

MINUTES OF A CONTINUED MEETING
OF THE COEUR D'ALENE CITY COUNCIL
HELD ON JANUARY 10, 2013 AT 5:00 P.M.
IN THE LIBRARY COMMUNITY ROOM

The Mayor and Council met in a continued session at the Library Community Room on January 10, 2013 at 5:00 p.m., there being present upon roll call a quorum of the Council.

Sandi Bloem, Mayor

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

Hazel Bauman) School District #271 Representatives
Lynn Towne)
Wendell Wardell)
Chairman Hamilton)
Vice Chair Seymour)
Trustee Regan)
Trustee Hightower)
Trustee Seddon)
Marc Lyons)

Wendy Gabriel) Members of City Staff Present
Renata McLeod)
Troy Tymesen)
Mike Gridley)
Steve Anthony)

Mayor Bloem opened the meeting and introduced the purpose of the meeting being further negotiations for the City's acquisition of the School District's portion of Person Field for the benefit of the public. She further clarified that there would be no public comments taken. Chairman Hamilton stated that the School Board's intent is to negotiate a deal that is in the best interest of the community.

City Attorney Mike Gridley stated there has been good negotiation with the School Board representatives and acknowledged that there is a disagreement. One of the fundamental issues is the School District is married to the appraised value. The City's position, based on state codes, is that the legislature would allow public entities to exchange property amongst themselves for the public good. He does recognize I.C. 33-601 is directed to education specifically, but under 4b it provides that real and personal property can be transferred for no consideration. If the School District chooses, they could negotiate any price they saw fit.

Legal Counsel for the District, Marc Lyons, stated that there were two legal issues that needed clarification. One issue is the property history, which was purchased by the District in 1950 from a private party, and then in 1995, the property was subdivided and Lot 2 was transferred to the City in exchange for Lake City High School property. The District has always owned the western portion of the field. The field was not gifted, it was purchased. The second issue is the law regarding selling District property, and that law requires that the District must get an appraisal in order to sell property, which must be done to set the value of the property. The law does provide that the District, in order to dispose of property, must sell it at the appraised value or through a public auction. The other code (I.C. 67-2322) does broaden the power to transfer the property directly to another entity like a city, with or without consideration. This does not override the District's duty to value the property. He clarified that the District would like to reach an agreement so that the field can be used as a park, and has a responsibility to the larger group of citizens within the district boundary. He stated that the law does give some room for negotiation, but everyone has responsibilities. Mr. Gridley agreed that the appraisal is required, and that there is room for flexibility. One point of clear agreement is that everyone would like to see this remain as open space.

Councilman Edinger stated that the City and the District have, over the years, been good partners, worked together on a lot of projects, and hoped that both taxing entities could come to a reasonable conclusion in the best interest of all the citizens. He remembers that in 1995 the District wanted to make a trade with the City for a parcel of land at Lake City High School, then a while later the District needed a portion of the field back for accreditation purposes. He stated that he received a letter from Ken Burchell, who was School District Trustee in 1995 and asked that Mr. Gridley read the letter into the record. Mr. Lyons clarified that the situation now is to get an agreeable deal so this property can be transferred to the City. Mr. Gridley read the Burchell letter into the records.

Chairman Hamilton stated that this boils down to the District's fiduciary responsibility, and that approximately 60% of the taxpayers reside within the City of Coeur d'Alene. Additionally, the District's current financial condition includes an expected \$3 million shortfall. Their goal in this negotiation is that the sale is supported by documentation and left in the hands of the public, and he believes the only way that can happen is for the City to own the park. Chairman Hamilton stated the reason they have approached negotiations the way they have is to keep the City in first position. He does not believe that anyone would say it is in the best interest of the District to gift the City the property. At this point in time, the District must refer to legal documents as the history of the property.

School Superintendent Hazel Bauman stated that she has been involved with the District since 1979; however, was not involved in the 1995 negotiation. The 1995 Land Exchange Agreement does say that a portion of the field was exchanged. She stated that the District has enjoyed a responsible and responsive relationship with the City for years and a disagreement does not have to be the end of that. One stumbling point is the legal parameter that the District has to sell the property for the appraised price, and that if there is some legal wiggle room there is some opportunity for negotiation. The one amount presented by the City values the property at half price, which the District does not think is reasonable, and the question is - is there something in-between. Councilman Kennedy explained that the value was reached using comparables that

were related to parkland acquisition, at \$2.00/sq. ft. He explained that the Joint Powers Agreement negotiations came up during this time, so it was an opportunity to look at how to get money to the District and be fair to our taxpayers. Most taxpayers have told him to make it a park and that the City ought to be able use the gyms when they are not in use by the District. He stated that the City is willing to pay the \$650,000 with the additional value added items. Chairman Hamilton stated that it is not a problem to find value to offset price; however, the District could not offset the Northshire property as they have a current offer from another party. Additionally, he did not think it was fair to encumber an already difficult Joint Powers Agreement. Councilman Kennedy questioned what could be included for value and asked if the District would extend the City's use and discuss the maintenance costs thereafter. Ms. Bauman stated that the District is very interested in renegotiating the Joint Powers Agreement, and that when the gyms are not in use, it is the right thing to allow use, as it benefits the same children. Since the District is in tough financial times, one area they cut substantially was the maintenance department. Upon review, they found the actual costs for gym use from 5:00 to 8:00 p.m. was costing the District approximately \$60,000 for the programs for another entity, while they cannot cover the costs of their own programs.

Councilman McEvers reiterated that 60% of the children come from the City of Coeur d'Alene, and wondered if that were a magic number to use as a formula going forward. Mr. Tymesen clarified that this is not a good asset to divide that way. Chairman Hamilton stated that he agreed with Mr. Tymesen and that they need to find a method that it is revenue neutral. Trustee Regan stated that both organizations are taxing entities, but not the same type. The District has to go back to the taxpayers and ask for more money and they can say no, yet a city can ask for 3% in foregone taxes, which is a known amount. Trustee Regan believes that the property valuation should be based on the appraisal and he does not believe the District can violate the first law. He believes that the trustees' primary focus is to educate children and due to their current financial situation, they decided to liquidate the property, which is not related directly to education. Mr. Lyons clarified that in the reference Idaho Code Title; it does grant additional flexibility for governments to exchange properties. Trustee Regan stated that he is concerned that the District is entering into a period that will require serious cuts and the impression will be that the City received a windfall from the District. Mr. Gridley stated that the code provides for an appraisal so everyone knows its value, but it does not prohibit the trade or transfer. Mayor Bloem stated that there is a clear way to have the appraisal be different and that would be for the District to ask the City for a zone change. Chairman Hamilton stated that there are not any court cases on this and that he does not want the District to be the first lawsuit. He also stated that he did not want to negotiate against the District by lowering the value of the property with a zone change.

Mr. Tymesen stated that in order to understand why the City wrote the proposal it did, one would have to understand the Idaho Code. He stated that there were some interesting facts from the City's perspective. One fact is that in 1995 there were two land agreements executed for the Person Field property, which referenced two separate square footages. Additionally, Person Field is not mentioned in the Joint Powers Agreement. Ms. Bauman stated that the District is looking for a win-win agreement, but the District is currently subsidizing \$60,000 a year, and when the City references extending the use over ten more years it would cost the District \$600,000. She acknowledged that it would be difficult to identify everything that goes on between the two entities; however, the District can quantify the use of the gyms. Trustee Regan

stated that he wants to make sure that the gyms have the highest utilization rate, but wants it to be equitable. Mr. Gridley cautioned that this issue could be a slippery slope, as the entities could start going back and forth regarding costs and shared use. Councilman Goodlander stated that she felt it was important to remember the City provided \$950,000 in funding to the District when the gyms were built to ensure shared use. Chairman Hamilton stated that those gyms were dealt with in the existing joint powers agreement, and that he would consider extending the term, provided it is negotiated as revenue neutral. Councilman Kennedy questioned what language would work to make up the gap and allow him to make a motion to move forward. Councilman Adams asked if the District had some wiggle room for a cash offer and wondered if there were a specific number for a cash offer. Ms. Bauman stated that the District has not talked about that yet. Chairman Hamilton stated that at the District's meeting on Monday, they were under the impression they had to get full-appraised value and that they were willing to find a way to equalize the value gap.

Councilman Adams stated that as a citizen, he has a personal passion to protect Person Field and the junior tackle program, and as a councilman, this is treated as a business deal. He is not sure the citizens are as concerned with the business aspect of the deal and feels that the City needs to do what is best for the community as a whole. The citizens have told him to just write the check. Mayor Bloem stated that when referencing ownership of the land it should be clear that the citizens own the land. Additionally, she stated that it saddened her to be trying to negotiate to a revenue neutral impact and that she does understand the financial circumstances of each entity.

Mayor Bloem stated that the City represents a narrowed taxing district and the children that use the facilities also live outside of the city limits, but the City still pays for the use. It is not easy for the City to write the check, and it may need to wait until the end of the year to do so. She expressed her desire to negotiate the dollar price and find a middle ground. Mr. Wardell stated that the Joint Powers Agreement is the wrong place to look for value, as it is a problematic agreement. He suggested looking at the School Resource Officer positions and the new security agreement to be a place where value can be sought. Councilman Edinger asked if the security money would be a part of the levy. Ms. Bauman stated that they do not know how the levy will be set up; it could have two questions, one to the levy, and one regarding the funding for security money. Councilman Kennedy felt it would not be right to equate security to a land deal.

Councilman Kennedy suggested that for the price of \$655,000 the District agree to sell Person and Bryan Field and worry about the Joint Powers Agreement later. Mr. Lyons stated that Bryan Field has not been appraised and that the District would need to get an appraisal before it could sell the property. Mr. Gridley suggested that this deal would get the District out of determining value for city services and would compare apples to apples rather. Mr. Wardell suggested that the appraised value of Bryan Field plus the \$655,000 would be a fair price. Councilman Kennedy clarified that he is looking at \$655,000 in total for both properties, which would mean two parks into the City's hands and the District gets the money it needs. Trustee Hightower stated that he believes the property should be appraised first. Ms. Bauman stated that she believes this deal would be a win-win and that the District does not want to be in parks business and the District gets cash. Trustee Seddon questioned if the agreement would require all of the property be zoned as parkland, so the citizens are protected from future Council changes. Mr. Gridley suggested a deed restriction stating the land must be used as parkland. Councilman

Kennedy expressed concern that a deed restriction may prohibit a community building or doing something great on the property that benefits the community. Mr. Lyons stated that the District could look at deed restriction, but would think the City would not want that; however, the City could determine the restriction. Councilman Kennedy stated that the City has planned to meet with the neighbors to seek ideas for the open space. Councilman Goodlander reiterated that they are all in agreement regarding the acquisition of Person Field, and this opportunity to acquire Bryan Field just came up. She stated that the Council is not always comfortable using Fund Balance and will need to make sure the City has operating capital in place. Councilman Kennedy reiterated that the suggestion is \$655,000 be the purchase price for both parks, with an appraisal of Bryan Field to be done later, so that it does not delay negotiations. Trustee Regan felt the deed restriction has value and it could justify a lower price for the land. Additionally the restriction could be for recreational uses, rather than parkland, with the value going to the public. Mr. Gridley felt that he could construct the right language. Ms. Bauman stated that it sounded like there was agreement. Councilman Edinger said that the City does all the maintenance on Bryan Field and many people already believe it is a City park.

Motion by Kennedy, seconded by Goodlander to allocate \$655,000 for the purchase of Person Field and Bryan Field, subject to a legal deed restriction.

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

Mr. Lyons felt that including the Joint Powers Agreement into the negotiations would bring in too many moving parts. He stated that the District needs to conduct an appraisal on both properties, and then the board would have to make a determination if it were in the best interest of the District and he cannot say it would land on \$655,000 but it does lessen the complications. Chairman Hamilton stated that a middle ground price would be \$3/sq. ft., which would put the purchase price at \$750,000. Ms. Bauman stated that the District could counteroffer after the appraisal. Mr. Wardell thought it would take approximately 3 weeks to have an appraisal completed.

Trustee Hightower asked if the City would agree to \$750,000 for both properties. Mayor Bloem stated that the Council could make a motion to set a minimum and a maximum. Councilman Gookin stated that the City could come back to the table if the price were over \$655,000. Chairman Hamilton expressed his agreement with the \$750,000 number. Trustee Hightower concurred with Chairman Hamilton. Mayor Bloem summarized that the City made an offer; the District will get an appraisal for Bryan Field, and then the District can present a counteroffer to finalize the deal.

Chairman Hamilton stated that he thought a motion from the School Board would demonstrate its support. Motion by Hightower, seconded by Seymour to sell both properties to the City of Coeur d'Alene for \$750,000 pending completion of the requirement for an appraisal. Motion Carried.

RECESS: Motion by Edinger, seconded by McEvers to recess to January 14, 2013 at noon in the Library Community Room for a Continued Council Meeting for the purpose of the Appeal of the Design Review Commission Decision regarding the One Lakeside Project. Motion carried.

The meeting recessed at 6:37 p.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod, City Clerk