

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

April 2, 2013

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 April 2, 2013 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

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

CALL TO ORDER: Mayor Bloem called the meeting to order.

PLEDGE OF ALLEGIANCE: Councilman Gookin led the pledge of allegiance.

Amendment to Agenda: Motion by Gookin, seconded by Kennedy to add the Judicial Confirmation item to the agenda. Motion Carried.

Mayor Bloem stated the item would be placed on the agenda before the public hearing.

PROCLAMATION: Councilman Kennedy presented the proclamation for the week of the Young Child April 14-20, 2013. Barbi Harris from the North Idaho Association for the Education of Young Children (AEYC) group accepted the proclamation, which asked that the community support early learning initiatives.

PRESENTATION: AWARD FOR EXEMPLARY ACTION

Fire Inspector Bobby Gonder presented awards to two citizens. He stated that on October 2, 2012 an incident occurred involving a possible cardiac arrest. Avista employees Dan Holden and Shawn Slinkard provided CPR and utilized an AED (Auto External Defibulator) while fire crews were on the way. In recognition of their outstanding action, he presented them with the Award for Exemplary Action.

PRESENTATION: WASTEWATER BOND ELECTION

City Attorney Mike Gridley clarified that the City Council authorized moving forward with an election based on a need to fund improvements to the Wastewater Treatment facility. The May 21, 2013 ballot will include a question to the citizens of whether or not to approve a bond for the

improvement costs. If they vote yes, the City has the option to move forward with long-term financing. If the majority of voters vote no, then the City would have to finance improvements with cash, which would mean that rates would increase to approximately \$70.00 a month for residential use and commercial customers will see an approximately 88% increase.

Dave Clark, Senior Vice President, HDR Engineering, Inc., provided a brief history of the plant as well as regulations pertaining to its operations. The City operates under a Federal NPDES discharge permit. In the Judicial Confirmation request, the Judge found that items proposed are ordinary and necessary and are essential to public health. It is an essential local service and the City has no other option than to discharge the treated wastewater into the river, so it is important to stay in compliance. The permit should be re-issued every five years. The City currently struggles to meet the 1999 and 2004 permit requirements (ammonia and nitrogen). The facility that was built was not built to remove ammonia and nitrogen. He stated that the risk and consequence of noncompliance currently exists and the improvements to the plant are needed to meet ammonia/nitrogen standards. The current permit has been under negotiation since 2007, which includes total daily maximum loads (TDML) and Biochemical Oxygen Demand (BOD). The new permit will include standards that will be some of the most restrictive for phosphorous in the entire country. The requested compliance schedule will provide time to meet the new standards. He clarified that there is a sense of urgency, as the City is currently under risk of noncompliance and is stretching the capabilities of the current facility to meet ammonia/nitrogen or BOD requirements, which could be required as soon as the permit is approved. It is important to start construction this year, in order to establish findings, learn from those findings and make corrections, and perfect the design and size criteria to optimize design criteria. If 5C1 improvements are not completed, the entire facility will have to be larger and the design will be more conservative and more expensive to meet the tighter timeline. While the Judge did not consider the costs as part of the Judicial Confirmation, it would be something the City Council would want to consider. Councilman Kennedy asked how many years the City has been working to meet the standards. Mr. Clark stated that the first trip he made to the City was in 1981, when the City was under a moratorium. Mr. Gridley stated interested group/persons could contact Mr. Fredrickson at 769-2277 for more information.

PUBLIC COMMENTS: Mayor Bloem reminded commenters of the 5 minutes allowance for public comment and that matters should be related to City government business and asked the City Council members to do the same thing during the Council comment period.

Doyles Warehouse: Cindy Palombi, 5317 N. Pinegrove Drive, stated that she felt it was important to have a meeting regarding the sound study (related to Doyle's Warehouse) prior to the expansion being completed. Mr. Gridley stated he contacted the City Engineer for a list of sound study professionals and he is awaiting that list. He also contacted the attorney for Doyles to keep them in the loop. He was considering whether it made sense to do the study before the building is completed or afterward, and that he agrees the neighbors should be involved. He will set a meeting within the next two weeks. Ms. Palombi stated that she agreed that the sound study should come later but would like to meet before the construction is complete.

Open Trench Project: Phil Szmania, 3005 E. Fernan Lake Road, stated that he is concerned that the open trench project originally planned for a line to run along the west side of his house;

however, the current plan would run along his driveway to his shop, which would cause the driveway to be torn up. He would like it on the west side of his property as it was originally planned. Mr. Fredrickson stated that they would find a way to accommodate the west side. Mr. Szmania mentioned that he has been paying for stormwater since 2005 but there are no drains in his neighborhood and he would like reimbursement. Mr. Gridley stated that everyone in the City pays for stormwater, either through a hard pipe or through a swale system and that Mr. Szmania could make a claim against the City, which would have to be within a certain time period and suggested he contact the Legal Department for more information.

Judicial Confirmation: Bjorn Handeen, 914 E. Homestead Avenue, stated that he watched the public disagreements at previous meetings with a heavy heart. Although Judge Luster did not agree with Mr. Adams, it was not unreasonable for Councilman Adams to make his statements, and that Councilman Adams represents thousands of Constitutionalists in Coeur d'Alene.

Miscellaneous: Dave Barger, 530 W. Harrison, stated that he has concerns that discussions are fraught with financial concerns. The world is looking at ways to create a quality environment in more ways than one. He believes the financial system is debunked.

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

DISCUSSION: Councilman Gookin thanked the Legal Department for bring the Fernan Quit Claim Deed forward. Councilman Kennedy clarified that information regarding park naming opportunities can be found on the City web page under the Parks Department or directly in the Parks Department office. Councilman Edinger noted that on the March 14th meeting minutes he was noted as present, although he was not.

Motion to amend the motion made by Kennedy, seconded by McEvers to approve the Consent Calendar with the change to the March 14, 2013 Minutes noting Councilman Edinger as Absent.

1. Approval of Minutes for March 14, 2013 and March 19, 2013.
2. Setting General Services and Public Works Committees meetings for Monday, April 8th at 12:00 noon and 4:00 p.m., respectively.
3. CONSENT RESOLUTION NO. 13-021 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 ACCEPTING A QUITCLAIM DEED FROM THE IDAHO TRANSPORTATION DEPARTMENT FOR A 24 FOOT WIDE AND 30 FOOT LONG PIECE OF PROPERTY TO ALLOW ACCESS TO FERNAN LAKE NATURAL AREA; APPROVING AN INTERGOVERNMENTAL MEMORANDUM OF UNDERSTANDING FOR AUTOMATED RECORDS RETRIEVAL AND ELECTRONIC SHARING TECHNOLOGY CONSORTIUM (ARREST) FOR SHARING LAW ENFORCEMENT INFORMATION; APPROVING A MEMORANDUM OF UNDERSTANDING WITH KOOTENAI COUNTY FOR THE FIRESMART PROJECT MAINTENANCE INSPECTIONS; APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE PANHANDLE PARKS

FOUNDATION FOR NAMING OPPORTUNITIES IN THE COEUR D'ALENE PARKS; AND AWARD OF BID AND APPROVING A CONTRACT WITH MDM CONSTRUCTION, INC. FOR THE 2013 OPEN TRENCH PROJECT.

4. Approval of digital Evidence Retention System (VIPER) hardware upgrades.

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

COUNCIL ANNOUNCEMENTS:

Councilman Kennedy stated that the Parks and Recreation Commission has been discussing the four-corners project and will be organizing meetings and planning discussions. They are in hopes of having meetings before the end of the month. He wanted to let the community know that if they want to be involved in those meetings they should contact the Parks Department. Mr. Gridley clarified that the planning will include the BLM property to the north of the four-corners.

Councilman Adams stated that he received an email from Mr. Festner and that it would be available in the City Clerks Council Packet file if anyone was interested in viewing it.

Councilman McEvers presented the AVA award won by Jeff Crowe, Bunkhouse Media, who runs our CDA19 Channel, based on the Hero's Plaza video. He congratulated him for the honors. Councilman Kennedy thanked Mr. Crowe and the CDA19 crew for all their hard work.

ADMINISTRATOR'S REPORT: Administrator Gabriel reported that the McEuen 2013 Project has begun and there have been some recent issues regarding parking blocking the boat launch. Signage will be added to clarify the allowable parking areas. On April 8 the shoring along Front Avenue will begin, which is the beginning of the Front Avenue excavation. A tri-fold brochure is being created that will provide helpful information during construction, such as available boat launches during the construction period. Nearly eleven years ago, the Coeur d'Alene City Council passed an Ordinance allowing youth representation on City Boards, Commissions, and Committees. Service on these boards gives students an unprecedented opportunity to learn about city government, special projects, and community needs. If you are interested in serving on a Committee, Commission or board visit www.cdaid.org. The 2013 Summer Arts for Youth program begins in June. This award winning arts program for youth is sponsored by the Coeur d'Alene Arts Commission. Please visit the City website at www.cdaid.org to download the complete brochure. The Coeur d'Alene Arts Commission is seeking artists for the McEuen Park Entry Arch. The arch will be over the main pedestrian entrance to McEuen Park. As the gateway between downtown Coeur d'Alene and the park and lakefront, the Arch will be the first impression many visitors see of the park area. Submission Deadline is May 24, 2013. To download and print the Call to Artists, visit the City website at www.cdaid.org, or call Steve Anthony at 769-2249 for more information. On March 20, 2013, the Idaho Panhandle Kiwanis Club presented a check for \$35,000 to Team McEuen for the purchase of the centerpiece feature of the McEuen Park splash pad that is an interactive sailing ship with water guns and other devices designed for kids to cool off in the summer. Club member Doug Eastwood was instrumental in demonstrating to the Kiwanis Board the value of this donation that will be another signature project for the club (a previous signature project of

the Idaho Panhandle Kiwanis Club was the Fort Sherman playground). This ship will be named and logo'd the SS KIWANIS. Congratulations to Louise Martin of the Coeur d'Alene Police Department for qualifying for the Instructor's Certificate, the most prestigious certificate issued by the Peace Officer Standards and Training Council. The Instructor's Certification indicates that Louise has sacrificed many hours of her own time and devoted herself to upgrading and professionalizing law enforcement in the State of Idaho. She reminded the citizens that a Special Municipal Revenue Bond Election would be held May 21, 2013. Portions of the freedom tree (cuttings) have been removed for planting throughout the park. The City continues to seek ideas for use of the ornaments and dog tags that were hanging on the tree. The City has saved very large portions of the tree for possible use throughout the park. Celebration of the tree was coordinated with Fred McMurray and held as a daylong open house. The plan was for the tree to be removed on Friday at 10:00 a.m.; however, due to some confusion, the Contractor thought the City wanted to pick up the tree remnants at 10:00 a.m.

JUDICIAL CONFIRMATION - Mr. Gridley stated that Judge Luster issued a Memorandum of Decision and Order in the City's petition for Judicial Confirmation that found that the City had authority to enter into a loan agreement for improvements to the wastewater facility, as the improvements were ordinary and necessary. This was the procedure the City Council authorized earlier in the year, which legal counsel considers the appropriate path. Absent any opposition, the City would be authorized to move forward and participate in the DEQ loan program. The opposing party has 42 days to file an appeal. Councilman Gookin asked what would happen if the City moved forward with the bonds since the Judge has given authorization. Mr. Gridley stated that a lender would not enter into an agreement or buy bonds within the 42-day appeal period, knowing there is an opposing party. Once the 42 days expires, or the opposition is withdrawn, the lender would be comfortable making the loan agreement. Councilman Gookin asked for clarification on the timeline and steps involved if the Judicial Confirmation were to be appealed to the Supreme Court. Mr. Gridley stated that one would not have to hire an attorney, but there is a procedure for filing the appeal, then the Supreme Court gives a timeline for filing the reasons for appealing. The City could then respond, and time would be given for a response from the appellant. A court date would then be set for oral arguments. Thereafter, a Judge would render a decision based on the information given. Mr. Gridley stated that he believes that a year would be an accurate timeline, but it could take longer. Councilman Gookin clarified that during that time the City would not get the loan, so the fall back is the election.

Councilman Adams stated that he has reviewed Judge Luster's Decision and was pleased that the Judge did not consider the financing as a part of his analysis. Councilman Adams stated that it has been his position that the economic discussions have no merit on the decision, the Judge's ruling gives him confidence in the decision and analysis of "ordinary and necessary" under Article VIII, Section 3 of the Idaho Constitution. Therefore, he will not be pursuing an appeal and supports moving forward without an election. Mr. Gridley stated that it would be typical for someone to file a Withdrawal of Opposition with Prejudice with the court. Mr. Gridley offered to prepare the needed documentation and explained that withdrawing with prejudice would mean that Councilman Adams would not be able to come back at any point to file an appeal. Councilman Kennedy thanked Councilman Adams for his decision and asked if anyone else had legal standing to file an appeal. Mr. Gridley stated that he believed that Councilman Adams would be the only one with standing for an appeal. Councilman Kennedy clarified that this

would allow the City to move forward without an election and would avoid additional costs. Mr. Gridley clarified that the withdrawal would need to be filed tomorrow to allow time to pull the item from the County ballot.

Motion by Kennedy, seconded by McEvers, to hold a Special Call Council meeting to consider the repeal Ordinance No. 3461 before Friday, April 5, 2013. Motion Carried.

PUBLIC HEARING – AMENDMENTS TO ANNUAL APPROPRIATIONS FOR FISCAL YEAR 2012-2013

STAFF REPORT: Mr. Tymesen stated that Idaho code Section 50-1003 allows the City Council at any time during the current fiscal year to amend the Appropriations Ordinance to reflect the receipt of revenues and/or the expenditure of funds that were unanticipated when the ordinance was adopted. Each year the City adopts amendments to the Appropriations Ordinance. The budget amendment shows increases in expenditures for the McEuen Field project, including the Front Avenue LID, the Ramsey baseball field, the property acquisition of Person and Bryan Field, improvements at Phippeny Park, as well as well as grants in the Fire Department and changes in the Wastewater Utility. Donations received for McEuen Park include funding toward the dog park, tennis court and splash pad with the anticipation of more donations to follow. The amendment includes \$75,000 for the bond election within the Wastewater Utility fund, which will not be spent but will remain in the wastewater fund. Councilman Kennedy asked if those funds will need to be reallocated later. Mr. Tymesen stated that they do not have authorization to spend it, so it will fall to the bottom line within the wastewater fund.

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

**ORDINANCE NO. 3462
COUNCIL BILL NO. 13-1007**

AN ORDINANCE AMENDING ORDINANCE 3449, THE ANNUAL APPROPRIATION ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 APPROPRIATING THE SUM OF ~~\$72,705,506~~ \$77,176,229, WHICH SUM INCLUDES ADDITIONAL MONIES RECEIVED BY THE CITY OF COEUR D'ALENE IN THE SUM OF \$4,470,723; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene, Kootenai County, Idaho:

Section 1

That Section 1 of Ordinance 3449, Ordinance of the City of Coeur d'Alene, be and the same is hereby amended to read as follows:

That the sum of ~~\$72,705,506~~ \$77,176,229, be and the same is hereby appropriated to defray the necessary expenses and liabilities of the City of Coeur d'Alene, Kootenai County,

Idaho, for the fiscal year beginning October 1, 2012.

Section 2

That Section 2 of Ordinance 3449; Ordinances of the City of Coeur d'Alene be and the same is hereby amended to read as follows:

That the objects and purposes for which such appropriations are made are as follows:

GENERAL FUND EXPENDITURES:			
Mayor and Council	\$	220,014	
Administration		399,866	
Finance Department		676,928	
Municipal Services		1,369,649	
Human Resources		241,663	243,963
Legal Department		1,428,897	
Planning Department		475,512	
Building Maintenance		398,419	
Police Department		9,969,692	
Drug Task Force		36,700	

ADA Sidewalks	220,785	
Byrne Grants	149,077	
COPS Grant	69,819	
Fire Department	7,627,429	7,729,672
General Government	192,635	942,635
Engineering Services	1,238,436	3,203,536
Streets/Garage	2,390,303	
Parks Department	1,665,888	
Recreation Department	764,454	
Building Inspection	721,439	
TOTAL GENERAL FUND EXPENDITURES:	<u>\$ 30,257,605</u>	<u>33,077,248</u>
SPECIAL REVENUE FUND EXPENDITURES:		
Library Fund	\$ 1,278,960	
Community Development Block Grant	267,325	
Impact Fee Fund	613,133	913,133
Parks Capital Improvements	881,215	1,870,524
Annexation Fee Fund	70,000	
Insurance / Risk Management	264,000	
Cemetery Fund	239,300	
Cemetery Perpetual Care Fund	98,000	
Jewett House	42,000	
Reforestation / Street Trees / Community	68,000	
Arts Commission	7,000	
Public Art Funds	245,000	
TOTAL SPECIAL FUNDS:	<u>\$ 4,073,933</u>	<u>\$ 5,363,242</u>
ENTERPRISE FUND EXPENDITURES:		
Street Lighting Fund	\$ 570,050	
Water Fund	7,602,289	
Wastewater Fund	18,996,924	19,326,924
Water Cap Fee Fund	850,000	
WWTP Cap Fees Fund	879,336	
Sanitation Fund	3,285,480	
City Parking Fund	575,957	607,728
Stormwater Management	923,967	
TOTAL ENTERPRISE EXPENDITURES:	<u>\$ 33,684,003</u>	<u>\$ 34,045,774</u>
FIDUCIARY FUNDS:	\$ 2,538,100	
STREET CAPITAL PROJECTS FUNDS:	770,000	
DEBT SERVICE FUNDS:	1,381,865	
GRAND TOTAL OF ALL EXPENDITURES:	<u>\$72,705,506</u>	<u>\$77,176,229</u>

Section 3

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4

This ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press, a newspaper of general circulation published within the City of Coeur d'Alene and the official newspaper thereof.

MOTION by Kennedy, seconded by Goodlander, to pass the first reading of Council Bill No. 13-1007.

DISCUSSION: Councilman Edinger will vote against the Ordinance based on comments made at the previous meeting. Councilman Adams stated that he originally thought of this as a type of Federal Appropriations Bill, where additions would be added along the way; however, the Council has already approved these items, so this action is a formality.

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

MOTION by Kennedy, seconded by McEvers to suspend the rules and to adopt Council Bill No. 13-1007 by it having had one reading by title only.

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

ADJOURNMENT: Motion by Kennedy, seconded by Adams to recess to April 4, 2013 at 12:00 Noon in the Old City Council Chambers at City Hall to discuss the repeal of Ordinance 3461. Motion carried.

The meeting recessed at 7:25 p.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod,
City Clerk