

REGULAR COUNCIL
October 17, 2016

Councilwomen White called the meeting to order at 6:30 p.m.

Mayor Henry was absent from the meeting.

Clerk made note that Councilmembers Haverfield, Levi, White, Bruner, and Raymond were present. Councilmember Skaug absent

Councilwomen White amended the agenda by removing item #41 - Bid Award for Office Tenant Improvements for Human Resources from the agenda.

MOVED by Haverfield and **SECONDED** by Raymond to **approve the Consent Agenda with the above mentioned amendments; Regular Council Minutes of September 19, 2016 and October 3, 2016 and Special Council Minutes of March 30, 2016, June 2, 2016, September 7, 2016 and September 22, 2016; Bicycle and Pedestrian Advisory Committee Minutes; Board of Appraisers Minutes; Airport Commission Minutes; Planning & Zoning Commission Minutes of September 27, 2016; 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) **Red Hawk Ridge Park Subdivision** on the west side of *Middleton Road*, the plat contains 2 common lots on approximately 3.64 acres in the RMH (High Density Multi Family Residential) and BC (Community Business) zoning districts, for M3 Companies; 2) **Low Angle Subdivision** in a proposed RA (Suburban Residential) zoned area on the west side of Star Road, north of Cherry Lane and south of Ustick Road. The plat contains 4 single family residential lots on 7.63 acres, .5 dwelling units per acre for John Low (short plat); and **authorize** the following **public hearings:** 1) **Zoning Map Amendment** from RD to BC at **320 11th Avenue North** for Adam Garcia representing Angel Navarrete; **Approve the following agreements:** 1) Farm Lease for a portion on Midway Park Property; **Authorization to Proceed with the Bidding Process:** 1) Well 1 & 2 Abandonment and Demolition project; Monthly Cash Report; **Resolutions – Disposal of Property with Value Under \$1,000.00:** 1) 1989 Dodge B250 Van for Facilities Maintenance; and **2015-2016 Licenses:** (all licenses subject to police approval): **Smashburger**, On-premise Beer, 1467 Caldwell Boulevard; **Boise Fry Company**, on-premise beer, wine and liquor, 224 12th Avenue South; **approval of the agenda.** Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Public Works Director Michael Fuss presented a staff report to update the council on current projects as follows:

Wastewater Program Phase I Upgrades Project Group A Construction Update – City Staff is providing regular status updates of Phase I Upgrades Project Group A as requested by City Council. Staff and the Wastewater Program Management Team (WPMT) have been diligently tracking this project since construction started in early June 2015.

Project Status

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Considerable progress has been made since the issuance of the June 2, 2015, Notice to Proceed for upgrades at the City's Wastewater Treatment Plant (WWTP):

- Contract Time Completed is currently at 55%
- Contract Work Completed is currently at 61%

Key activities and milestones achieved since the update to City Council on August 15, 2016, include:

- Continued operation of three new Primary Effluent Pumps to support regular operations at the plant
- Retrofits to Aeration Basin 2 that will enable phosphorus removal have been completed. Operations staff are seeing a steady decrease in phosphorus concentrations as the Aeration Basins are brought online and incorporated with the other WWTP processes
- Retrofits to Aeration Basin 1 are nearing completion. The new equipment is currently being tested and the new basin is expected to be in operation this month
- Excavation for Aeration Basin 3 has begun
- Submitted 628 submittals since the Beginning of Project: Technical submittals, as well as information required for compliance to the City's State Revolving Fund (SRF) Loan with the Idaho Department of Environmental Quality (IDEQ) have been received. Staff and the WPMT strive to respond to submittals as quickly as possible. Average response time is currently 20 days

Based on the current project schedule, the following are the major work items expected to be completed in the near future:

- Begin construction of Aeration Basin 3 with scheduled completion of late 2017

The following photos show the progression of work at the site:



Figure 1 – Clean water testing during startup of Aeration Basin 2



Figure 2 – Excavation for Aeration Basin 3 (previous location of Secondary Clarifier 1 and Secondary Effluent Pump Station)

Financial Report

The following table shows current financials for Phase I Upgrades Project Group A:

	Original Budget	Current Budget	Change Order Rate	Spent	Percent Spent
Project Group A – Ewing	\$12,494,000	\$12,810,663	2.5%	\$8,597,231	67%
Phase I Upgrades Contingency	\$1,500,000	\$1,183,337	N/A	N/A	N/A
TOTAL	\$13,994,000	\$13,994,000	N/A	\$8,597,231	61%

Water Division Lead and Copper Summary Report - Council members may have had inquiries regarding lead in the City’s domestic water system after the recent Flint, Michigan, incident. A summary report (see Exhibit 1) dated October 7, 2016, from the Water Division is attached regarding recent lead and copper testing of the Nampa domestic water system. Tests came back zero for lead and well below the maximum contaminant level of copper. It should be noted that the tests and system results are very conservative as samples were taken from representative locations where lead and copper are likely to occur should there be a problem. Therefore, Public Works staff is confident the City’s drinking water system is safe from lead and copper.

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Public Hearing – Increase in Domestic Water Utility Rates Update - The attached notices (see Exhibits 2 and 3) for residential and commercial domestic water utility customers will be enclosed in the next billing cycles (from October through mid- December). Customers that receive electronic billing will also receive a similar digital notice. This information will notify every utility customer of the upcoming Public Open Houses, and Public Hearing, pertaining to the proposed water rate increase.

Engineer Division Fiscal Year 2017 Bidding Plan – Phase II – Tom Points, P.E., City Engineer, Engineering Division, will present the attached *Fiscal Year 2017 Budding Plan – Phase II* on the day of the report (see Exhibit 4).

The following Ordinance was read by title:

AN ORDINANCE ENACTED BY THE NAMPA CITY COUNCIL, TO MODIFY THE **ANNEXATION & ZONING DEVELOPMENT AGREEMENT** TO WHICH THAT CERTAIN REAL PROPERTY COMMONLY KNOWN AS **921 E. COLORADO AVENUE**, NAMPA, IDAHO, COMPRISING APPROXIMATELY 1.377 ACRES, MORE OR LESS, IS SUBJECT, DESCRIBED IN ORDINANCE NO. 3579 AND RECORDED ON JUNE 20, 2006, AS INSTRUMENT NO. 200642614, RECORDS OF CANYON COUNTY, IDAHO, AMENDING THE “RECITALS,” “CONDITIONS” AND “CONCEPTUAL PLAN” FOUND THEREIN; DIRECTING THE CITY PLANNING DIRECTOR TO ALTER THE USE AND AREA MAP ACCORDINGLY; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH. (Applicant Shannon Robnett)

Councilwomen White declared this the second reading.

Councilwomen White presented a request for the Mayors **Teen Council** *bylaws amendment*.

Becca Levi, Chair for Mayor’s Teen Council presented a staff report explaining that we are asking for the Council to approve the amendments of the bylaws of the Mayor’s Teen Council.

The changes are in red and they are simple housekeeping policy and procedures. The executive team has spent long hours working through these to ensure that they are well thought out and will continue to provide for good structure to MTC.

We also want to make sure that members have time for other activities including family, church and school.

Councilmembers asked questions of Becca Levi.

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MOVED by Haverfield and **SECONDED** by Bruner to **approve** the **amendments** to Mayors Teen Council as presented. Councilwomen White asked for a roll call vote with all Councilmember present voting **YES**. Councilwomen White declared the
MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **JUB Engineers, Inc.** for professional services on the Zone C Sewer Rehabilitation FY17 project.

Michael Fuss presented a staff report explaining that each year as part of the City's Asset Management program the Wastewater Division identifies sanitary sewer lines and infrastructure that are in need of rehabilitation or replacement.

For FY17 the Wastewater Division identified 5,811 feet (1.10 miles) of sanitary sewer line in need of rehabilitation (Exhibit A). The rehabilitation method used for this project is primarily Cured-in-place pipe (CIPP). CIPP is a specialized form of rehabilitation that is cost effective while reducing construction impacts. Open trench excavation may be required if pipes are out of alignment or significantly deteriorated.

JUB Engineers, Inc. has been selected by interview to design the project and assist with bidding and construction inspection.

The Zone C Sewer Rehabilitation FY17 project has an approved FY17 Wastewater Division budget of \$416,000.

Design & Construction Inspection	\$ 77,527
<i>Construction Estimate</i>	\$ 338,473
Total	\$ 416,000

JUB Engineers, Inc. has provided an initial Scope of Work and Labor Estimate to provide design, survey and construction support services for \$77,527 (Exhibit B).

MOVED by Raymond and **SECONDED** by Haverfield to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **JUB Engineers, Inc.** to provide professional services for the Zone C Sewer Rehabilitation FY17 project in the amount of **\$77,527** (T&M N.T.E.). Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the
MOTION CARRIED

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Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **JUB Engineers, Inc.** for professional services on the East Iowa Avenue Parallel Sewer Line & South Queens Drive Pressure Sewer Refurbishment project.

Michael Fuss presented a staff report explaining that the Iowa Avenue Parallel Sewer Lines & Queens Drive Pressure Sewer Refurbishment (Exhibit A) were identified and selected for upgrades/repair as part of the City's Wastewater Master Plan.

The Iowa Avenue Parallel Sewer project will provide increased capacity for future development in the vicinity of Iowa Avenue between Ventura Drive and Florence Street.

The Queens Drive Pressure Sewer project will increase the force main size to address current maintenance issues and to provide increased capacity for future development.

In an effort to reduce costs, these two projects were combined and will be bid together as one project.

The proposed schedule includes design and construction within FY17.

JUB Engineers Inc. has been selected by interview to design the project, assist with bidding, and provide construction engineering and inspection services.

The project has an approved FY17 Wastewater Division budget of \$531,000.

JUB Engineers has provided an initial Scope of Work and Labor Estimate to provide design and construction services for \$91,250 (Exhibit B).

Engineering has reviewed the Scope of Work and Labor Estimate and recommends approval.

MOVED by Haverfield and **SECONDED** by Raymond to **authorize** the **Public Works Director** and **Mayor** to **sign Task Order and Contract** for professional services on the East Iowa Avenue Parallel Sewer Line & South Queens Drive Pressure Sewer Refurbishment project in the amount of **\$91,250** (T&M N.T.E.). Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Keller Associates, Inc.** for professional services on the Tio & Burke Lane Irrigation Supply & Pipeline project.

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Michael Fuss presented a staff report explaining that as part of the Public Works Asset Management Program and according to the 2014 Irrigation System Master Plan, Engineering identified necessary system improvements at Tio Lane and Burke Lane (see Exhibit A).

The project will increase irrigation supply, mitigate low pressure during drought conditions and expand service to new customers.

The project includes location of a well site, irrigation water rights negotiations, testing, well design and approximately 1/2 mile of pipe design.

Engineering interviewed Keller & Associates, Civil Survey and JUB for professional services. Keller Associates scored highest based on experience in this field.

Keller Associates has provided a Scope of Work to provide field investigation, site location, water rights and design for the amount of \$166,810 (Exhibit B).

Total FY17 funding (design only) is through water enterprise and equals \$180,000.

Engineering's goal is to begin construction as early as possible in FY18.

Engineering Division has reviewed the Scope of Work and recommends approval.

MOVED by Bruner and **SECONDED** by Raymond to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Keller Associates** for professional services on Tio & Burke Lane Supply & Pipeline Project in the amount of **\$166,810** (T&M N.T.E.) Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Keller Associates, Inc.** for professional services on the FY17 Water projects.

Michael Fuss presented a staff report explaining that the project will construct three (3) system improvements identified in the 2014 Water Master Plan (Exhibit A). Each project is briefly explained below:

- Burke Lane Water Pipeline – Connect existing line at Ridge Dr. to 12th Ave. N. on Burke Lane. Connection will create loop in system and increase available fire flow to Lake Ridge Elementary.
- Victorian Crest Pressure Zone Modification – Change pressure zones for homes on S. San Francisco Ln. and Pascoe Ln. (both south of Greenhurst near Midland).

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Water model simulations show drop below 40 psi during maximum daily demand (MDD) plus fire flow in existing pressure zone.

- Smart Street Water Pipeline – Connect existing line at Smart St. to line behind Kids Stuff Kindergarten. Connection will create loop in system and increase available fire flow during MDD.

Keller Associates, Inc. has been selected by interview to design the project, assist with bidding and answer questions during construction. Construction observation will be performed under the City's Master Agreement with HDR.

FY17 Water Projects have an approved FY17 Water Division budget of \$107,000 (design only). The intent is to design the project in FY17 and construct in FY18. Construction may be moved up if funds become available through bid savings.

<i>Engineering</i>	\$ 93,055
<i>Construction Estimate</i>	\$ 616,894
<i>Observation Estimate (8%)</i>	\$ 49,351
Total	\$ 759,300

Keller Associates, Inc. has provided an initial Scope of Work and Labor Estimate to provide design, survey and construction support services for \$93,055 (Exhibit B).

MOVED by Haverfield and **SECONDED** by Raymond to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Keller Associates, Inc.** to provide professional services for the FY17 Water Projects in the amount of **\$93,055** (T&M N.T.E.). Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Paragon Consulting** for professional services on the South Nampa Multimodal Connectivity project.

Michael Fuss presented a staff report explaining that this project is part of a continuing effort to invest in safe and efficient pedestrian and bicycle infrastructure in the City of Nampa, especially near schools.

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The City, in partnership with Valley Regional Transit and COMPASS secured Federal Funds to design and construct safety improvements at the following locations (see Exhibit A):

- *Skyview High School (Powerline Road/Blakeslee Drive)*—Rapid Flashing Beacon (RFB) crosswalk, lighting, pedestrian ramps and Bike Boulevard facilities.
- *Iowa Elementary (Iowa Avenue)*—Rapid Flashing Beacon (RFB) crosswalk, lighting, sidewalks, pedestrian ramps and shared use bike lanes.
- *Centennial Elementary (Lake Lowell Avenue/Mason Lane)*—Rapid Flashing Beacon (RFB) crosswalk, lighting, pedestrian ramps and Bike Boulevard facilities.

The projects were chosen based on high pedestrian volumes, crash data, proximity to transit facilities, accessibility and in an effort to establishing safe routes to schools.

Funding is through the Federal Transit Administration (FTA) grant program administered by Valley Regional Transit (VRT) under a subrecipient agreement authorized by Council on April 18, 2016.

The City received confirmation from VRT, on September 16, 2016, that the FTA has awarded the funds for the project.

Estimated project costs are:

Design & Construction Engineering	\$ 79,640.00
Construction Estimate	<u>\$ 440,360.00</u>
<i>Total Estimate</i>	<i>\$ 520,000.00</i>

Total FY17 funding is \$520,000 of which 80% (\$416,000) is Federal and 20% (\$104,000) is City match.

Following consultant interviews, Engineering chose Paragon Consulting based on their transportation design expertise, understanding of the FTA grant process, desire to innovate (for efficiency and cost savings), and public involvement experience.

Paragon submitted a scope of work (Exhibit B) in the amount of \$79,640.00 to provide design and construction engineering and inspection (CE&I) services (see Exhibit B).

Engineering has reviewed the Scope of Work and Labor Estimate and recommends approval.

MOVED by Haverfield and **SECONDED** by Bruner to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **Paragon Consulting** for professional services on the South Nampa Multimodal Connectivity project in the amount of **\$79,640.00**, Time and Materials Not to

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Exceed. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order and Contract** with **SPF Water Engineering, LLC** for professional services on the Storm Drain Repairs FY17 Phase 1 project.

Michael Fuss presented a staff report explaining that as part of the FY17 Public Works Asset Management Program, Engineering, in partnership with Environmental Compliance, identified critical storm water repair projects needed to remedy known flooding issues (See Exhibit A).

The selection process was based on several factors including historical flooding data from a 2013 storm event, safety concerns and proactive maintenance strategies.

In an effort to reduce costs, four storm drain repair locations have been combined to create a single project:

- *23rd Avenue South & 2nd St. South Intersection:* Install new piping and catch basins.
- *South Elder Street & East Dewey Avenue:* Remove existing siphons and install valley gutter, repair roadway to tie into existing grades.
- *Wagon Wheel Road & Estates Drive:* Investigate existing drainage system possibly install or enlarge seepage beds.
- *South 26th Street & East Iowa Avenue:* Install seepage bed near the intersection of E Iowa Avenue and S 26th Street and install riprap along the northern side E Iowa Avenue.

The proposed schedule includes design and construction within FY17.

SPF Water Engineering, LLC has been selected by interview to design the project and assist the City with the bid process.

The FY 2017 Storm Drain Repairs Phase 1 project has an approved FY17 Streets Division budget of \$256,000.

Estimated project costs are \$251,200. Design services provided by SPF Water Engineering are \$43,100.

SPF Water Engineering, LLC has provided an initial Scope of Work and Labor Estimate to provide design services for \$43,100 (Exhibit B).

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Engineering has reviewed the Scope of Work and Labor Estimate and recommends approval.

MOVED by Haverfield and **SECONDED** by Raymond to **authorize Public Works Director and Mayor to sign Task Order and Contract** for professional services with **SPF Water Engineering, LLC** on the FY 2017 Storm Drain Repairs Phase 1 project in the amount of \$43,100 (T&M N.T.E.). Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize re-designation of 39th Street** between **Garrity Boulevard** and **Comstock Street** as an arterial and establish alignment.

Michael Fuss presented a staff report explaining that the City of Nampa has a Development Agreement with Saint Alphonsus containing three actions affecting 39th Street north of Garrity Boulevard.

The City agrees to install a signal at the intersection of 39th Street and Garrity Boulevard before the new hospital opens in June. Design is underway and construction will be complete in May.

Saint Alphonsus agrees, at the time a second medical office building is permitted near the hospital, to realign their new north-south street to access Garrity Boulevard via 39th Street.

The City commits to improve 39th Street between Garrity Boulevard and Comstock Street and to improve the intersection of 39th & Comstock, specifically considering a roundabout. 39th Street, currently designated as a local street.

- However, at the time of roundabout construction the street will carry enough traffic to warrant designation as an arterial roadway.

The existing intersection is badly skewed, and will be unsafe when it becomes a heavily-used intersection, even with a signal. The intersection needs to be realigned so 39th Street intersects Garrity Boulevard at a safer angle.

The signal to be installed at 39th Street and Garrity Boulevard next spring is being designed as a temporary signal, intended to be converted to a permanent installation when the intersection is realigned.

Parametrix, design contractor for the signal, worked with staff to define a realignment for the intersection reducing skew to an acceptable level. Exhibit A depicts the proposed future alignment.

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City staff met personally with every property owner along 39th Street between Garrity Boulevard and Comstock Street and with all but two owner's north to 39th Street's intersection with Flamingo Street to inform them of these potential actions. No one voiced any opposition to the suggestions; several are enthusiastic supporters.

Development pressure already exists along 39th Street between Garrity Boulevard and Comstock Street, stimulating staff's request for two Council actions: 1) Redesignate 39th Street between Garrity Boulevard and Comstock Street as an arterial, allowing staff to protect adequate right-of-way for its anticipated future use; and 2) Adopt Exhibit A as the intended future alignment of 39th Street from the intersection with Garrity Boulevard to Comstock Street.

Councilmembers asked questions of staff.

MOVED by Raymond and **SECONDED** by Bruner to **re-designate 39th Street** between Garrity Boulevard and Comstock Street as an arterial; Establish the alignment of 39th Street as shown in Exhibit A as the intended future alignment of 39th Street from the intersection with Garrity Boulevard to Comstock Street. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize staff to take ownership of Castleton Lift Station**, assess a special assessment and **authorize Mayor to sign *outside city services agreement***.

Michael Fuss presented the following staff report:

Background

- In 2006 the City entered into an agreement with Triple Crown Development for the development of a lift station in association with the Castleton Subdivision (Ruth Lane and Sunnyridge Road, See Exhibit A).
- As part of this agreement the lift station was developed to City Standards and sized to handle sewer from the surrounding area.
- Additionally, under the agreement the City has the right to take ownership of the lift station at any time.

The developer of Table Meadows Subdivision (Lewis Lane just east of Liberty Charter School, See Exhibit A) is requesting connection to City water and sewer. Existing water and sewer locations are shown on Exhibit B.

Discussion

- Sewer
 - Engineering Staff has evaluated the fees currently collected by the City for sewer and how that relates to cost burden to operate and maintain the lift

station. In our evaluation it takes around 1900 users on a lift station to cover the cost of the lift station under our current fees.

- Staff also evaluated the cost to the current residents of Castleton and future residents of Table Meadows to make up the difference and not add additional burden to the current customer base. The cost arrived at was \$18.10 per customer per billing cycle.
- Staff discussed this proposed additional fee with the Castleton Home Owner Association and the developer of Table Meadows and both have agreed to assessment of this fee.
- The developer of Table Meadows has negotiated with the property owner south of Castleton to receive an easement for the new sewer main leading to the proposed development.

The Outside City Services agreement proposed for Table Meadows has the following conditions:

- Property owner consents to be annexed into the City at such time as it becomes contiguous to the City Limits.
- Properties connecting to the City utilities pay all connection and use fees and substitute development impact fees.

Developer is responsible for construction of all water and sewer mains to and within the site.

Councilmembers asked questions of staff.

MOVED by Bruner and **SECONDED** by Haverfield to **authorize Staff to take ownership, operation and maintenance** of the **Castleton Lift Station** and assess a special assessment of **\$18.10** to properties utilizing the lift station effective January 1, 2017 and **authorize the Mayor to sign Outside City Services Agreement** with Dodd Investments, LLC for water and sewer service. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White opened a **public hearing** for the **Zoning Map Amendment** from RS 6 (Single Family Residential - 6,000 sq. ft.) to RA (Suburban Residential) **and variance** request to Nampa Zoning Ordinance, Section **10-7-6-A**, for the proposed **RA** (Suburban Residential) zoning district, which requires a 30,000 square foot minimum lot size, for property located at **1409 Lake Lowell Avenue** for **Jessica Selkow**. The Variance has been requested because the property comprises 26,052 square foot and the RA zoning district requires a minimum lot size of 30,000 square foot.

Jessica and Dana Selkow, 1409 Lake Lowell Avenue presented the request for the rezone and the variance.

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Planning and Zoning Director Norm Holm presented a staff report explaining that the request is for a rezone from RS-6 to RA and a variance of minimum 30,000 lot area requirement in the RA zone for property located at 1409 Lake Lowell Avenue for Jessica Selkow.

General Information

Planning and Zoning Commission Zoning Map Amendment Recommendation – Approval.

Planning & Zoning History: The applicant's 14-year-old daughter is a sophomore at Nampa High School. She loves animals and is involved in 4H and FFA. In June of 2016 she acquired two goats one for her 4-H dairy goat project and one for her FFA pack goat project. In July, someone complained to the city. In order to resolve the complaint, the owner applied for the rezone and lot size variance for the property.

Proposed Land Uses: The Owner is requesting the Zoning Map Amendment and Variance in order to allow for the keeping of two goats on the property needed for her daughters 4H & FFA projects.

Surrounding Land Use and Zoning:

North- Rural Residential, County R2

South- Rural Residential, Single Family Residential, RS 6

East- Agricultural, Single Family Residential, RS 6

West- Rural Residential - Single Family Residential, RS 6

Comprehensive Plan Designation: Medium Density Residential

Applicable Regulations: Rezones or zoning map amendments must be reasonably necessary, in the interest of the public, further promote the purposes of zoning, and be in agreement with the adopted comprehensive plan for the neighborhood. Chapter 24 outlines the findings required for approval of variances.

10-24-1: Variance Purpose: The City 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 bulk or quantifiable regulations prescribed by zoning ordinance.

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.

Variations 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; and 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.

Staff Findings and Discussion

Pertaining to the ZONING MAP AMENDMENT: The requested rezone is appropriate. The parcel adjoins the Medium Density Residential Land Use Designation to the north making the rezone from RS 6 to RA compatible with the Future Land Use Map designation of Medium Density Residential.

If the City Council votes to accept the Planning Commission recommendation for approval of the rezone the following findings are suggested:

1. Rezone of the subject property to RA is reasonably necessary in order to allow the applicant to use the property as proposed.

2. Rezone of the subject property to RA is in the interest of the property owner(s) and conforms to the adopted comprehensive plan designation of Medium Density Residential use.
3. The proposed Rural Residential use of the subject property will be compatible with the existing Agricultural and Rural Residential uses established at other locations around the immediate vicinity.
4. The use of a development agreement to establish any conditions for the rezone of the property serves no purposes.
5. Petition statements of consent were provided at the P & Z commission hearing from 31 property owners surrounding the subject rezone property at locations checked off on the vicinity map. As of the date of this staff report only one statement or letter of opposition has been received from Randy & Lois Hamilton who owns (but does not presently reside) at the dwelling directly adjacent to the south at 813 South Cove Lane.

Pertaining to the VARIANCE: The granting of this reduced lot size variance for the property would allow the daughter of the applicant's daughter to continue to use the property for the raising and keeping of the goats for her 4-H and FFA projects.

As of the date of this staff report no property owners and/or residents have specifically expressed opposition to the granting of the Variance. The City Council may approve or deny a Variance. Any decision should not be construed as setting a precedent for each Variance application decision should be determined upon its own facts/merits. Any vote to approve or deny should be accompanied by a reasoned statement listing the rationale for the decision made.

In reference to the required findings of Chapter 10-24-2 A. the City Council would need to conclude something similar to the following:

1. Literal interpretation and enforcement of the minimum lot area a requirement would result in a practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance. The 26,048 sq. ft. lot is only 13% (or 3,948 sq. ft. smaller than the required minimum 30, 000 sq. ft. lot area for the RA zone.
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. No vacant available land exists adjacent the subject lot which could be acquired and adjoined to the lot to achieve a total lot area of 30, 000 sq. ft.
3. Literal interpretation and enforcement of the minimum lot area requirement would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district. Other RA zoned lots exist around the City of Nampa not 30, 000 sq. ft. in area.
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. Other RA zoned lots exist around the City of Nampa not 30, 000 sq. ft. in area.

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5. The granting of the variance will not be detrimental to public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

Those appearing in favor of the request were: Kimberly McCormick, 821 South Toven Lane.

Those appearing in opposition to the request were: Randy Hamilton, 813 South Cove Lane; George Fittz, 1516 Bird Loop.

Jessica Selkow presented a rebuttal to those appearing in opposition to the request.

Councilmembers asked questions of staff and the applicant.

MOVED by Levi and **SECONDED** by Bruner to **close** the **public hearing**. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilmember Haverfield recused himself from voting on this item.

MOVED by Bruner and **SECONDED** by White to **approve** the **Zoning Map Amendment** from RS 6 (Single Family Residential - 6,000 sq. ft.) to RA (Suburban Residential) **and variance** request to Nampa Zoning Ordinance, Section **10-7-6-A**, for the proposed **RA** (Suburban Residential) zoning district, which requires a 30,000 square foot minimum lot size, for property located at **1409 Lake Lowell Avenue** for **Jessica Selkow**. The Variance has been requested because the property comprises 26,052 square foot and the RA zoning district requires a minimum lot size of 30,000 square foot and that the regulations on the location are met. Councilwomen White asked for a roll call vote with Councilmembers White and Bruner voting **YES** and Councilmembers Levi and Raymond voting **NO**. Councilwomen White declared the

MOTION DENIED

Questions were asked of the City Attorney Mark Hilty what the next step was for the applicant.

Councilwomen White opened a **public hearing** for a **variance** to the Nampa Zoning Ordinance, Section **10-33-4.A.d.(6)**, requiring a 20 foot landscaped setback in the BC (Community Business) zoning district, for property located at **612 Northside Boulevard** at the northeast corner of the intersection of 6th Street North and Northside Boulevard. The applicants are proposing: a 15 foot landscaped setback from the property along the Northside Blvd frontage; and, a varying landscape setback along the intersection of Barbara Street, 6th Street North and Northside Boulevard due to the offset corner in order to provide the necessary vehicle circulation clearances around the proposed canopies and building, for **BRS Architects, representing Jacksons Food Stores**.

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Douglas Hayden, BRS Architects presented the request.

Planning and Zoning Assistant Director Robert Hobbs presented a staff report explaining that the requested action is a variance to Nampa City Zoning Codes as follows – the required minimum landscape setback in the BC for yard areas fronting a collector or arterial corridors as required by NCC 10-33-4(A) and (D)(6) for a parcel of land addressed as 612 Northside Boulevard at the northeast corner of the intersection of Sixth Street North and Northside Boulevard in Nampa in a BC zone for BRS Architects representing Jackson Food Stores.

The applicant has requested a variance in order to establish a more spacious area for vehicle maneuvering upon the property as part of a future remodel of the facility and site amenities thereon.

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; and. 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.

Staff Findings and Discussion

- I. **Variance Introduction:** Variances 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 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, 2nd 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 allowing an exception to the City's required minimum landscape buffer setback requirement in the BC Zone. A copy of their application narrative is also hereafter attached.

III. **General, Possible Findings:**

1. The Property (legal description within City case file# VAR 00017-2016) made the subject of this Variance request is located within the incorporated limits of the City of Nampa; and,
2. The Property Owner(s) has/have a controlling interest in the Property and are authorized to represent the same or allow another party to represent the same in this matter; and,
3. The Property owner(s) has/have authorized BRS Architects, ("Applicant"] Cindy Huebert representing to apply for, and represent, their interest(s) in obtaining the requested Variance Permit; and,
4. The Applicant proposes that the City's Council grant relief to the minimum City code required (N.C.C. § 10-10-6.A) frontage landscape strips' dimensions associated with the Property's street frontages in order to facilitate better vehicle maneuvering on the west side of a future gas canopy proposed in conjunction with future redevelopment of the Property; and,
5. 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,

6. The City's zoning ordinance requires that properties in the BC Zone comply with all relevant zoning code requirements appertaining thereto (including emplacement of any requisite, extant site improvements); and,
7. The Applicant has, therefore, submitted to the City a complete [package] Variance Permit Application together with the requisite fee, and the City has received the application and deemed it acceptable; 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. Further, 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 expressed that they are not opposed to the application; and,
13. The Nampa Highway District has expressed that they are not opposed to the application; and,
14. City Code Enforcement have noted that there are no municipal law violations extant on the Property at the present time; and,
15. No direct physical impact on the general public by this request is foreseen by virtue of this request were it approved; expected impact would either: a) be on surrounding properties adjacent to the Property; and/or, be on the question any approval raises as to its propriety, possibly including a perceived setting of precedence for similar setback code deviations given compliance to building height standards demonstrated by other persons/parties in the City; and,
16. That City services are available to the Property, the site has access to City public roads; and,
17. Attached to this report is all of the information Staff had by the time this report was ready to go to print (12 noon, October 12, 2016).

IV. **Analysis/Opinion:** 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 Variance application is reviewed on a case by case basis and the merits of the matter are weighed in the public venue. Public testimony is received and the opinions of City departments or outside agencies submitted to the Council for their consideration.

With respect to the matter made the subject of this report, Applicant, per their narrative (and as afore-cited in this report) argues for their Variance request as follows: "That "for the project to be feasible and justify the investment, it is critical that the size of store, number of pumps, canopy configuration, and circulation pattern be constructed as shown on the Site Plan. A 20' -0" landscape buffer along the property line of their Northside frontage would impede Jackson's ability to build such a facility and provide the necessary vehicle circulation clearances around the proposed canopies and building. An obvious hardship in their desire to develop the property to its fullest potential."

With that argument in mind, note that zoning code normally does not allow for landscaping in a public right-of-way to count towards satisfying the requirement for provision of full frontage landscape strips along our major right-of-way corridors on properties as required by law. Still, Chapter 33 of the zoning ordinance does allow for service drives to pass through landscape strips on a limited basis. However, the extent of the intrusion in this particular case caused Staff to advance the proposed landscape diminishment to Council for review and decision.

Adjoining properties around the intersection of Northside and Sixth Street North have a mix of landscape setback dimensions. Not all have full twenty foot (20') landscape strips along their street frontages (although the hotel to the north does appear to have about that much landscaping between what is on their property and in the public right-of-way).

Contrarily, please note that the new Maverik that was just built kiddie-comer from the Applicant's site provided twenty foot (20') frontage landscaped setbacks (minus trees along Northside due to easement issues). While it may just about always be argued that an applicant could contrive a site/development plan that would circumvent the perceived need for a variance in Nampa's case (and as related to this issue) note that a long stretch of Garrity Boulevard has a code approved reduced landscape frontage requirement as well which suggests that the City has sanctioned such an allowance previously, although it is not a preferred practice.

In this case, given the understandable desire to have pumps along Northside, and, to use the existing building footprint even after a possible remodel or demolition and reconstruction, it

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appears to Staff that the application has merit for consideration. The Council, as tasked in these kinds of matters, will have to decide if they agree with the Applicant's argument(s).

Councilmembers asked questions of staff and the applicant.

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

Douglas Hayden, applicant presented more information for the Council.

MOVED by Bruner and **SECONDED** by Haverfield to **close the public hearing**. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

MOVED by Bruner and **SECONDED** by White to **approve the variance** to the Nampa Zoning Ordinance. Section **10-33-4.A.d.(6)**, requiring a 20 ft landscaped setback in the BC (Community Business) zoning district, for property located at **612 Northside Boulevard** at the northeast corner of the intersection of 6th Street North and Northside Boulevard. The applicants are proposing: a 15 ft landscaped setback from the property along the Northside Blvd frontage; and, a varying landscape setback along the intersection of Barbara Street, 6th Street North and Northside Boulevard due to the offset corner in order to provide the necessary vehicle circulation clearances around the proposed canopies and building, for **BRS Architects, representing Jacksons Food Stores**. Councilwomen White asked for a roll call vote with Councilmembers Levi, Raymond, White, Bruner voting **YES** and Councilmember Haverfield voting **NO**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White opened a **public hearing** for a **variance** to City of Nampa Zoning Ordinance Section **10-16-5.C** and Section **10-33-4.A.d.(6)** for property located at **3900 Garrity Boulevard** and **914 North 39th Street** located at the northeast corner of North 39th Street and Garrity Boulevard, within a BC (Community Business) zoning district. The applicants are requesting Variance approval in order to allow the construction and encroachment of 12 parking stalls within the existing right of way and setback area for North 39th Street, as part of the proposed redevelopment of the site for a Primary Health Medical Clinic. The applicants state this Variance is necessary due to the proposed improvement and realignment of North 39th Street which will allow development and landscaping of the subject property to align with the ultimate configuration of the realigned intersection for **Rocky Mountain Companies, representing Primary Health Medical Group**.

Matthew Whitt, Rocky Mountain Companies presented the request.

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Councilmembers asked when the project would be completed and how far would the end of the parking stall be into the street assuming the alignment never got done.

Robert Hobbs presented a staff report explaining that the request is for a variance for the required minimum landscaped setback in the BC for yard area fronting collector or arterial corridors as required by NCC 10-33-4(A) and (D)(6) for land located at 3900 Garrity Boulevard and 914 39th Street in a BC zone at the northeast intersection of Garrity Boulevard and North 39th Street in Nampa for Rocky Mountain Companies representing Primary Health Medical Group.

Application Summary: The Applicant has requested a Variance to N.C.C. § 10-33-4(A) and (D)(6) in order to allow the encroachment and emplacement of twelve (12) vehicle parking stalls within the existing right-of-way and front yard setback of parcels adjoining 39th as part of a plan for redevelopment of the Property. The Applicant(s) state that obtaining a Variance Permit is necessary due to a proposed re-alignment of North 39th Street which will allow more immediate development and landscaping of the Property to occur in anticipation of the future re-alignment of 39th into a pre-planned configuration which will eventually bring the Property's street frontage setback(s) back into conformance with zoning code. See attached narrative ...

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; and. 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.

Staff Findings and Discussion

- I. **Variance Introduction:** Variances 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 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, 2nd 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 allowing an exception to the City's required minimum landscape buffer setback requirement in the BC Zone. A copy of their application narrative is also hereafter attached.

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" 1-5. Those criteria 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 00018-2016) made the subject of this Variance request is located within the incorporated limits of the City of Nampa; and,
2. The Property Owner(s) has/have a controlling interest in the Property and are authorized to represent the same or allow another party to represent the same in this matter; and,

3. The Property owner(s) has/have authorized Rocky Mountain Companies (as Applicant with Matthew Witt representing) to apply for, and represent, their interest(s) in obtaining the requested Variance Permit; and,
4. The Applicant proposes that the City's Council grant relief to the minimum City code required (N.C.C. § 10-10-6.A) frontage landscape setback dimensions associated with the Property's street frontages along North 39th Street in Nampa in order to facilitate provisions of a future parking lot to be developed on the Property in conjunction with a medical center. The applicant further proposes that a portion of the parking lot also intrude into the current North 39th Street right-of-way (an action not made a part of the Variance Permit request by the City though asked for as part of the application submittal to the City); and,
5. 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,
6. The City's zoning ordinance requires that properties in the BC Zone comply with all relevant zoning code requirements appertaining thereto (including emplacement of any requisite, extant site improvements); and,
7. The Applicant has, therefore, submitted to the City a complete [package] Variance Permit Application together with the requisite fee, and the City has received the application and deemed it acceptable; 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. Further, 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 expressed that they supportive of the application and have provided requirements to be associated with any approval of the same by the City's Council; and,
13. The Nampa Highway District has expressed that they are not opposed to the application; and,

14. The Nampa Building Department has expressed that they are not opposed to the application; and,
15. No direct physical impact on the general public by this request is foreseen by virtue of this request were it approved; expected impact would either: a) be on surrounding properties adjacent to the Property; and/or, be on the question any approval raises as to its propriety, possibly including a perceived setting of precedence for similar setback code deviations given compliance to building height standards demonstrated by other persons/parties in the City; and,
16. That City services are available to the Property, the site has access to City public roads; and,
17. Attached to this report is all of the information Staff had by the time this report was ready to go to print (12 noon, October 12, 2016).

IV. **Analysis/Opinion:** 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 Variance application is reviewed on a case by case basis and the merits of the matter are weighed in the public venue. Public testimony is received and the opinions of City departments or outside agencies submitted to the Council for their consideration.

With respect to the matter made the subject of this report, Applicant, per their narrative (and as afore-cited in this report) argues for their Variance request as follows:

“There are multiple special site characteristic existing on these parcels that contribute to the support of this variance application:

1. The final parcel configuration is irregularly sized and shaped in comparison to the surrounding area. This was a response to the existing roadways abutting the site; however, upon the re-alignment of 39th, the parcel configuration will be normalized to align with the surround[ing] area and roadways.
2. The Idaho Transportation Department is removing the current existing access to the site off Garrity Blvd. as part of the intersection improvement requirements. The loss of this access point leaves the site a single access on 39th, which to effectively function with the City's realignment of the roadway will need to be located at the north end of our site. These site constraints impact the physical configuration of our site by limiting options that may have enabled this special characteristic to be designed around.
3. City of Nampa Transportation planners have indicated that they would not require frontage improvement [sic] along 39th Street as part of our project, as they

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acknowledge that they would need to be removed again for the future roadway alignment. Not installing these improvements now enables the construction of our required parking field in the final post realignment configuration."

While is not customary to encourage approving Variance Permit requests where an argument may be made that the owner/developer of the lot could simply re-design their project to fit the site, in this case, given the arguments made by the Applicant, especially number one (1), Staff believes the proposal has merit. This is a unique situation given the future movement of 39th to the west thereby abating even the need in the future for the setback landscape buffer strip dimensional Variance. Engineering, and their traffic planning personnel are in concurrence.

City Engineer, Tom Points talked about an agreement for not putting in the curb, gutter and sidewalk at this time for the applicant.

Councilmembers asked questions of staff.

Those appearing in favor of the request were: Ben Zamzow, 350 North 9th Street Suite 200, Boise.

Those appearing in opposition to the request were: Tim Bonnell, 4008 Garrity Boulevard; Scott Myers, 1304 North 39th Street; Tim Tyler, 1106 North 39th Street.

Matthew Whitt presented a rebuttal to questions and concerns brought forward.

Councilmembers asked about placing a filet of pavement where the two asphalt edges of pavement meet so the trucks can make that swing and also asked about the opening date of the facility and how big the facility is.

Councilmembers asked staff questions concerning the turning of truck and if ITD would allow.

MOVED by Bruner and **SECONDED** by Raymond to **close** the **public hearing**. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

MOVED by Raymond to authorize the variance with the stipulation that the business does not open until the intersection is complete and signal functioning and everything is approved by the state and the city.

City Attorney Mark Hilty said that he would have to get with staff to see how this condition would precisely be worded.

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MOVED by Raymond to amend the motion to during the temporary part between the time that the business is open, if it gets open before the signal and the traffic has to be accommodated by alignments so the trucks can exit and turn onto 39th and stay in their own lane based on traffic standards.

MOTION DIED FOR LACK OF SECOND

Councilmembers had discussion and asked staff questions on the light installation.

MOVED by Bruner and **SECONDED** by Haverfield to **approve** the **variance** to City of Nampa Zoning Ordinance Section **10-16-5.C** and Section **10-33-4.A.d.(6)** for property located at **3900 Garrity Boulevard** and **914 North 39th Street** located at the northeast corner of North 39th Street and Garrity Boulevard, within a BC (Community Business) zoning district. The applicants are requesting Variance approval in order to allow the construction and encroachment of 12 parking stalls within the existing right of way and setback area for N 39th St, as part of the proposed redevelopment of the site for a Primary Health Medical Clinic. The applicants state this Variance is necessary due to the proposed improvement and realignment of N 39th St which will allow development and landscaping of the subject property to align with the ultimate configuration of the realigned intersection for **Rocky Mountain Companies, representing Primary Health Medical Group**. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

The following Resolution was presented:

Michael Fuss presented a staff report explaining that LID 162 will provide a voluntary funding mechanism for property owners within the identified boundaries, as shown on Exhibit "A" to construct or reconstruct curb, gutter, sidewalks, pedestrian ramps and drive approaches as an improvement to their property.

The area identified in Exhibit "A" as Zone "C" contains approximately 5036 parcels.

Additional parcels outside Zone "C", but within the City Limits may be included as they become known. The property owner will petition the City to include their property in LID 162 as required by State Statute. A petition form will be provided to all interested parties on request.

The City will solicit volunteers to participate in the LID and then actively pursue properties with deteriorated sidewalk for a target of 100 total participants in the LID.

\$350,000.00 is the total estimated cost for the improvements. An estimated \$300,000.00 of this total will be assessed to property owners for the cost of improvements. \$50,000.00 of the funds will be provided by Street Division for pedestrian ramps and alley approaches

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Bidding is scheduled to take place the first part of next year.

A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO, TO **CREATE LOCAL IMPROVEMENT DISTRICT NO. 162** FOR NAMPA, IDAHO, FOR THE PURPOSE OF CONSTRUCTING CONCRETE CURBS, GUTTERS, SIDEWALKS, PEDESTRIAN RAMPS, DRIVE APPROACHES, AND STREET IMPROVEMENTS WITHIN THE CITY OF NAMPA, TO CREATE LOCAL IMPROVEMENT DISTRICT NO. 162 FOR NAMPA, IDAHO, FOR THE PURPOSE OF MAKING SAID IMPROVEMENTS BY SPECIAL ASSESSMENTS TO BE LEVIED AND ASSESSED UPON THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; DECLARING SAID IMPROVEMENTS TO BE FURTHER AND ADDITIONAL IMPROVEMENTS; STATING THE ESTIMATED TOTAL COST OF SUCH IMPROVEMENTS AND THE KIND OF CHARACTER THEREOF; FIXING A TIME IN WHICH PROTESTS AGAINST THE PROPOSED IMPROVEMENTS OR THE CREATING OF SUCH DISTRICT MAY BE FILED IN THE OFFICE OF THE CITY CLERK; FIXING A TIME WHEN SUCH PROTESTS SHALL BE HEARD AND CONSIDERED BY THE COUNCIL; AND DIRECTING NOTICE THEREOF TO BE GIVEN.

MOVED by Haverfield and **SECONDED** by Raymond to pass the **resolution** as presented. Councilwomen White asked for a roll call vote with Councilmembers White, Bruner, Raymond, Haverfield voting **YES** and Councilmember Levi voting **NO**. Councilwomen White declared the resolution passed, numbered it **45-2016**, and directed the clerk to record it as required

MOTION CARRIED

Councilwomen White presented a request to **authorize staff** to **submit** for **additional FY17 Local Highway Safety Improvement Program (LHSIP)** and **Transportation Alternatives Program (TAP)** grant funding, including City match dollars.

Michael Fuss presented a staff report explaining that Engineering was recently notified of additional grant funding available for projects aimed at reducing fatal and serious injury accidents on local roadways.

The Local Highway Safety Improvement Program (LHSIP), which focuses on improving safety at high accident locations, offered an additional \$2.5 million for state-wide applications.

The Transportation Alternatives Program, which focuses on improving multimodal mobility and safety, has offered an additional \$1.4 million for state-wide applications.

In the last five years, the City has received approximately \$2.8 million in LHSIP funds and \$1.5 million in TAP funding to improve safety for motorists and pedestrians.

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Engineering is constantly updating its priority project list to take advantage of additional funding sources. Here are some examples of projects that Engineering is evaluating based on crash data, traffic/pedestrian volumes and other factors (See Exhibit A):

- *Lone Star Road Safe Routes to School*—the project includes shoulder widening, sidewalks and bicycle facilities to provide safe access to students traveling on Lone Star Road between Midland Blvd. and Middleton Rd.
- *Marketplace Boulevard & Midland Boulevard Intersection*— The project includes minor road widening to add a second turn lane from westbound Marketplace Boulevard to southbound Midland Boulevard. In addition, signal equipment, striping and signage will be updated.
- *Sherman Elementary Pedestrian Improvements*—the project includes lighting, sidewalks, pedestrian ramps and Rapid Flashing Beacon (RFB) crossing on Powerline Road and Sherman Avenue.
- *Wilson Pathway Crossings at Sunnyridge Road and Locust Lane*—the project will install Rapid Flashing Beacon (RFB) at two pathway crossings to improve pedestrian safety.
- *Grimes Creek Pathway Extension*—this is a priority project for the Parks Department and would extend the existing pathway around the south edge of McDonagh Park.
- *Holly Street Safety & Efficiency Study*—this project will look at alternatives to improving vehicle and pedestrian safety/efficiency on Holly Street adjacent to NNU between Roosevelt Avenue and Colorado Avenue.

Engineering anticipates applying for approximately \$1.5 million in funding which would require a City match of 7.34% or \$110,000.

The match funding is proposed from FY17 Streets fund balance.

Due to the fast track application cycle, Engineering would like to proceed with continued project evaluation and submittal of the applications by November 4th, 2016.

MOVED by Bruner and **SECONDED** by Haverfield to **authorize staff to select projects and submit for FY17 additional Local Highway Safety Improvement Program (LHSIP) and Transportation Alternatives Program (TAP) grant funding, including City match dollars (7.34%). Councilwomen White asked for a roll call vote with all Councilmembers present voting YES. Councilwomen White declared the**

MOTION CARRIED

The following Resolution was presented:

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Fleet Superintendent Doug Adams presented a staff report explaining that the Water Division has identified the following various unused equipment for disposal.

Water staff requests the following assets be declared as surplus property in order to facilitate disposal:

Item				Serial Number	Estimated Value
Unit No.	Year	Make	Type		
340	2004	Ford	F-250	3FTNF20L94MA01953	\$ 1,800.00
341	2001	International	4900	1HTSHADR41H344078	\$ 20,000.00
342	2000	Ford	F-350	1FDSF34L9YED85629	\$ 2,000.00
354	2001	Case	580 Super M	JJG0280218	\$ 20,000.00
359	2008	Sanders	Multi-Quip	ZF3700Q82	\$ 2,500.00
360	2001	Case	580 Super M	JJG0281562	\$ 20,000.00
363	2007	Chevrolet	C2500	1GDHC29K07E598111	\$ 3,500.00
370	1977	Peabody	6TCCD-2	55493-577	\$ 1,000.00
373	2002	International	7400	1HTWGADR22J043808	\$ 25,000.00
377	2004	Ford	F-150	2FTRX17204CA29724	\$ 2,000.00
381	2002	John Deere	AZ479	100940	\$ 8,500.00
387	2005	Sterling	L7500	2FZHATDJX5AV06177	\$ 25,000.00

Continuing maintenance and repair of these assets is not within the City's best interest.

Disposal falls within Public Works Department Fleet Services Division guidelines for funding, acquisition, maintenance, replacement and disposal of City fleet vehicles.

Fleet Services proposes to sell the existing assets at public auction, transfer to another department, and sell to another municipality as noted below:

- o Unit #'s 340, 342, 363, 377 to Parks Department
- o Unit # 360 to City of Placerville, Idaho (for the amount of \$20,000.00)
- o All other equipment to be sold at public auction

Water and Fleet Services Divisions, and disposal team recommend disposal via disposition.

A RESOLUTION OF COUNCILWOMEN WHITE AND CITY COUNCIL OF THE CITY OF NAMPA, A MUNICIPAL CORPORATION OF IDAHO, AUTHORIZING THE DISPOSITION OF CERTAIN CITY PROPERTY. (Water Works)

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MOVED by Haverfield and **SECONDED** by Bruner to pass the **resolution** as presented. Councilwomen White asked for a roll call vote with Councilmembers present voting **YES**. Councilwomen White declared the resolution passed, numbered it **46-2016**, and directed the clerk to record it as required

MOTION CARRIED

Councilwomen White presented a request to **authorize immediate piggyback purchase** of three (3) light duty pickup trucks under **State of Idaho contract** for **Water Division**.

Doug Adams presented a staff report explaining that for fiscal year 2017, Public Works Water and Fleet Services Divisions identified the need to replace aging meter/systems tech vehicles within the Water Division fleet.

Form 50's requesting acquisition of three new light duty pickup trucks, to replace the aging fleet, was approved by City Council for fiscal year 2017. The total estimated cost for replacement is \$75,000.00.

The new pickup trucks will be purchased via piggyback under the existing State of Idaho contracts for light duty vehicles.

The piggyback process allows any governmental agency to use the bid of another governmental agency to establish the price for procurement, provided that the initial process satisfied the public bidding rules and the supplier is willing to honor the price.

MOVED by Haverfield and **SECONDED** by Bruner to **authorize immediate piggyback purchase** of three (3) light duty pickup trucks under State of Idaho contracts, not to exceed total **estimated** purchase price of **\$75,000.00**, for Water Division. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize the Mayor and Public Works Director** to **sign Task Order** with **Brown and Caldwell** for Fiscal Year 2017 Technical Support for Environmental Compliance Division.

Michael Fuss presented a staff report explaining that the Environmental Compliance Division (ECD) was created in October of 2013 and encompasses stormwater, industrial pretreatment, and laboratory programs.

This Division is responsible for everyday activities of the National Pollutant Discharge Eliminated System (NPDES) related programs, and supports City operations for mitigating risk associated with environmental compliance.

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During the first couple of years, ECD performed an internal environmental audit, and developed a regulatory framework focusing on existing public works structure. Staff developed a plan to mitigate risk and completed the development of some key components of that plan to date including a communications plan, a regulatory matrix of applicable regulatory requirements, an emergency preparedness response plan to environmental issues and accidents, clear identification of roles and responsibilities, training requirements and plan for staff, and documentation guidance.

New NPDES wastewater and stormwater permits anticipated by the City, along with rapidly changing environmental regulations, will require an informed and consistent approach to mitigate risk.

Brown and Caldwell (BC) technical support services will be necessary to implement the new permit requirements and continue development of the ECD.

Staff has negotiated a scope and fee with BC for fiscal year 2017 ECD technical support. A general proposal summary includes:

- Program Management
 - Project Management
 - Quality Assurance and Quality Control (QA/QC)
- Environmental Regulatory Management Program Support
 - Standard Operational Procedures and Procedure Development
- Stormwater MS4 Support
 - Year 7 Annual Reporting
 - Permit Negotiations
 - Stormwater Management Plan (SWMP) Evaluation
 - General Compliance Support
 - Airport Multi-Sector General Permit (MSGP) Support
- ECD Support
 - Industrial Permitting Support
 - Lab Support

Funding for these professional services is included in the ECD 2017 budget.

City Staff and BC have agreed upon a scope of work and fee for these professional services in the amount of \$259,765.00 T&M NTE (see Exhibit A).

MOVED by Haverfield and **SECONDED** by Raymond to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **Brown and Caldwell** for Fiscal Year 2017 Environmental Compliance Division Technical Support in the amount of **\$259,765.00** T&M

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NTE. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **Brown and Caldwell** for Fiscal Year 2017 Wastewater Program Management Services for Wastewater Division.

Michael Fuss presented a staff report explaining that in 2010 the Nampa Wastewater Program was established to implement upgrades to the Nampa Wastewater Treatment Plant (WWTP) to meet increasingly stringent water quality limits. Program services have included planning and design for achieving the new limits. The City has previously retained Brown and Caldwell (BC) for Program Management Services.

Staff has negotiated a scope of work with BC for fiscal year 2017 Program Management Services. The scope of work proposes the following elements:

- ✓ Project reporting, regular meetings with City staff and the Wastewater Program Management Team
- ✓ Track schedule and action plan to meet the City's National Pollutant Discharge Elimination System (NPDES) permit requirements
- ✓ Support upcoming public involvement and education activities including presentations to the Nampa Wastewater Advisory Group, Industrial Working Group, City Council, and other stakeholder groups
- ✓ Funding, financing, and rate study support including Idaho Department of Environmental Quality State Revolving Fund loan administration and applying for grants to fund work related to the Phase II Upgrades at the City's WWTP
- ✓ Develop electronic operations and maintenance manual system for the Nampa WWTP that utilizes the City's Microsoft SharePoint site
- ✓ Completion of plans and reports to meet the requirements of the City's renewed NPDES permit including a mercury minimization plan, copper sampling plan, local limits evaluation, and annual NPDES report
- ✓ Technical guidance and support during the development of the Indian Creek Temperature Total Maximum Daily Load (TMDL), expected to begin in 2017
- ✓ Develop opportunities to implement a Class A recycled water program, including discussions with interested users of the water and the submission of a Recycle Water Permit application

City staff and BC have agreed upon a scope of work for the Nampa Wastewater Program Fiscal Year 2017 Program Management Services for \$381,264.00, (see Exhibit A) to be paid from this fiscal year's Wastewater Division budget.

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Staff recommends continued services from BC based on previous years' successful performance as Wastewater Program Manager and intimate knowledge of City operations.

MOVED by White and **SECONDED** by Levi to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **Brown and Caldwell** for Nampa Wastewater Fiscal Year 2017 Program Management Services in the amount of **\$381,264.00** T&M NTE. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **CH2M HILL Engineers, Inc.**, for Software Support Services for Wastewater Division.

Michael Fuss presented a staff report explaining that currently the Wastewater Division software support services are contracted to CH2M Hill Engineers, Inc. (CH2M).

CH2M is currently providing the system integration services for the Wastewater Treatment Plant (WWTP) Phase I Upgrades.

Over the last 12 months, WWTP operations have benefited from the continuity of having one consultant performing both software support and Phase I Upgrades system integration services.

City Staff and CH2M have agreed upon scope of work and fee to provide software support services in the amount of \$60,000.00. Funding will be provided by Wastewater Division's fiscal year 2017 budget (see Exhibit A).

MOVED by Haverfield and **SECONDED** by Raymond to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **CH2M Hill Engineers, Inc.**, in the amount of **\$60,000.00** T&M NTE, for software support services for the Wastewater Treatment Plant. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize settlement agreement** with **Evergreen Mobile Home Park** for Utility Sewer Services.

Julie Adams-Deford, Attorney for Evergreen Mobile Home Park presented a summary of the issues.

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Evergreen Mobile Home Park, LLC who owns and operates a mobile home park within the City of Nampa with 138 residential units that are connected to City's sewage collection and treatment system.

It was discovered in July of 2016 that Evergreen's mobile home park was being under billed for sewer service because its account was erroneously set up for the sewer fee rate applicable to one (1) residential unit instead of 138 residential units.

In addition to correcting the sewer fees prospectively, City, pursuant to its adopted billing policy, adjusted Evergreen's account balance by adding a past due billing charge of \$52,246.32 representing the amount Evergreen was under billed for the two years preceding discovery of the billing error.

Evergreen disputed the past due charges (but not the prospective charges), appealing said past due charges to the Nampa Board of Appraisers pursuant to City Code.

The City and Evergreen have reached a mutually acceptable compromise for the payment of the under billed sewer charges.

In consideration of the covenants, representations and warranties herein contained and the Recitals set forth above, which are a material part of this Agreement, and for other good and valuable consideration, the parties agree.

We have agreed to pay two thirds of the amount which is \$34,830.88. This will be paid over two years.

Mark Hilty explained that he drafted the agreement and is in full support of agreement.

MOVED by Bruner and **SECONDED** by Levi to **approve** the **contract** and **authorize** Councilwomen White to sign. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White presented a request to **authorize immediate purchase** of a **new service vehicle** for **Facilities Maintenance**.

Facilities Superintendent Brian Foster presented a staff report explaining that for fiscal year 2017, Facilities Maintenance Division in cooperation with Fleet Services Division has identified the need to replace an aging service van.

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Form 50 requesting acquisition of one (1) new vehicle to replace the aging service van was recommended for funding by the Finance Dept. for fiscal year 2017. City Council has approved the acquisition of a new service van in the final FY2017 budget, to be equipped with the necessary body up-fitting to perform field repairs and maintenance on city assets as needed.

Moving towards Total Fleet Management, establishing guidelines for funding, acquisition, maintenance, replacement and disposal of City fleet vehicles, Fleet Service's has identified the following vehicle(s) for disposal:

Unit No.	Description	Estimated Value
809	1989 Dodge B250 Van	\$ 500.00
Total		\$ 500.00

Disposal of vehicle(s) identified in the above chart is recommended by Staff.

Fleet Services Division proposes to sell the existing vehicle at public auction.

The new vehicle is proposed to be purchased off of the State of Idaho existing light duty vehicle contract.

The new vehicle up-fitting will be performed by Fleet Services Division and/or local specialized vendor as yet to be determined.

MOVED by Haverfield and **SECONDED** by Bruner to **authorize the immediate purchase** of one (1) new service vehicle to be up-fitted and used for facilities maintenance. Vehicle is to be purchased off of existing light duty vehicle contract as established by the State of Idaho, not to exceed the total **estimated** purchase price of \$25,000.00. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the **MOTION CARRIED**

Councilwomen White presented a request to **purchase 15 golf carts** using the **piggy back procurement** process for the golf course.

Parks and Recreation Director Darrin Johnson presented a staff report explaining that I request the City Council authorize the purchase of 15 golf carts for the Nampa Golf Courses. Golf Carts are an approved item in the FY 2017 budget. The purchase agreement includes the trade in value of 15 carts. When the trade value is considered, the total cost to the Golf Division is \$52,155.

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The procurement method is a piggyback purchase from a purchase the City of Nampa Golf Courses made in October of 2015.

MOVED by Haverfield and **SECONDED** by Bruner to **approve the purchase 15 golf carts** using the **piggy back procurement** process for the golf course. Councilwomen White asked roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the **MOTION CARRIED**

Item #41 - **bid award for office tenant improvements for Human Resources** was removed from the agenda due to the bidder withdrawing their bid.

Councilwomen White presented a request to **authorize** Councilwomen White to **sign an encroachment agreement with Rocky Mountain Companies for Primary Health** site at northeast corner of Garrity Boulevard and North 39th Street.

Michael Fuss presented a staff report explaining that the Rocky Mountain Companies is the developer for Primary Health and is developing a site located at the northeast corner of Garrity Boulevard and North 39th Street.

Due to the size and shape of the parcel they have requested an encroachment to allow parking facilities located partially in the right of way for North 39th Street.

The Engineering Division does not oppose granting this request if City Council approves of the following actions also presented as part of the October 17th agenda:

- Re-designation of North 39th Street between Garrity Boulevard and Comstock Street as an arterial, and
- Establishment of new alignment of North 39th Street as shown in Exhibit A
- The variance to the setbacks for parking along North 39th Street

MOVED by Haverfield and **SECONDED** by Raymond to **authorize the Mayor to sign the Encroachment Agreement (Exhibit B) with Rocky Mountain Companies**. Councilwomen White asked for a roll call vote with all Councilmembers present voting **YES**. Councilwomen White declared the

MOTION CARRIED

Councilwomen White adjourned the meeting at 9:18 p.m.

Passed this 7th day of November, 2016.

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MAYOR

ATTEST:

CITY CLERK