal issues presented here is you do have the authority to make that threshold decision on the development agreement. If you decide that you want to allow this modification and if you want to approve the preliminary plats then staff has recommended conditions to try and help resolve these disputes. Ultimately these disputes are going to have to be resolved by the district court. Someone is going to have to take this to a judge to get these relative rights resolved and the question is who you are going to put that on to go do that. What I am concerned about as I review the record is there does appear to be a settlement agreement that indicates that accessing thru the Greenbriar subdivision to this location for a subdivision of five lots was part of the settlement agreement whether that is enforceable now, whether that settlement agreement was completed, what the legal ramifications are if it was not completed, whether there are other defenses to it, is not something that I can speak to. I don't know, and it is not something that this council can decide in any event.

If this property is going to be further developed for residential uses it would be good for those private rights to be resolved because it could affect the individuals that buy these lots or choose to live there. The conditions that have been proposed, there are two of them, the recommended one is that if this is approved that there be a thirty-day delay in the issuance of any permits to make any changed on the property, that thirty days being sufficient time hopefully for the homeowners association to bring their concerns to the district court through a lawsuit. The alternate condition is that we would put the onus on the applicant and have him required to go and prove up his access as a condition for the develop going forward.

The recommendation is that you put the onus on the homeowners, at surface level it does appear that there was a resolution of those litigation issues that included some kind of access to this area.

I think you initially need to decide if this is a change that you want to make to that development agreement and if not you should articulate reason you don't want to make that change. If you do want to make that change then are there as conditions attached to the staff report, just note that condition #5 which is on page 7 in the packet page 322 of the entire packet.

Councilmembers asked questions of legal.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

Councilmembers asked questions and made comments.

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**MOVED** by Skaug and **SECONDED** by Rodriguez to **deny** the **modification of zoning development agreement** between **Greenbriar Estates LLC** and the City of Nampa recorded 5/12/2005 as Inst. No. 200526040 changing the use from that of exclusive RV Storage to 5 Residential Lots, 2 RV Storage Lots and 1 Common Lot for access to all, and Subdivision Plat Short Approval for Greenbriar Estates Subdivision No. 3 in an RP zoning district on proposed W. Bayberry Lane for a 1.7 acre portion for **John Esposito**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #20** - Mayor Kling presented the request for **approval** of the **CDBG Application Guidelines**.

Economic Development Assistant Director Robin Sellers presented a staff report explaining that the staff is requesting city council to adopt the application guidelines for the CDBG program for 2018. These guidelines address the CDBG program requirements. The application guidance provides information about the expectations for the program to potential applicants, the guidance helps the City ensure that the funds are spent in a timely manner and compliance with HUD requirements so this year in program 2018 there are some really minor changes. The two changes that were made to this document from last year were updated priorities, goals and objectives based on information obtained from the five-year consolidated plan and then updated timelines and deadline dates. There is one little minor change that we found after you received this in your packet, it is the updating on page 11 on the funding guidelines. The volunteer match rates so there is a hourly rate that they give volunteers which is \$21.10 prior and now it has been updated to \$24.14 that is the only minor change to be able to make the matching requirements for volunteer service.

**MOVED** by Bruner and **SECONDED** by Haverfield to **approve the application guidelines as presented with the additional change to the volunteer match rate of \$24.14**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #14** - Public Works Director Michael Fuss presented a staff report to update the council on current projects as follows:

#### **Street Division Snow Removal Update –**

Street Division staff continue winter maintenance activities. No sand, salt, or Magnesium Chloride (MgCl<sub>2</sub>) was needed during the last storm event. Crews worked overtime to perform snow plowing. The following highlights man hours and material expenditures through March 25, 2018:

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<b>FISCAL YEAR 2018 TOTALS</b>		<b>December 15, 2017-February 26, 2018</b>	
<b>Task and/or Material</b>	<b>Hours</b>	<b>Gallons</b>	<b>Yards</b>
Overtime	294.50		
Regular Hours	149.00		
Water Issues			
<b>Total Hours</b>	<b>443.50</b>		
Mag Chloride		36,280	
Sand			7
Salt			434

<b><i>Snow/Water Event No. 10</i></b>		<b><i>Report for March 25, 2018</i></b>	
<b>Task and/or Material</b>	<b>Hours</b>	<b>Gallons</b>	<b>Yards</b>
Overtime	13.00		
Regular Hours			
Water Issues			
<b>Total Hours</b>			
Mag Chloride / brine			
Sand			
Salt			

**Wastewater Program Update –**

With recent direction from Council, the City’s Wastewater Program is progressing on a number of fronts.

Facility Plan

- The Facility Plan was adopted by Council on February 20
- The Wastewater Program Management Team (WPMT) and Staff are preparing the Environmental Information Document, which is final environmental step to secure funding through the Idaho Department of Environmental Quality (IDEQ) State Revolving Fund (SRF) Loan Program (provided bond vote is passed)

Funding

- SRF Loan. The IDEQ has published its *Clean Water Intended Use Plan for Fiscal Year 2019* for public comment. Nampa is recommended for a 30-year loan of \$37M in fiscal year 2019 at an interest rate of 1.68%, with staff indications to fund 100% of the \$165M need through subsequent funding years
- Staff has developed a Letter of Support for the *Clean Water Intended Use Plan for Fiscal Year 2019*, to be signed by the Mayor and Council and submitted to IDEQ within its public comment period (see Exhibit A)

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- The public bond election for debt authorization will occur May 15, 2018. An update of ongoing public educational outreach activities is included in Exhibit B

#### EPA/DEQ Interaction

- The Environmental Protection Agency (EPA) has responded to the letter from Mayor and Council (see Exhibit C)
- Staff has reviewed the letter and concurs with supporting technical documentation provided
- Staff is working to schedule a meeting with Idaho EPA Administrator Jim Werntz, Mayor Kling and staff
- The next major hurdle will be the Reuse Permit Application to IDEQ to support the Preferred Alternative from the Facility Plan
  - The negotiation of this permit will take coordination with IDEQ, EPA, Pioneer Irrigation District, and the City
  - Staff is developing a strategy to address the technical, legal, and political resources and options as we enter the Reuse Permit application and negotiation phase

#### Oversight Committee

- Mayor Kling requested an industry and citizen committee to assist with recommendations to Council as the design and subsequent construction of the project moves forward
- Staff is currently working on establishing the proposed approach for facilitating this group, including the committees' charter, size, ground rules, decision criteria, and scheduling and frequency of meetings
- Staff expects the following groups to be represented on the oversight committee:
  - Industry representatives (TASCO, Admiral Beverage, Materne, others)
  - Citizens
  - Staff representatives and three City Council participants

#### Predesign

- Staff and City consultant, Brown and Caldwell, begin discussion of predesign contract. This contract is expected to be presented to City Council in June

**2018 Pressurized Irrigation Season** - Water Division staff have been preparing the City's municipal irrigation system for delivery of service to its customers. Irrigation water will begin

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entering canals from underlying districts on April 2. Some customers will observe system pressure, but it will likely be intermittent as operators continue to test the system and find any damage that may have occurred over the winter or by accidental strikes during the off period. Full service is expected by mid-April.

Staff is pleased to report three new irrigation filters will be installed for the 2018 irrigation season. Customers in the areas of Colter Bay and Sunset Oaks Subdivisions, and Horton Pump customers around Lions Park area should experience cleaner irrigation water this summer than in the past. It may take some time this year to flush the lines of existing debris, but improved irrigation water quality is expected this summer.

The City receives irrigation water from mountain reservoirs like Arrowrock, Lucky Peak and Anderson Ranch via various canals to irrigation water districts such as Nampa and Meridian, Pioneer, and Boise-Kuna. The City receives a majority of its irrigation water from the underlying districts which discharge water into other canals and ditches in Nampa. City pumps are used to draw the irrigation water to provide pressurized irrigation service to its customers. The length of the irrigation season is dependent on water in the reservoirs and canals. The attached press release (see Exhibit D) was released on March 26 to help inform customers of the upcoming irrigation season.

**Night Work for Northside Boulevard Signals Project –**

- Based on a demonstrated need for safety improvements at high injury accident locations, Engineering applied for and was awarded funding through the Local Highway Safety Improvement Program (LHSIP) for Northside Boulevard Signals Project
- The project includes the installation of Flashing Yellow Turn Arrow (FYLTA) signal heads, pedestrian signal upgrades, enhanced lighting, accessibility ramp upgrades, minor sidewalk improvements at the following intersections (see Exhibit E):
  - Northside Boulevard and Karcher Road
  - Northside Boulevard and 6th Street North
- To reduce impact to commuters and local businesses, signal installation will be completed at night
- Also, the contractor requested to complete some of the demolition work at night to reduce impacts to local businesses
- Nampa City Code Section 6-7-3 allows for work to occur between the hours of 7:00 a.m. and 11:00 p.m.



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- In 2014, Council authorized the City Engineer to act as an agent to issue night time work permissions (see Exhibit F)
- The City Engineer has authorized night work for the Northside Boulevard Signals Project to reduce impacts to commuters and local businesses

**Engineering Division 2018 Workforce Plan for Capital Projects** - Attached for Councilor's review is the Engineering Division 2018 Workforce Plan for Capital Projects (see Exhibit G). A PowerPoint will also be presented the same day as this staff report by Tom Points, P.E., City Engineer.

**Item that was added to the agenda** - Mayor Kling presented a request for **discussion** on the **EPA letter** that all **Council and Mayor signed**.

Councilmember Skaug presented a report explaining that when we all got together and wrote this letter, credit to the Mayor and Council for signing the letter that we sent to the EPA. It did get attention according to Michael and from the responses that I am getting, but once we signed it we talked about each of us going our own direction with our political muscle as we are able to find it some may not be interested, and some may and that is fine. So I have gone down that route and the letter has brought some results with the help of Senator Rish, David LeRoy and especially Congressman Labrador's office. I was able to get a meeting with the Director of EPA in Idaho Jim Wertz. He is more of a implementor than political. The meeting took place in my office with the director and a Labrador staff member. We had a good meeting, progress and better understanding took place and he also on his own talked to Michael.

The items in our Mayor and Council letter best communicator by Michael and his staff and progress is being made. Michael has communicated that to me and many of you or all of you. With the help of Federal politicians though now we have secured a meeting with Chris Latic in Seattle. He is the regional administrator for the EPA. He is a political appointee, that is more my flavor. With Council's blessing, Councilmember Rodriguez and I would like to attend this meeting along with Michael Fuss and that is news to Michael as I speak it is recent development. I am inviting Michael to the political meeting because we need his expertise on the three areas of the letter. We thought that this is a great plan we can get some of this water into the canals, who would be against that but EPA is saying not so easy. DEQ seems favorable. I want Michael to talk to this guy in Seattle, the political appointee, appointed by President Trump on that issue because he has that expertise or whoever Michael might designate.

You have seen President Trump's recent comments on the clean water act regulations going way to far and the time is right now for us as a city to strike in that direction. I have not and will not advocate anything contrary to our request in that joint letter that we all signed but I will ask for additional help to ease the coming financial burden on our taxpayers and wastewater rate payers.

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Our poverty argument is true and genuine and that seems to speak to anyone that we talk to. The wastewater treatment plant will have to be built as planned, nothing in this would interfere with our moving forward as we are representing for the bond issue. Let's continue to reduce costs and initiative in our thinking and that is what the Mayor is putting together with this other group.

If you desire to only deal with the professional bureaucracy, well then that is Michael's department and to go that route then there is no need for my meeting that is coming up. If you wish to further explore the political route to solutions then I ask your blessing on Victor, Michael and I or Michael's designee as the Mayor may say and give us Gods speed to get it done. I expect to be in Washington DC this summer on political. We have gathered some muscle and people are really standing up for us right now. I am asking you to support us sending Michael or his designee to Seattle and Victor and I. Victor and I are going to go regardless individually as Councilmembers, we would like to have staff there too. The reason that I had to have it on the agenda for tonight is that the meeting is set for May 3, 2018.

Councilmembers asked questions and made comments.

Mayor Kling asked questions and made comments.

**MOVED** by Skaug and **SECONDED** by Rodriguez to **keep the date of May 3, 2018** to meet with Mr. Lattic with the EPA in Seattle. Mayor Kling asked for a roll call vote with Councilmembers Haverfield, Hogaboam, Bruner, Rodriguez, Skaug voting **YES**. Councilmember Levi **ABSTAINED**. The Mayor declared the

**MOTION CARRIED**

**Item #15** – 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to IL for Self Storage at 908 W. Karcher Rd. for Civil Site Works representing Charles and Carmela Ham (**PH was 3-19-2018**) was postpone due to lack of supporting documentation.

**Item #16** – The following Ordinance was read by title:

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO, **VACATING** THE NORTHERLY TWO (2') FEET OF THE FIVE (5') FOOT WIDE PUBLIC UTILITIES, DRAINAGE AND IRRIGATION EASEMENT, LOCATED ON THE SOUTH SIDE OF THAT PROPERTY COMMONLY KNOWN AS **2907 E. IDAVADA COURT**, IN THE CITY OF NAMPA, IDAHO, MORE PARTICULARLY DESCRIBED BELOW, AND DIRECTING THE CITY ENGINEER TO ALTER THE USE AND AREA MAP ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF IN CONFLICT HEREWITH. (Applicant Bryan Wright, representing Peter Kasper) (**PH was 02-05-2018**)

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The Mayor declared this the first reading of the Ordinance.  
Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Haverfield and **SECONDED** by Hogaboam to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with Councilmembers Skaug, Bruner, Rodriguez, Hogaboam, Haverfield voting **YES**. Councilmember Levi voting **NO**. The Mayor declared the ordinance duly passed, numbered it **4366** and directed the Clerk to record it as required.

MOTION CARRIED

**Item #17** – The following Ordinance was read by title:

AN ORDINANCE DETERMINING THAT CERTAIN LANDS, COMMONLY KNOWN AS **1505 SOUTHSIDE BOULEVARD**, COMPRISING APPROXIMATELY 1.69 ACRES, MORE OR LESS, LAY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO, AND THAT SAID LANDS SHOULD BE **ANNEXED** INTO THE CITY OF NAMPA, IDAHO, AS PART OF THE **RP (RESIDENTIAL PROFESSIONAL) ZONE**; DECLARING SAID LANDS BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW TO BE A PART OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER AND PLANNING AND ZONING DIRECTOR TO ADD SAID PROPERTY TO THE OFFICIAL MAPS OF THE CITY OF NAMPA, IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE; AND, DIRECTING THE CLERK OF THE CITY OF NAMPA TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREA TO BE ANNEXED WITH CANYON COUNTY, STATE OF IDAHO AND THE IDAHO STATE TAX COMMISSION, PURSUANT TO IDAHO CODE, SECTION 63-215. (Applicant Todd Lakey representing Shawn, Kara, Tim & Ralene Overall) **(PH was 02-05-2018)**

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Bruner and **SECONDED** by Haverfield to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4367** and directed the Clerk to record it as required.

MOTION CARRIED

**Item #18** – The following Ordinance was read by title:

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO, **VACATING** A PORTION OF THAT **RIGHT-OF-WAY** KNOWN AS **E. BARBARA STREET**, GENERALLY DESCRIBED AS LYING **BETWEEN 6TH STREET N. AND ANN STREET**, AND EXTENDING NORTHWARD, AS MORE PARTICULARLY DESCRIBED BELOW, IN

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NAMPA, CANYON COUNTY, IDAHO, AND DIRECTING THE CITY ENGINEER TO ALTER THE USE AND AREA MAP ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF IN CONFLICT HEREWITH. (Applicant Aspen Engineers representing Jacksons Food Stores, Inc.) **(PH Was 3-5-2018)**

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Haverfield and **SECONDED** by Levi to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4368** and directed the Clerk to record it as required.

MOTION CARRIED

**Item #19 – Pending Ordinances (Postponed due to lack of supporting documentation)**

- a) 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS 7 for Modena Subdivision at 17590 N. Franklin Blvd. for 1099 LLC **(PH was 01-02-2018)**
- b) 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS-6 at 34 N Middleton Rd. for Irma Lisa Aguilar-Reyes **(PH was 01-16-2018)**
- c) 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to BC for a Storage Facility at 2105 N. Middleton Rd. for Hatch Design Architecture, Jeff Hatch representing Don Vandegrift **(PH was 02-20-2018)**
- d) 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS 6 for Meadowcrest Subdivision at the Northeast Corner of Lake Lowell Ave. and So. Middleton Rd. for Hayden Homes Idaho LLC, Tim Mokwa **(PH was 02-20-2018)**
- e) 1<sup>st</sup> reading of Ordinance for Vacation of Easement located on a Portion of 16828 N Marketplace Blvd, being Lot 4, Bk 1 of Treasure Valley Crossing Subdivision, within a BC Zoning District, West of N Midland Blvd and on the North Side of N Marketplace Blvd. The Easement to be Vacated is Located on the South Side of the Sewer Easement, Adjacent the North Property line, and Comprises a 26.07 ft x 20 ft x 25.99 ft x 20 ft area, for Agree Realty, Representing LK Nampa II, LLC **(PH Was 3-5-2018)**
- f) 1<sup>st</sup> Reading of Ordinance for Modification of Zoning Development Agreement Between Needs Kotch LLC and the City of Nampa recorded 8/15/2007 as Inst. No. 2007056433 Amending Bella Commons Phase 1 Changing Lot 4, Block 1 from a Commercial Lot to a Multiple-Family Residential lot to Match the Existing Neighborhood, Zoning Map Amendment from BN-PUD to RMH-PUD for Summit Development Representing Conquest Properties LLC **(PH was 3-19-2018)**

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- g) 1<sup>st</sup> Reading of Ordinance for Development Agreement Annexation and Zoning to RS 6 for 17.55 acres at 0 Amity Ave. - Parcel# R3179901000 for Patrick Colwell, T-O Engineers Representing Aberdeen Springs Wind LLC, Fred Cornforth **(PH was 3-19-2018)**
- h) 1<sup>st</sup> Reading of Ordinance for Zoning Map Amendment from RMH to BC at 172, 174, 176, and 178 E. Maine Ave. for Amber Steube representing Magnolia Investments LLC **(PH was 3-19-2018)**

**Item #22** - Mayor Kling presented the request for **appointment of Kasey Ketterling & reappointment of Philip Peterson to Nampa Bike & Pedestrian Committee.**

**MOVED** by Hogaboam and **SECONDED** by Levi to **approve the appointment of Kasey Ketterling & reappointment of Philip Peterson to Nampa Bike & Pedestrian Committee.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #23** - Mayor Kling presented the request for **reappointment of Doug Houston & Jordan Yankovich to Arts & Historic Preservation Commission.**

**MOVED** by Bruner and **SECONDED** by Rodriguez to **approve the reappointment of Doug Houston & Jordan Yankovich to Arts & Historic Preservation Commission.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #24** - Approval for **Police** to Apply for **BJA COPS grant**. This item was postponed at the request of Captain Daniels until the next Regular Meeting.

**Item #25** - Mayor Kling presented the request to **authorize the Mayor and Public Works Director to sign Task Order and Contract with HDR Engineering, Inc. regarding Elijah Drain at Greenhurst Culvert Repair & Road Widening.**

Michael Fuss presented a staff report explaining that the City has completed design of the Elijah Drain at Greenhurst Culvert Repair and Road Widening project. The project will replace the existing Elijah Drain culvert and widen Greenhurst to three-lanes with curb, gutter and sidewalk on the south side of the road. The goal of the project is to replace failed infrastructure, increase pedestrian connectivity and safety and increase the capacity by providing a two-way-left-turn lane. See Exhibit A.

The City was awarded a grant of \$1,000,000 from the Local Highway Technical Assistance Council (LHTAC) as part the FY18 Local Strategic Initiatives (LSI) program, Exhibit B.

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The Elijah Drain at Greenhurst Culvert Repair and Road Widening project has an FY18 budget of \$1,413,708 summarized below:

Pressure Irrigation	\$ 212,400
Streets	\$ 201,308
LHTAC Grant	\$ 1,000,000
<b>Total</b>	<b>\$ 1,413,708</b>

The cost estimates for the project are as follows:

Right-of-Way	\$ 61,278
Engineering (FY18)	\$ 29,497
Construction Estimate	\$ 1,231,955
Construction Observation	\$ 90,978
<b>Total</b>	<b>\$ 1,413,708</b>

Parametrix will assist the City with bidding the project, and HDR will administer and inspect construction as the City's representative.

HDR has provided an initial Scope of Work and Labor Estimate to construction observation and support services for \$90,977.64 (Exhibit B).

Engineering has negotiated terms of the Scope of Work and recommends authorization.

**MOVED** by Bruner and **SECONDED** by Haverfield to **authorize Mayor and Public Works Director to sign Task Order and Contract with HDR Engineering, Inc.** to provide construction inspection services for the **Elijah Drain at Greenhurst Culvert Repair and Road Widening project** in the amount of **\$90,977.64** (T&M N.T.E.). The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
MOTION CARRIED

**Item #26** - Mayor Kling presented the request to **authorize the Mayor and Public Works Director to sign Task Order with WH Pacific regarding Isaiah Drain at Midway Culvert.**

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Michael Fuss presented a staff report explaining that the Engineering Division inspects approximately 50 culverts and bridges annually to identify maintenance and replacements needs. The Isaiah Drain at Midway is one of the lowest ranked crossings in Zone G and has an estimated remaining life of three (3) years (Exhibit A).

The Isaiah Drain crosses Midway Road between Flamingo Ave. and Karcher Road (Exhibit B). Replacing the existing culvert requires a section of the road to be replaced at the same time.

WH Pacific was selected from the City's consultant master roster to design the project, assist with bidding and provided support during construction.

The Culvert Repairs project has an approved FY18 amended Streets and Water Division budget of \$100,000. Construction is anticipated to begin in early FY19 to coincide with the irrigation offseason.

Total estimated cost for the project design is:

Engineering (FY18)	\$	28,886
<b>Total</b>	<b>\$</b>	<b>28,886</b>

WH Pacific has provided a Scope of Work and Labor Estimate to provide design and construction support services (Exhibit C).

Engineering has negotiated terms of the Scope of Work and recommends authorization.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **authorize Mayor and Public Works Director to sign Task Order with WH Pacific to provide design and construction support services for the Isaiah Drain at Midway Culvert project** in the amount of **\$28,886.25** (T&M N.T.E.). The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #27** - Mayor Kling presented the request to **authorize the Mayor and Public Works Director to Sign Contract with CH Spencer, LLC regarding Birch Lift Station Pump Procurement.**

Michael Fuss presented a staff report explaining that the Birch Lift Station provides critical wastewater service to northeast Nampa (see Exhibit A). Up to 5,400 gallons per minute of effluent

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can be pumped from the lift station to a gravity manhole structure on Northside Boulevard just south of Karcher Road. The effluent then flows through gravity system to the wastewater treatment plant (see Vicinity Map, Exhibit A).

The three (3) existing 50-HP pumps are aging and require frequent and difficult maintenance for plugging. In addition, increased capacity is necessary to keep up with peak flow demands.

The upgrade will include 50-HP next generation pumps, drives (to increase capacity while reducing plugging) and system communication equipment (to provide improved maintenance and emergency management).

The Project will bid in two parts. The pumps are a long lead time item and the remaining pump installation and station upgrade will be bid as a separate contract in April.

The engineering estimate for procurement of the three pumps was \$126,000.

The City solicited formal bids for the pump procurement in accordance with I.C. § 67-2805(3) and one (1) contractor responded with the following bids:

1) C.H. Spencer, L.L.C	\$ 78,900.00
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FY18 approved Wastewater Budget for the entire project is \$500,000. Estimated costs are summarized below:

Consulting/Construction Inspection	\$ 170,000
Pre-Procurement Pump Bid	\$ 78,960
<u>Construction Estimate</u>	<u>\$ 204,000</u>
<i>Total</i>	<i>\$ 452,960</i>

Murraysmith, the consulting engineers, and the Engineering Division recommend awarding the bid to C.H. Spencer L.L.C.

**MOVED** by Bruner and **SECONDED** by Haverfield to **authorize** the **Mayor** and **Public Works Director** to **sign a contract** with **C.H. Spencer L.L.C.** to procure the **Birch Lift Station pumps** in the amount of **\$78,960**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #28** - Mayor Kling presented the request for an **agreement** for the **Purchase and Installation** of a **new playground system at Hunters Park** Funded by a CDBG Grant.



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Michael Fuss presented a staff report explaining that in the FY 2018 City budget the replacement of the playground at Hunter Park was approved by Nampa City Council. The funding comes from a Community Development Block Grant.

The current playground at Hunter Park is more than 20 years old and is in poor condition. Staff considered two options of play structures that would meet out budget guidelines. When choosing between the options, children from our day camp program voted for their favorite. The day camp kids had fun picking the playground and the majority of kids voted for Options 2. An illustration of the proposed playground is attached.



The playground will be purchased through the NJPA, a cooperative competitive purchasing program, and the supplier is Garrett and Company.

**MOVED** by Haverfeild and **SECONDED** by Bruner to **approve the purchase and installation** of a new playground at **Hunter Park** for the amount of **\$54,377**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the **MOTION CARRIED**

**Item #29** – The following Ordinance was read by title:

**AN ORDINANCE ENACTED BY THE NAMPA CITY COUNCIL, AMENDING TITLE 2, CHAPTER 14, SECTIONS 2-14-1 AND 2-14-2, OF THE NAMPA CITY CODE, CHANGING THE NAME OF THE IDAHO CENTER ADVISORY COMMISSION TO THE VENUE**

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MANAGEMENT ADVISORY COMMISSION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH. (Applicant Mayors' Office)

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Rodriguez and **SECONDED** by Haverfield to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4369** and directed the Clerk to record it as required.

MOTION CARRIED

**Item #30** - Mayor Kling presented the request to **authorize** the **Mayor and Council to Sign Letter of Support** for the **Clean Water Intended Use Plan for Fiscal Year 2019** for Public Comment to the Idaho Department of Environmental Quality.

Michael Fuss presented a staff report explaining that on March 16, 2018, the Idaho Department of Environmental Quality (IDEQ) published its *Clean Water Intended Use Plan for Fiscal Year 2019 (Plan)* for a 30-day public comment period.

The *Plan* lists a total of 18 wastewater construction projects for which loans were requested. Requests total approximately \$137M (see Exhibit 1).

In the *Plan*, Nampa is recommended for a 30-year loan of \$37M in fiscal year 2019 at an interest rate of 1.68%, with IDEQ staff indications to fund 100% of the \$165M need through subsequent funding years.

Funding improvements for the Nampa Wastewater Treatment Plant would be through the IDEQ State Revolving Fund (SRF) Loan Program (provided bond vote is passed).

The SRF Loan would provide significant rate reductions to Nampa sewer utility customers.

Staff has developed a Letter of Support for the *Plan*, to be signed by the Mayor and Council, and submitted to IDEQ within its public comment period (see Exhibit 2).

**MOVED** by Haverfield and **SECONDED** by Bruner to **authorize Mayor Kling and Council to sign Letter of Support for the Clean Water Intended Use Plan for Fiscal Year 2019** for public

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comment to the Idaho Department of Environmental Quality. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #31** - Mayor Kling presented the request to **authorize immediate piggyback purchase** of Remaining Components for 2019 International 7500 6X4 Dump Truck for Water and Street Division.

Michael Fuss presented a staff report explaining that in accordance with the Public Works Department Fleet Master Plan, a 2005 Sterling L7500 Dump Truck was identified for replacement in fiscal year 2018 for the Water Division.

- Disposal was approved by City Council via resolution on December 18, 2017

Form 50 requests, authorizing the acquisition for one new dump truck chassis and bed for Water Division, and plow and sander attachments for Streets Division, was approved by Council for fiscal year 2018 in the total amount of \$210,000.

- Water, Streets, and Fleet Services Divisions have worked in cooperation to identify specific components to be installed to create compatibility with the existing snowplow fleet

The total cost of the 2019 International 7500 6X4 dump truck purchase was divided between the Water and Street Divisions as follows:

- Water Division: \$180,000.00 (chassis and bed)
- Street Division: \$ 30,000.00 (plow and sander)

The chassis was purchased on December 19, 2017, in the amount of \$96,225.00

The remaining components required to complete the chassis are as follows:

- Dump bed
- Snow plow superstructure
- Slide in sander

All required components indicated to complete the dump truck chassis are available from Utility Trailer Sales located in Boise via “piggyback” procurement by utilizing current Request for Proposals (RFP) contract from Lakes Highway District in Kootenai County, Idaho.

**MOVED** by Hogaboam and **SECONDED** by Skaug to **authorize immediate piggyback purchase** of dump bed, snow plow, and sander unit from **Utility Trailer Sales in Boise, Idaho**, in quoted amount of **\$107,085.00**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

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**Item #32** - Mayor Kling presented the request to **Adjourn into Executive Session** Pursuant to Idaho Code 74-206 (1) (f) To Communicate with Legal Counsel for the Public Agency to Discuss the Legal Ramifications of and Legal Options for Pending Litigation, or Controversies Not yet Being Litigated but Imminently likely to be Litigated. The Mere Presence of Legal Counsel at an Executive Session Does Not Satisfy this Requirement.

**MOVED** Haverfield and **SECONDED** by Bruner to **Adjourn into Executive Session** at 12:05 a.m. Pursuant to Idaho Code 74-206 (1) (f) To Communicate with Legal Counsel for the Public Agency to Discuss the Legal Ramifications of and Legal Options for Pending Litigation, or Controversies Not yet Being Litigated but Imminently likely to be Litigated. The Mere Presence of Legal Counsel at an Executive Session Does Not Satisfy this Requirement. Mayor Kling asked for a roll call vote with Councilmembers Levi, Hogaboam, Rodriguez, Bruner, Haverfield voting **YES**. Councilmember Skaug recused himself from the executive session per the City Attorney. The Mayor declared the

MOTION CARRIED

**MOVED** by Hogaboam and **SECONDED** by Rodriguez to **conclude the executive session** at 12:40 a.m. during which discussion was held regarding f) To Communicate with Legal Counsel for the Public Agency to Discuss the Legal Ramifications of and Legal Options for Pending Litigation, or Controversies Not yet Being Litigated but Imminently likely to be Litigated. The Mere Presence of Legal Counsel at an Executive Session Does Not Satisfy this Requirement and no decision were made. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**MOVED** by Hogaboam and **SECONDED** by Rodriguez to **adjourn the meeting** at 12:41 a.m. The Mayor declared the

MOTION CARRIED

Passed this 16th day of April 2018.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK