

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM

December 4, 2012

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room December 4, 2012 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Loren Ron Edinger) Members of Council Present
Mike Kennedy)
Woody McEvers)
Dan Gookin)
Steve Adams)
Deanna Goodlander)

CALL TO ORDER: The meeting was called to order by Mayor Bloem.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was led by Councilman Edinger.

LEVEE CERTIFICATION UPDATE PRESENTATIONS: City Engineer Gordon Dobler provided an update of the timeline of upcoming events surrounding the levee certification, as the city's current certification expires in July 2013. Mr. Dobler stated that it is not the city's desire to removal all the vegetation. The city will need to enter into a third party certification contract, as the Army Corps of Engineers is no longer conducting the certifications. Mr. Dobler stated that he is drafting a Request for Qualifications (RFQ), and is believes it will be complete and ready for publication in the next month or two. Additionally, Mr. Dobler has researched vegetation issues and other cities resolutions. He found the best report from Kent, WA, wherein they were able to keep some of their trees based on an approved rating system. Based on that research he believes there is some hope of retaining some of the trees. He thanked the advisory committee for their hard work and stated that he will continue to work with them as the third party certifier in hired. Mr. Dobler believes that full certification could take 2-3 years, and before FEMA approves the final certification, the city will likely have to do the repair and removal work. There may be additional issues with parking spaces and pedestrian access. Mr. Dobler stated that the city has already completed some improvements, such as the removal of overgrown brush and small cottonwood trees, the addition of riprap near wastewater treatment plant, and the buildup of an eroded area along the embankment. Additionally, there has been the addition of a bike path on the waterside of the roadway. Mr. Dobler stated that any costs associated with the certification are the sponsors responsible; however, he will bring back several different funding options. Councilman McEvers, asked if Kent, WA was similar the City and asked what the City of Pocatello did to meet their certification. Mr. Dobler clarified that Kent, WA is similar, but smaller and their levee has water in it all the time, while ours does not. He also stated that Pocatello ended up clear cutting and did not get the whole levee certified. Mr.

Dobler is confident that there are third party certifiers that have had success and that the city's RFQ will cover experience. Mr. Dobler clarified that any replanting allowed would be smaller brush and would not be able to obscure the levee itself.

PUBLIC COMMENTS:

PARKING LOT IN MCEUEN PLAN: Pat Anderson, 724 Young Avenue, stated that she spoke to the City Council on March 20 regarding her concern about the effect the McEuen parking plan would have on her property at 8th and Young. She expressed concerns that Young Avenue abutting her property has been removed and a bike path put in its place, leaving no access from the street to her house. Additionally, her mail delivery is now down the block. She recently received a notice from the city stating that she must pay to regain access to their front door. She stated that she believes these changes have isolated home from neighborhood and lowered their property value. City Administrator, Wendy Gabriel, stated she would meet with the Anderson's tomorrow to discuss the issues.

Pete Anderson, 724 Young Avenue, stated that he has a deep love for Coeur d'Alene and supports the McEuen project and has done so since the beginning, but needs guidance as to who can help with problems described by his wife. He stated that he does not want to go to court, and intends to keep the home. Mr. Anderson provided photographs of the property with the old retaining wall. Councilman Edinger stated that he talked to Doug, Gordon, and Phil; Phil stated that he would try to set up a meeting with Mr. Anderson, Gordon stated that he had been in email contact with Mr. Anderson.

PERSON FIELD ACQUISITION: Susie Snedaker, 821 Hastings, wanted to know if there was an update to the Person field possible acquisition. Mr. Gridley stated that the city has had several meetings with the School District, and there are details that still need to be worked out.

POT-BELLIED PIGS: Zack Adams, 3664 Arlington Lane, Post Falls, stated that he is interested in moving to Coeur d'Alene. He owns a pet pot-bellied pig, and would like City Council to consider amending Chapter 6 of the Municipal Code to allow pot-bellied pigs as pets. Councilman Kennedy stated that he would like this item to come forward to General Services.

CONSENT CALENDAR: Motion by Kennedy, seconded by Goodlander to approve the consent calendar as presented.

1. Approval of minutes for November 20, 2012.
2. Setting General Services and Public Works Committees meetings for Monday, December 10th at 12:00 noon and 4:00 p.m. respectively.
3. Cemetery lot repurchase from Vicki Sue Hollinshead and from Susie Rathke
4. CONSENT RESOLUTION 12-050: A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING APPROVING CHANGE ORDER NO. 5 TO THE SPOKANE RIVER STEWARDSHIP PARTNERS MEMORANDUM OF UNDERSTANDING.
5. Approval of sole source procurement for Allen-Bradley Electrical Equipment and Software

CONSENT CALENDAR CONTINUED

6. Setting of a Public Hearing for Water Rates/Fees for January 2, 2013
7. Declaration of surplus property from the Water Department

ROLL CALL: Goodlander Aye; Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye. Motion carried.

COUNCIL ANNOUNCEMENTS:

COUNCILMAN KENNEDY: Councilman Kennedy stated that he wanted to clarify some information regarding the separation incentives recently approved by the City Council. For many years the City Council has had a policy regarding the allowance of a separation incentive that provide a cost savings to the City. Since it is a City Council policy, it can be revoked if the City Council did not think they were needed. This incentive provides department heads an opportunity to review positions, reorganize duties, and/or leave positions vacant. This year the city has negotiated 15 separation incentives. Most recently, the City negotiated with five department heads, which was unique and it garnered a lot of attention. All separation agreement proposed this year have been approved unanimously by the City Council. The city saved \$145,000 over first two-year period and in the next period the City saved approximately \$333,000. The recently newspaper article confused some items that are normal separation items such as payment of unused sick/vacation time, due the employee without a separation agreement. Councilman Gookin stated that he had made comments at the weekly radio show regarding the incentive agreements. He clarified that he did state that the details released in the newspaper were a bit excessive, and that he was surprised by the details, as he did not read the details of those contracts prior to voting on them. He also clarified that he was not mislead, just failed to read the documents, and apologized for it.

COUNCILMAN GOOKIN: Councilman Gookin apologize for comments made at the November 19, 2012 Public Works Committee meeting that referred to the Oak Crest Park as a trailer park, it was not intended to be disparaging. It is a nice community, where people own their homes that should have been referred to as mobile homes.

COUNCILMAN GOODLANDER: Councilman Goodlander clarified that the employees who entered into the separation agreements, did so at their choosing. She believes that the savings created is the most important part of the agreements, and that the associated with providing continued insurance coverage is minimal. The city would not do this if it did not bring value to the community and the staff. Important to look at option and these agreements allow us to do that.

ADMINISTRATOR'S REPORT: The McEuen design project is 90% complete, as such, a workshop will be held On December 27th at the Parkview Towers, 3rd Floor, and the public is invited to attend. It is anticipated that construction documents will be completed early January. The Fire Department Santa Food drive netted 721 lbs of food. The Coeur d'Alene Arts Commission is seeking artists for the 4th & Kathleen Roundabout, which is situated adjacent to the Coeur d'Alene High School soccer field. Information packets are available at City Hall, or online at www.cdaid.org. Artist proposals are due by 5:00 p.m., December 14th. Artists with

questions are encouraged to contact Steve Anthony, Arts Commission Liaison, at 769-2249. It is the City's intent to acquire Person Field. At the last City Council meeting, staff was directed to work on a plan in the next 60 days that will enable the City to acquire the School District's portion of Person Field. After 26 years of service to the City of Coeur d'Alene, Susan Weathers will be retiring as the city's Municipal Service Director/City Clerk as of December 31, 2012. The City of Coeur d'Alene will be hosting a Farewell Open House this Friday, December 7th, from 11:00 a.m. to 1:30 p.m. in the Library Community Room, and citizens are invited to stop by and thank Susan for her dedicated service. For more information, call 769-2300. The City has added a new feature to its online communication channels named "City Council in Brief." This new feature will be a quick summary of what happened at the City Council meeting. Kristina Lyman was introduced to the City Council.

RESOLUTION 12-051

A RESOLUTION BY THE MEMBERS OF THE COUNCIL OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO (THE "CITY"), INITIATING THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT FOR THE CONSTRUCTION OF IMPROVEMENTS TO FRONT AVENUE SITUATE IN THE CITY AND DESCRIBING THE (i) KIND AND CHARACTER OF THE PROPOSED IMPROVEMENTS; (ii) THE BOUNDARIES OF THE PROPOSED LOCAL IMPROVEMENT DISTRICT; AND (iii) THE PROPERTY TO BE ASSESSED WITHIN THE PROPOSED LOCAL IMPROVEMENT DISTRICT.

Mrs. Gabriel stated that this action would be the beginning of the process to establishing an LID for Front Avenue improvements. This roadway is part of the original three street concept that included Sherman Avenue and Lakeside Avenue. Improvements to Sherman Avenue and Lakeside Avenue have already been completed. It was the City's intention to complete Front Avenue in unison with the McEuen park project. Project costs and estimates will be brought forward at the December 18 City Council meeting. City staff has meet with all the property owners, and have scheduled another meeting tomorrow. Discussions have included what method to use to determine the dollar amount related to the benefit of improvements received. The City Council will have final authority to determine percentage cost included in the LID. Phil Boyd from Welch Comer Engineers presented specific data regarding the proposed LID boundary that includes the alley to the north of Front Avenue. Estimates for the LID include sidewalk, curb, gutter, irrigation, trees, lighting, etc. no items within the park. The estimated cost summary was presented as \$2,847,000, which estimated the Front Avenue property owners portion of costs at 42%. These costs could change as bids come in, and Council could determine a different percentage rate. Mr. Boyd stated that meetings with the property owners allow them to discuss property specifics items, such as retainage of existing trees for each parcel. This LID proposal is based on the methodology of overall benefit rather than direct allocation of lineal foot of improvements added to each parcel. Mr. Boyd presented an example of an assessment based on \$400.00 per lineal foot and the proposed LID Schedule.

Councilman Edinger inquired as to who would pay the \$2.9 million dollar project cost if the City Council did not approve the LID. Mrs. Gabriel stated that that would mean the property owners would not pay for the benefits received in front of their property, and project costs remain the same, meaning that funding would need to be determined. Councilman McEvers stated that he previously had a business on East Sherman, and recalls that LID set a specific rate, with the option for the

owner to add upgrades and pay over a 10-year period. Mrs. Gabriel clarified that the overlay dollars allocated to the project will cover the city's 58% of the LID. Mr. Boyd clarified that in the Front Avenue proposal improvements are spread evenly throughout the project, making it equitable to show project wide benefit to the property owners. Councilman Kennedy asked for clarification regarding the merits of lineal foot versus square foot basis. Mr. Boyd explained that the front Avenue project estimated cost by front foot, as it seemed to be the most equitable way of spreading the costs, although there may be some special circumstances to resolve. Danielle clarify that this is the type of hearing wherein the City Council can speak to property owners; however, if they have a protest, they must be submitted in writing. Councilman Gookin asked for clarification as to why the boundary goes around block U, the Hagadone mall and whether it were included in prior LID's and would be problematic. Mr. Boyd stated that they are long parcels with frontage on 2nd Street and that there is no problem including them in the LID since the improvements do not include Sherman Avenue. Mr. Tymesen stated that the LID amount is \$1.2 million and that in the past the City has been able to internally fund the costs until the LID's are paid. Councilman Gookin expressed concern about Mr. Montanden's driveway. Mrs. Gabriel stated that staff has talked with Mr. Montandan about a compromise including a loading zone.

Motion by McEvers seconded by Goodlander to adopt Resolution 12-051.

DISCUSSION: Councilman McEvers stated that he thinks the LID is a good deal and that issues will get worked out along the way and believes it is fair as part of the three street concept. Councilman Goodlander stated that she has been involved in LID's on Ramsey Road and they can sometimes be tough to pay, but the Front Avenue property owners are getting remarkable improvements. Councilman Gookin does not have an objection to an LID, his concern is that he does not have enough information to justify costs and that Mr. Montanden's driveway concerns him. Additionally, he is concerned with the process and procedures that should have been brought up earlier in the project. He further stated that he feel the property owners were under the belief that LCDC was going to pay for the park and they now are hit with an LID. Mrs. Gabriel stated that actual protests would be taken on January 2; however, public comments can be made on December 18. Councilman Edinger clarified that all the information requested tonight will be brought back for the December 18 meeting.

ROLL CALL: Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye. Motion carried.

RECESS: The Mayor called for a 5-minute recess at 7:51 P.M. The meeting resumed at 8:00 P.M.

PUBLIC HEARING: DRAINAGE WORKS UTILITY RATES/FEES: Mike Gridley, City Attorney, provided background on the proposal and introduced the consultant team. In 2002, a citizen committee reviewed the stormwater needs and met for 2 years. The City of Lewiston's fee was legally challenged and found to be a tax and not a fee for service, which caused the City of Coeur d'Alene to review its fees. Mr. Gridley explained that a tax you get to pay whether you get a service or not, a fee for service is like the water/wastewater, you pay for what you use. There is a challenge in how you determine the service for items such as stormwater. The City of Coeur d'Alene ordinance was never challenged, however the Supreme Court ruling against Lewiston

caused a need to revisit the ordinance. John Ghilarducci from the FCS Group works with municipalities to rationally base rates for utilities like stormwater. Mike Milne, from Brown and Caldwell Engineering works with environmental issues. Staff is asking the City Council to repeal the existing ordinance, adopt a new one, and then set appropriate fee for the service being provided.

Mr. Ghilarducci presented the project purpose, background, and recommendations for the City. Services for the utility will include catch basin cleanouts, maintenance and repair of swales/ pipes, and other stormwater facilities, and costs associated with meeting existing and anticipated regulatory requirements.

Mr. Milne stated that the Clean Water Act NPDES permit regulation were extended to municipalities approximately twenty years ago. The city received its initial permit in 2009, which focused on best management practices. It is anticipated that in future permits more stringent regulations will be included, similar to wastewater regulations. Upcoming regulations may include less discharge, less maximum daily loads, green infrastructure, and low impact development.

Mr. Ghilarducci explained that two systems are being proposed, Zone 1, within the hard pipe system, and Zone 2 that is served by swales. Each zone has different maintenance and replacement requirements, which is why they have different costs. During the funding analysis it was determined that a stormwater utility supported by a stormwater rate is the best way to equitably cover costs from the ratepayer. Additionally, it is recommended that the City continue to use impervious surface area that is directly connected to drainage to the City system as a determining factor for ratepayers, as well as, the geographic analysis (i.e., zone 1 and 2). It is also recommended that the utility include an option for rate credits and appeals so rate pays have an opportunity to debate city assumptions.

Mr. Ghilarducci stated that fees would only be charged to those systems that drain into city system. The recommended rate structure includes a uniform charge for single-family residents, while other connection will be individually analyzed. Included in the proposed rates is a common service cost applied citywide, with geographic differentials applied for Zone 1 and Zone 2 accordingly. One equivalent service unit (ESU) = 786 square feet of service area for the impervious surface draining into the city system. Two funding level options are available to the City, "full funding" that includes replacement at recommended frequencies, or "minimum funding" based on past practices of maintenance and replacement frequencies. Scenario one (full funding level) rate for Zone 1 is \$4.63 and in Zone 2 \$5.21. Scenario two, (minimum funding level) rates for Zone 1 is \$3.76 and within Zone 2 \$4.13.

Mr. Ghilarducci clarified that costs in the piped area are higher; however, the rates are lower due to more developed properties to spread the costs across. Councilman McEvers asked for clarification as to why the cost is set at the proposed rate and is there any way to make the rate an even \$4.00 for everyone. Mr. G. stated that it is important to remember the previous city rate did not include the geographical analysis and that he believes it strengthens the justification of equitable fee for service.

Warren Wilson, Deputy City Attorney, present information regarding the proposed Ordinance and Resolution. He explained that the Resolution is the fee setting structure that is based on the minimum funding level. The City Council would need to make a motion if they want to change the

structure to the full funding someone would need to make a motion to amend the resolution. In the past the city had had a stormwater management ordinance, second was a discharge ordinance, and most recently, the city implemented the utility. These documents were adopted at different times containing different definitions, etc. so he recommends the City Council repeal of those three code to adopt a new code that is consistent. The majority of the changes are in Municipal Code 13.35 that were added to ensure that the items are clarified that were found to be deficient in the Lewiston ordinance. Additionally, there have been safe guards added to ensure that funds collect are spent directly on drainage related items and place in a utility fund rather than the general fund. Important safe guard to ensure we are charging folks for use of the system. Councilman Kennedy asked for clarification as to how the city will trace shared resources such as use of a street department truck, etc. Mr. Gridley stated that interdepartmental billing could occur to cover shared costs, similar to have current utilities work within the city through innerfund transfers.

Mr. Wilson clarified that if a property does not drain into our system, they would not be charged a fee. Additionally, Mr. Wilson stated that this utility is to cover real cost that have to be addressed one way or another, the only other method to cover costs would be to go back to the taxpayers. Councilman Kennedy recalled discussions involved the option of judicial validation before we collect money and asked if that were still an option. Mr. Wilson stated it is very difficult to get an advisory opinion from the court unless there was an honest controversy. If the city were to be sued, it would take a year or two to get through the court system. Mr. Wilson stated that if the items proposed were approved tonight, the utility would be effective upon publication; however, bills would not go out until after first of the year. Councilman Adams stated that he appreciated all the professionalism involved in this project and that the team did a good job; however, he is concerned that in the Lewiston suit, there was an issue with what statute allows the city to set up a utility. Mr. Wilson clarified that specifically that meant that Lewiston met the legal burden as they differed to police power only. The city has several authorities to create fees, specifically the discharge ordinance, drainage ordinance, and specific statutory ordinance to implement a fees. Lewiston was found to have created a tax.

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received.

Motion by Goodlander, seconded by Kennedy to pass the first reading of Council Bill No. 12-1026.

DISCUSSION: Councilman Kennedy stated that he had never received complaints about the city's stormwater utility, only complaints related to the Lewiston court case. The proposed ordinance has resolved all the issues noted in the Lewiston case therefore he would support the ordinance. Councilman McEvers remembered that the initial utility was able to fix stormwater issues referred to as the 100 points of light and accomplished many good things and he will support this ordinance. Councilman Adams stated that the work that has been done is extremely commendable; however, he is not comfortable with the possibility of being sued.

ORDINANCE NO. 3455
COUNCIL BILL NO. 12-1026

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING CHAPTERS 13.30, 13.32 AND 13.35 AND ADOPTING NEW CHAPTERS 13.30, 13.32 AND 13.35 TO ESTABLISH STORMWATER MANAGEMENT REGULATIONS, CONTROL ILLICIT DISCHARGE AND ESTABLISH A DRAINAGE UTILITY; PROVIDING DEFINITIONS AND PURPOSE STATEMENTS; REQUIRING STORMWATER MANAGEMENT PLANS; ESTABLISHING PERFORMANCE STANDARDS AND DESIGN CRITERIA; REQUIRING A GUARANTEE OF STORMWATER SYSTEM INSTALLATION AND REQUIRING INSPECTIONS; AUTHORIZING ADOPTION OF ADDITIONAL POLICIES, PROCEDURES, BEST MANAGEMENT PRACTICES AND OTHER SUPPLEMENTAL MATERIALS; REQUIRING SYSTEM MAINTENANCE; ESTABLISHING REGULATIONS GOVERNING DISCHARGE TO THE DRAINAGE SYSTEM AND PROHIBITING ILLICIT CONNECTIONS AND DISCHARGES TO THE DRAINAGE SYSTEM; AUTHORIZING ACCESS TO REGULATED FACILITIES; REQUIRING NOTIFICATION OF SPILLS; ESTABLISHING A DRAINAGE SYSTEM UTILITY AND APPROVING ADMINISTRATION OF THE UTILITY; AUTHORIZING A DRAINAGE SYSTEM UTILITY FEE AND ESTABLISHING A PROCESS TO APPEAL THE AMOUNT OF FEE; REQUIRING THAT DRAINAGE SYSTEM FEES BE SEGREGATED FROM THE GENERAL FUND AND ONLY EXPENDED ON DRAINAGE SYSTEM COSTS; ESTABLISHING ENFORCEMENT PROVISIONS AND PENALTIES FOR NON-PAYMENT OF FEES; PROVIDING THAT VIOLATIONS OF THE STORMWATER MANAGEMENT AND ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCES ARE MISDEMEANORS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

ROLL CALL: Kennedy Aye; McEvers Aye; Adams No; Edinger Aye. Goodlander Aye; Gookin Aye. Motion carried.

Motion by Edinger, seconded by Kennedy to suspend the rules and to adopt Council Bill No. 12-1026 by its having had one reading by title only.

ROLL CALL: Kennedy Aye; McEvers Aye; Adams Aye; Edinger Aye. Goodlander Aye; Gookin Aye. Motion carried.

RESOLUTION 12- 052

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO SETTING SERVICE CHARGES FOR DRAINAGE SERVICES PROVIDED TO PROPERTY OWNERS BY THE DRAINAGE SYSTEM UTILITY.

Motion by Edinger, seconded by Kennedy to adopt Resolution 12-052

DISCUSSION: Councilman McEvers asked for clarification as to how comparable full funding or minimum funding comes to the old utility revenues. Troy Tymesen, Finance Director, stated that minimum funding would be less than previous revenue. Mr. Wilson cautioned the city about changing fee structure, as the proposed fees are based on a rate study which included specific known costs. Councilman Goodlander stated that she is more comfortable with the minimum funding, as the city is currently in the process of increasing fees on two utilities in addition to this new utility.

ROLL CALL: McEvers Aye; Adams No; Kennedy Aye; Edinger Aye; Gookin N; Goodlander Aye. Motion carried.

EXECUTIVE SESSION: Motion by Goodlander seconded by Kennedy to enter into Executive Session as provided by I.C. 67-2345 §C: To conduct deliberations concerning labor negotiations or to acquire an interest in real property, which is not owned by a public agency and I.C. 67-2345 §F, To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal option for pending litigation or controversies not yet being litigated but imminently likely to be litigated.

ROLL CALL: Goodlander, Aye; Gookin, Aye; Kennedy, Aye; Edinger, Aye; Adams, Aye; McEvers, Aye. Motion carried.

The Council entered into Executive Session at 9:14 p.m. Members present were the Mayor, City Administrator, City Council, City Attorney, and Deputy City Administrator.

Matters discussed were those of land acquisition and the Dixon Mediation. No action was taken and the Council returned to its regular session at 9:42 p.m.

ADJOURNMENT: Motion by McEvers, seconded by Gookin that there begin no further business this meeting is adjourned. Motion carried.

The meeting recessed at 9:42 p.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod,
City Clerk Apprentice