

A CONTINUED MEETING OF
THE COEUR D'ALENE CITY COUNCIL
JANUARY 10, 2013

The Mayor and Council of the City of Coeur d'Alene met in continued session in the City Hall Former Council Chambers at 12:00 noon on January 10, 2013 there being present upon roll call a quorum:

Sandi Bloem, Mayor

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

STAFF PRESENT: City Administrator Wendy Gabriel, City Clerk Renata McLeod, Finance Director Troy Tymesen, Water Superintendent Jim Markley, Fire Chief Kenny Gabriel, Police Sgt. Christie Wood, Chief Building Inspector Ed Wagner, City Attorney Mike Gridley, Street Superintendent Tim Martin, Senior Legal Secretary Juanita Knight, Chief Civil Deputy City Attorney Warren Wilson, City Engineer Gordon Dobler, and Engineering Project Manager Dennis Grant.

GUESTS: Tom Hasslinger, Coeur d'Alene Press; Phil Boyd, Dick Stauffer, Dell Hatch, and Mike Walker – Team McEuen

LEGISLATIVE WORKSHOP: Finance Director Troy Tymesen stated that the 2013 Legislative Session has begun. He introduced the City's Legislative Committee members as Councilman Kennedy, Wendy Gabriel, Jim Markley, Christie Wood, Kenny Gabriel, Warren Wilson, Ed Wagner, Renata McLeod, and Juanita Knight. Last year the Committee presented items that the Council approved for action. The top four items were presumptive illness law, traffic safety education programs, lifting the population cap on resort city sales tax/local option taxation, and urban renewal. The Committee would seek to confirm last year's issues and visit new items.

Councilman Gookin asked for clarity regarding last year's Council direction regarding urban renewal. Mr. Tymesen stated that the Committee was watching for legislation that would take away the tool of urban renewal, and would send a letter that the city was not in support of the item. Councilman Kennedy explained that there are items that come forward that are in draft form, but Council direction now would give the Committee focus areas to watch and respond to quickly.

MOTION by Kennedy, seconded by Goodlander to authorize the City's Legislative Committee to monitor and support items presented as items A-D (which include

presumptive illness law, traffic safety education programs, lifting the population cap on resort city sales tax/local option taxation, and urban renewal).

DISCUSSION: Councilman Gookin asked for clarification on the process of sending support letters and the language used in the letters. Councilman Kennedy stated that the letters are sent on city letterhead and signed by Mayor Bloem; however, it is not intended to be sent as unanimous support of the City Council. Councilman Kennedy explained the Legislative Committee realizes that sensitivity on issues like urban renewal is high, and will sometimes take no action and let the legislation play out. Councilman Edinger clarified that the City Council is provided copies of the letters as they are sent out.

MOTION to authorize the City’s Legislative Committee to monitor and support items A-D (which include presumptive illness law, traffic safety education programs, lifting the population cap on resort city sales tax/local option taxation, and urban renewal) was carried.

Mr. Tymesen stated that the Committee anticipates actions on the following items during this legislative session and asked Warren Wilson to provide a brief update.

- a. Personal Property Tax Repeal: Anticipated impact to Coeur d’Alene would be \$960,219, and the question is how that money would come back to the city. Other local taxing districts and communities will be effected from 5%-45% of their budgets. Additional concerns stem from the Governor’s State of the State address in which he mentioned making counties whole and did not specifically mention cities.
- b. Stormwater Funding: Mr. Wilson stated that this potential legislation proposed by AIC models a stormwater assessment rather than a fee or a tax. He expressed concern with determining the difference between a fee and an assessment. This type of system would only fund the federally regulated portion of stormwater management and not the state regulated portion. Mr. Wilson felt it would take several years to get this legislation through committees.
- c. NPDES State Primacy: Mr. Wilson felt this would be good legislation for the city, due to the Spokane River and EPA issues.
- d. Sales Tax on Internet Sales: This legislation has come forward for a number of years and might be a good thing for local business.
- e. 2012 Building/Fire Code Adoption: This year includes the new code adoption cycle.
- f. Municipal Water Rights Planning Horizon: Municipalities are not allowed to hoard water rights, so if they are not currently being used, the right would be lost. This legislation would allow for acquisition of water rights for long range planning purposes. 50 years is generally a long enough planning horizon to ensure water rights for future citizens.
- g. Dig Line Legislation: Mr. Wilson explained that this references the one call locate system and this legislation would bring states into compliance with federal requirements.
- h. ILETS Funding: This is a request for dedicated funding for ILETS. Mrs. Wood explained that this is an intelligence system law enforcement that utilizes to look up police records such as active warrants.
- i. Magistrate Court Funding: Sole purpose is to seek increased funding.
- j. Incident Response Fees: The Committee felt this was good legislation.

- k. Apportionment of 911 Services: This is potential legislation to ensure that the system is a pay for services system. Some counties have looked to cities to pay more, which ends up with city residents paying two times for the service.
- l. Election Laws: The Committee believes these codes will be reviewed this session.

Councilman Gookin asked if there would be legislation proposed regarding flagpole codes. Mr. Wagner explained that he would propose a code change to the Building Code Board, who will start the code amending process in March.

MOTION by Kennedy, seconded by Goodlander to allow the City Legislative Committee to move forward on the items discussed as listed above.

DISCUSSION: Councilman Adams stated that it would be important for the Committee to review both sides of the personal property tax report. Councilman Kennedy explained that the Committee reviews and holds discussions on all items. Any items that cannot be agreed upon at the Committee level or are questioned will be forwarded to Administration/Mayor.

MOTION to allow the City Legislative Committee to move forward on the items discussed as listed above was carried.

Mrs. Gabriel requested the City Council begin discussions regarding Front Avenue project curb cuts at this time.

FRONT AVENUE PROJECT CURB CUTS: Phil Boyd, Welch Comer Project Engineer, provided a presentation regarding the design for curb cuts proposed for Front Avenue. He explained that approaches are regulated by the City Code and should meet current design standards. He further explained that the reason the curb cuts are proposed to be removed is to create a pedestrian corridor, ensure pedestrian safety, and to allow for diagonal parking and expanded use of the sidewalk. The removal of curb cuts also achieves an economy of scale in the construction of the project. The design is intended to transform the corridor into a timeless and unique public space now and 75 years from now. Mr. Boyd clarified that if access is allowed it must be sufficient and meet current codes.

Councilman Gookin questioned if the removal was restrictive to the city or to the property owner. City Engineer Gordon Dobler stated that approach standards are requirements to all developers. Mr. Dobler clarified that if Mr. Montandan applied for a permit to change the building the current approach would not be allowed, as it does not meet any design standards and it cannot be mitigated in any way. Mr. Boyd reiterated that is why he believes the city's viewpoint should be looking out 75 years. Councilman Edinger asked for clarification of grandfather rights. Mr. Dobler stated that the city does not give prescriptive rights and that any exception is approved through encroachment agreements, which are semi-permanent and must meet public safety needs. Mr. Dobler explained that he evaluates the facts of the request to retain encroachments and considers if it would prohibit customer access completely or if it is a case of needing to walk further. Additionally, he stated that he hears the argument that it will close the business as a first response to every project. He recommended that the Council consider what the real impact would be and remember that businesses do change hands and what

one business needs is not what the new business would need. Councilman Gookin expressed concern with the city affecting which businesses fail and which succeed. Mr. Dobler stated that he did not believe a business closure could be tracked back to a driveway removal and reminded the Council of the Northwest Boulevard project and similar circumstances.

Montandan Property: Mr. Boyd presented the existing approach conditions to the Montandan property, located at 4th and Front Avenues. The current design includes the removal of the approach with a slightly different layout for the loading zone as the handicap-parking stall has been relocated. Mr. Boyd explained that the existing approach does not meet city standards and he cannot find a way to make it meet city standards. Councilman Gookin asked for clarity as to whether this is the final design plan and if it includes the removal of parking on 4th Street. Mr. Boyd confirmed it is the 90% complete design plan and that it does remove parking on 4th from Front to Sherman. Councilman Edinger asked if the tree in front of the garage could be moved. Mr. Boyd stated that it could, but it would not meet code requirements. Mr. Dobler reiterated that moving the loading zone to be exactly in front of the garage would only be a few feet and then the design of trees and grates would need to be redesigned as well as a portion of the parking garage, as the tree tubes go from street level through to the garage floor. Councilman Kennedy asked for clarity regarding driving over the sidewalk in a residential zone versus a commercial zone. Mr. Dobler clarified that in a residential zone, the pedestrian traffic is less than commercial; however, there are some of the same safety risks and visibility issues. In this design, the diagonal parking increases the need for visibility.

Bank of America/Meyer Property: Mr. Boyd presented the design that included two access points for the Meyer property. One of the access points is a one way into the bank and the other into the parking lot. If the use changes in the future, the city would have the right to remove the approach and replace with diagonal parking stalls. Mr. Dobler stated that he is concerned with vehicles stopping in the middle of the block and negotiating the turn between diagonal parking stalls, which is why he will require the property owner put something in place to ensure that it is one-way access. Councilman Kennedy asked how many spaces would be lost in the plan if the parking was parallel versus diagonal. Mr. Boyd thought the loss would be approximately 40 stalls. Mr. Dobler stated that he has informed the property owners that if the design and mitigation does not work he reserves the right to remove the access. Councilman Edinger asked Mr. Dobler, from an engineer viewpoint, if diagonal parking is more hazardous than parallel parking. Mr. Dobler stated that he does believe diagonal parking is more hazardous; however, the design team has implemented traffic calming devices to mitigate the hazard. Councilman Gookin stated that he is concerned that the design does not meet the big picture theory of McEuen helping the downtown, as certain businesses are being hurt by the removal of the approaches. He believes Mr. Meyer made good points at the last Council meeting regarding the city providing approach approval with the original development permits and that it should be viewed as permanent like sewer lines. Councilman Goodlander verified that there is another lot to the right with access on 5th Street.

Coeur Building: Mr. Boyd presented the design for the Coeur property located at 5th and Front Avenue. This building includes parking in a lot behind the building that is owned by Spokane Television/KXLY. There are easements between the two property owners. The current Front Avenue design could be configured to allow a loading zone. Mr. Boyd explained that if the

access remains it would require the removal of five or six diagonal parking stalls. As the design is presented, they will have access to the parking facility from 5th Street. Mr. Boyd explained that the design included diagonal parking to provide for more parking, change the character of the street, as well as it being a traffic-calming device to slow traffic down.

Councilman Gookin asked why the design did not include shutting down vehicular access to the whole street, as it does not seem to be an efficient use of a street. Mr. Boyd explained that in a downtown corridor the street should encourage pedestrians to shop as compared to a thoroughfare like Government Way. Councilman Kennedy asked if eliminating vehicular traffic would negatively affect the value of a building. Mayor Bloem stated that the City Council had adopted the main street theory at the time of the downtown project, and that it includes the theory that in order to have a strong downtown one should slow people down and create an invitation to park. Mr. Dobler clarified that at the time of the downtown project, the idea was to get traffic on to Lakeside Avenue, but traffic is still on Sherman Avenue, which defies what one would assume. Councilman Gookin questioned if there were any gains from not including parking on both sides of the street. Councilman Goodlander stated that she believes that there would be a loss of view corridor and that it would eliminate the promenade feel on the park side. Additionally, she believes that having diagonal parking puts parking on the street where businesses are and would accommodate future growth. Councilman Adams expressed concern that this prohibits functionality.

MOTION by Edinger, seconded by Adams to retain all six curb cuts.

DISCUSSION: Councilman Gookin stated that retaining the curb cuts would assure the property owners that the city respects the existing businesses and that it supports downtown. Councilman Edinger stated that he thinks diagonal parking is a hazard and that parallel parking is more suitable. Councilman Kennedy clarified that the change to parallel parking would result in the loss of forty spaces. Councilman Kennedy asked Mr. Dobler to address the yellow paint in front of the Montandan property and to clarify if it is an existing loading zone. Mr. Dobler stated that the city does not paint curbs yellow and that sometimes owners or other entities take it upon themselves to paint curbs, but it is not enforceable as it is not a city signed and established zone.

Councilman Kennedy asked City Attorney Mike Gridley to clarify if removal of the approaches creates a liability, as one of the protests to the LID claimed it would be a taking. Mr. Gridley stated that it would not be a taking in that the city is exercising its police powers, for general safety. He further explained that if it were the only access to a building it would be troubling, but there are multiple accesses to each of these properties.

PUBLIC COMMENTS:

Mrs. Berry explained that the Wiggett Mall (Montandan property) is a year round business, which sometimes has to move large items in and out, such as a recent move of a ten-foot glass case. She stated that sometimes furniture must be taken around to the front because it cannot be moved up the stairs. They often fight for parking in front of their building in order to unload and believes it will be worse with the new design. She stated that there has never been an accident due to their crossing of the sidewalk.

Mr. Berry stated that the tree blocking the door would be problematic as he currently uses a 26' truck and that they must have a loading zone. He further stated that the traffic to the park is only busy four months out of the year, but they are a year-round business. Councilman Adams verified that there would still be a net increase in parking spaces if the design changed to parallel parking. Councilman Goodlander asked for clarification regarding parallel parking and the Wiggett access. Mr. Dobler said that if the curb cut were left, it would still allow them to back across the sidewalk and would not meet City Code.

Michael Reagan, representing Coeur, stated the approach was approved with the building permit for the building in the 1980's. The Front Avenue access used to enter the building provides access for deliveries and allows flow of traffic through to the back of the building for exit. He explained that the curb cut at 5th Street is not Coeur property, nor is the alley access. The existing easements are mutual easements between KXLY and Coeur and he believes that removing the access negates the mutuality of the easements and creates a loss of functionality to the building. Based on these points, he believes that it would constitute a taking and would cause a significant devaluation of the property. Mr. Gridley explained that when the property was developed there were several lots owned by the same person; and, when the lots were changed, they did not go through the city's plat process causing them to be created illegally, and that he disagrees with the argument that it is a taking. Mr. Reagan stated that Coeur was not the owner of the property at the time the property was developed and maintains the property was split before the property was developed. He also stated that no accidents have taken place at that location for twenty years. Mr. Reagan said that Coeur would pursue remedy for a taking should the city remove the curb cut. Mayor Bloem asked if the city would have approved that building without off-street parking. Mr. Dobler stated that the city would not have approved a permit without onsite parking. Mr. Reagan stated that the easement provides the parking.

ROLL CALL: Edinger Aye; Goodlander No; Gookin Aye; Kennedy No; Adams Aye; McEvers No. Motion Failed with the Mayor's tiebreaking voting in the negative.

MOTION by Kennedy, seconded by Goodlander to approve the design plan as presented.

DISCUSSION: Councilman Kennedy asked if there is merit to having a canopy at the garage side of the Wiggett property. Mr. Stauffer stated that some downtown buildings have canopies and he believes the code allows for up to 1/3 coverage over the sidewalk. Mr. Hatch agreed that a canopy would work; however, consideration for the future growth of the trees would need to be included in the plan. Councilman Goodlander agreed that a canopy would provide some coverage and would be a good idea. Additionally, she felt the loading zone would have value to Wiggett and other buildings in that area. Councilman Gookin stated that he would oppose the motion, as he does not believe that it supports businesses and further believes the city will be sued. Mayor Bloem stated that this would be the only loading zone in downtown dedicated to a specific business and that there are other successful businesses that load from the roadway and/or alleys every day and continue to be very successful. The plan is about balance, and the design needs to consider what is best for businesses, customers, vehicles, pedestrians, etc. She stated that the most successful downtown philosophy is the Main Street theory, which speaks to providing ample parking, creating a destination to stop people, and not moving vehicles through quickly. This downtown has provided more opportunities for businesses to thrive.

ROLL CALL: Goodlander Aye; Gookin No; Kennedy Aye; Adams No; McEvers Aye; Edinger No. Motion Carried with the Mayor's tiebreaking voting in the affirmative.

RECESS: The Mayor called for a 5-minute recess at 2:03 p.m. The meeting resumed at 2:10 p.m.

2ND TO 3RD STREET: Mr. Hatch presented information regarding the views and vistas through the park to the Harbor House. He referred back to the community values that were used as a guide for the design that has been created over the past two years. He stated that one of the important values speaks to linking the downtown to the waterfront. The view corridor and pedestrian corridor along Front are critical. With the current design, people could easily advance into the park and look for visual identifiers. Due to concerns with traffic flow, the team conducted a traffic study in November 2011. They found the park does generate additional trips; however, the downtown street network can handle the additional traffic with some potential lane changes. The traffic study provided an analysis of the level of service for traffic and he presented the lane movement change based on the future increase of traffic from the park. One design option is to allow limited access between 2nd and 3rd wherein vehicles would no longer move through 2nd and 3rd on Front, with opening only during peak events when Sherman Avenue is closed. Emergency vehicles and maintenance vehicles would continue to have access. Councilman Edinger asked if the Resort bus area would stay or be removed. Mr. Boyd stated that in the proposed configuration the bus parking would be included, as well as an area for service vehicles for short-term parking/deliveries. Councilman Gookin stated that designs for places like Disneyland hide these types of service areas and he would like to see that included in the design.

Mr. Boyd asked the Council to provide direction to the design team as to what route they would like the design team to use to continue to design. Mr. Boyd explained that the traffic study included the downtown street network beginning at 1st and Sherman Avenues and didn't feel they needed to go all the way back to Government Way. Mr. Boyd stated that the Hagadone Corporation mentioned plans for another tower at 2nd and Sherman, which would bring in more pedestrians, and felt this is a good time to consider these future needs. Mayor Bloem clarified that the design team is looking for some action specific to 2nd and 3rd Street. Additionally, she noted that the Hagadone Corporation has agreed to remain in the LID until design for this area is complete. It is her understanding that this portion of the project would not be ready to go with the main bid, therefore the Council could take some time to understand better and put it to bid later and build in parallel. This would allow time to work with the Resort and evaluate it separately. Councilman Gookin expressed concern about how to determine the cost of the LID without the final roadway design. Mayor Bloem stated that the dollar value may change by approximately \$100,000 and that it would not drastically affect the \$2.2 million project. Councilman Kennedy stated that he originally voted in favor of leaving the roadway open; however after meeting with the designers and engineers, then walking the area with their view point, he has changed his mind about leaving it open. He has based this change of mind on the fact that emergency vehicles would still have access and it provides connectivity to the park. Councilman Kennedy encouraged the Council to give direction to the design team today, so that they will know how to move forward. Mayor Bloem stated that she has not been in favor of

closing the street, but is in favor of limiting access. She does not feel like she has all the information needed to make a decision today.

Mayor Bloem asked the design team what affect a delay in this design decision has at this point. Mr. Boyd stated that they need to know what design options the Council wants to see as the team could present several options. Mr. Dobler stated a delay could cause some issues for staff depending on what needs to be built this summer and what needs to be included in the LID information. He would recommend design options come back to Council within a couple of weeks. Councilman Edinger asked if the road were to be closed off would the Hagadone Corporation still be involved in the LID. Mrs. Gabriel stated that if there were any work done there, they would be involved in the LID.

MOTION by Gookin, seconded by Adams to present plans for limited access and the traffic-calmed version of the street (narrowed) and related traffic information for City Council to consider sometime next week.

DISCUSSION: Councilman Kennedy expressed that the Council keeps asking for design changes that affect a normal schedule, and that he believes the Council should give clear direction for one of the two options. Councilman McEvers stated that the Council has seen these plans as presented today. Mr. Boyd explained that under the traffic calmed version, the bus loading and pull out is retained with a green space buffer, it includes a speed table at the corner of 2nd and Front Avenues and the trail runs along the south side of the street, service vehicles would park on the north side of Front Avenue, and the street would include two 12' lanes. Mr. Boyd stated that the limited street closure would be the best design as it balances vehicles and pedestrians. Councilman Gookin stated that he is concerned that the limited street closure would cause the perception that there is a traffic problem. Mr. Dobler stated that the traffic calming option does not solve any of the current issues of vehicular/pedestrian conflicts. He further spoke passionately regarding existing traffic issues and recommended limited access closure as the best solution. Mr. Dobler explained that they might need to make some modifications to Sherman to accommodate boat trailer traffic, which may include removal of bulb outs. In the event of a large boat, the limited access area could be opened. Mr. Boyd clarified that the Resort access would remain and that service delivery would come from 3rd Street. The design team will still need to determine if bollards would be used or some other method of limiting access. Mr. Hatch clarified that under the Main Street theory, street closures are not recommended; however, as they reviewed the anticipated increase of vehicular and pedestrian traffic with the park development, the team felt the closure would provide a unique opportunity to provide connectivity to the City Park, McEuen, and downtown. Councilman Kennedy noted that Bill Regan with Hagadone Corporation was in the audience and asked that he clarify the Resort position regarding participation in costs. Mr. Regan stated that as the design team brings items forward he would be able to formalize the financial end of it. Additionally, he stated that he felt it was important to consider this opportunity and thinks the Council should take the time it needs to solve the pedestrian conflicts.

MOTION to present plans for limited access and the traffic calmed version of the street (narrowed) and related traffic information for City Council to consider sometime next week withdrawn by Gookin, seconded by Adams.

MOTION by Gookin, seconded by Adams to direct the design team to proceed with the design of limited access and provide a canopy to the Montandan property at the city's cost.

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

RECESS: Motion by Gookin, seconded by Adams to recess to January 10, 2013 at 5:00 p.m. in the Library Community room for a Joint meeting with School District 271 School Board; and then to January 14, 2013 at noon in the Library Community Room for a Continued Council Meeting for purpose of the Appeal of the Design Review Commission Decision re: One Lakeside Project. Motion carried.

The meeting recessed at 3:04 p.m.

Sandi Bloem, Mayor

ATTEST:

Renata McLeod, City Clerk