

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

March 19, 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 on March 19, 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.

**INVOCATION:** Led by Pastor Ron Hunter, Church of the Nazarene.

**PLEDGE OF ALLEGIANCE:** Councilman McEvers led the pledge of allegiance.

**PRESENTATION: CROSSWALK FLAGS PILOT PROGRAM**

Trails Coordinator, Monte McCully, discussed a Crosswalk Flags Pilot Program idea that has been brought forward by the Pedestrian & Bicycle Advisory Committee. The purpose of the program is to help reduce pedestrian/vehicular conflicts by providing crosswalk flags for pedestrians to carry as they cross the street, thereby making the pedestrians more visible. Other cities that have implemented a similar program include McCall, Idaho Falls, Hailey, Bellevue, Seattle, and Salt Lake City. Mr. McCully said that Salt Lake City adopted a similar program in 2000, which went from six flagged intersections to 134 by 2007. They estimated about 14% of pedestrians actually used the flags, but that the program and other measures taken resulted in a 30% decrease in city-wide pedestrian/vehicle conflicts.

The Ped/Bike Committee recommends starting with two intersections, located at 6<sup>th</sup> & Sherman Avenue, and Ironwood Drive/Ironwood Place. Sherman & 6<sup>th</sup> is the only intersection in the downtown core that doesn't have a signalized intersection. Ironwood Drive/Ironwood Place has one of the highest numbers of pedestrian/vehicle crashes in the city.

Mr. McCully explained that you grab a flag from whatever side you are crossing from. The cost per intersection to provide six flags and holders is \$61.00, plus signage, for a total of about \$180, which would come out of the bike path maintenance line item. If the program is successful and

demand grows for more intersections, they could develop ways to pay for it including an adopt-a-crosswalk program. Installation is simple and quick.

Councilman Goodlander asked Mr. McCully to explain exactly how the system would work. Mr. McCully explained that there would be three flags on each side. Occasionally the intersections might need to be monitored to make sure that all of the flags don't wind up on either side. Some concerns are that the flags might get stolen, but Mr. McCully said that the flags are pretty inexpensive and more can be purchased. If a lot of flags disappear, they can probably cancel the program.

Councilman Goodlander asked who would be inspecting the intersections. Mr. McCully said that he would probably make it part of his weekly rounds and that he could also ask the Ped/Bike Committee members for assistance. If there was an adopt-a-crosswalk program, they would ask the participants to monitor the intersections.

Councilman Kennedy said that he encountered a flagged intersection in southern Idaho and at first it seemed kind of silly, but he has looked at the numbers and it does have some positive impact. He noted that it is a very inexpensive way to try something that would support pedestrians and walking. He also likes that the program is not being implemented just in the downtown area.

Mr. McCully confirmed that pedestrians would not be required to use a flag, but can use them if it makes them feel safer.

Councilman Adams said that he is the council liaison to the Ped/Bike committee, and believes that it was a new member of the committee that offered the suggestion, and he thought it was an interesting idea. Historically, it appears that the flags in other cities don't get stolen very much.

#### **PRESENTATION: FIRE DEPARTMENT AWARD OF EXEMPLARY ACTION – AISLYN MCCULLOUGH**

Deputy Chief Jim Washko presented an award for exemplary action to Aislyn McCullough. He explained that on January 24, 2013, at 7:00 a.m., there was a structure fire and by the time the fire department arrived on scene, the residents of the home had already been evacuated due to being awakened by Aislyn. Aislyn continued to get help from neighbors and had the knowledge and presence of mind under stress to save her family. Deputy Chief Washko said that Aislyn attributed her success to Ramsey Elementary School and a field trip to the Coeur d'Alene Fire Department.

#### **PUBLIC COMMENTS:**

##### DOYLE'S

Cindy Palombi, 5317 N. Pinegrove Drive, said that they purchased their home in July, 1977 when Doyle's was a shack-type building with a couple of vans for delivery. She presented her concerns regarding the noise, dust, vibration, and lights that are part of Doyle's business 24 hours a day. Ms. Palombi presented pictures of the trucks lined up at Doyle's during the day and

night. They have counted up to 18 trucks on the property at different times. Ms. Palombi discussed the noise study done by Code Enforcement Officer Bob Foster in September of 2010, who took readings at three different places in the neighborhood and came up with readings ranging from 55 to 68 decibals. In October, 2010, Deputy City Attorney Wilson emailed Mr. Foster and asked him to go out to do another test after the meter calibrated. They did not receive another report about the machine being calibrated. Ms. Palombi cited instances of other business being required to mitigate noise problems, including Costco, and businesses around the Meadow Ranch subdivision, and said that they are no different as they are abutted by Doyle's and the noise, vibration, lights and dust are very intrusive. Ms. Palombi requested that a legitimate sound study be done by a third party, 24 hours a day, 7 days a week. She also said that she would like Doyle's to cease and desist business at 10:00 p.m. until 7:00 a.m. in the morning.

Ms. Palombi cited various municipal codes regarding noxious diesel, intense dust, excessive noise, and noted that when people are subjected to noise levels above 65 decibals it can lead to high stress levels, increased heart rates, and potential hearing loss. She also discussed a sound study which was done for Doyle's by PBS Engineering that she did not agree with.

Councilman Gookin said that he asked Ms. Palombi to meet with him last week, and thinks that it is time that the city did a professional noise study. He noted that it is only fair and council cannot continue to let this neighborhood suffer and needs to do what it legally can to try and fix it.

**MOTION: Motion by Goodlander, seconded by Edinger, move forward with a sound study to look at exactly what the impact of Doyle's is on the neighborhood.**

**DISCUSSION:** Mr. Gridley said that a better motion would be to direct staff to come back to council with a proposal or information about conducting a sound study.

**AMENDED MOTION: Motion by Goodlander, seconded by Edinger, to direct staff to come back to council with a proposal or information about conducting a sound study.**

Ms. Palombi said that the neighbors would be happy to meet with the Planning Commission or Public Works Committee to go over what they have gathered in their research.

Councilman Edinger said that he remembers a few years back that Doyle's said they would put up a buffer around their property to keep the noise from the neighborhood. That never happened. Ms. Palombi said that Doyle's also said they were going to have a study done 24/7 for 30 days. The study that was conducted by PBS Engineering was for 3 days in between 2:00 p.m. and 5:00 p.m.

Councilman Adams said that several months ago after Kathy Hunt spoke to the council regarding the same issue, he took it upon himself to interview nine out of the eleven homeowners on the perimeter of Doyle's, and five out of the nine had concerns, which established to him that Mrs. Hunt and her husband were not the only residents with concerns. He subsequently had a meeting with Tom Feist and Stan, the owner and manager of Doyle's. The 12' block wall was brought up

and Mr. Feist said that he did offer to build the wall but was told by a neighbor that the wall would block the view, however Mr. Feist said that he would still consider doing it. Councilman Adams said that Mr. Feist also told him that the current construction will consist of new bays, facing west, but with all of the “newfangled” sound baffles and barriers. He is in favor of the motion.

## **MOTION CARRIED.**

### DOYLE’S

David Poling, 5409 N. Pinegrove Drive, said that they have been fighting noise, dust, and diesel pollution for a long, long time, and wanted to let the council know that it is not just one or two people having problems and that there are a lot of people that are concerned about this. The situation is worse now with Doyle’s at night than it was with Panhandle Concrete.

Mayor Bloem said that she thinks a meeting would naturally happen once the city has some facts.

### MOVING MINUTES CHALLENGE

Cynthia Taggart, 521 Indiana Avenue, said that she is the Public Information Officer for Panhandle Health District. April 1<sup>st</sup> through the 7<sup>th</sup> is National Public Health Week. The Panhandle Health District has a plan that they would like everyone to get involved in that is free, and fun, and she asked the city’s support on their “Moving Minutes Challenge” to promote health in the community. They are asking people to track how much time they move each day, then report it to the health district on their website and Facebook page. Local merchants have donated prizes. She distributed posters and cards with links to the website and Facebook page. (website [www.phd1.idaho.gov](http://www.phd1.idaho.gov)) (Facebook [www.Facebook.com/MovingMinutesChallenge](http://www.Facebook.com/MovingMinutesChallenge)) At the end of the month they will present a trophy to the person or team with the highest daily activity minutes throughout the month.

Bob Legaza, 624 E. Lunceford Lane, said has lived Coeur d’Alene for a long time and has worked for the city for an equally long period of time and has seen a number of changes, and a lot of good things have happened here. He was wondering if the city could somehow find the money to tweak the Idaho map at the light on Northwest Blvd at the Riverstone intersection so that it faces north and south instead of east and west. The Mayor said that Mr. Legaza’s request was not the first they had received, and she will refer it to staff.

### JEWETT HOUSE ALCOHOL

Jerry Frank, 1425 E. Lakeshore, said that he learned from the newspaper last Tuesday that council was going to consider allowing alcohol to be served at the Jewett House, which is right across the street from their home. He expressed concern that the neighborhood was excluded from the process and noted that the Jewett House is in a residential neighborhood and that every event held at the Jewett House affects the neighborhood. He wondered why the only opportunity they have to comment is now, after the discussion has gone to the Parks Department and after going to the Jewett House Board, General Services Committee, and the newspaper.

Councilman Kennedy commented that tonight's presentation will be the third one that has been televised, and it is also on the website, and has been a topic that they've talked about a number of times.

Mr. Frank said that is fairly active in the neighborhood and he didn't hear anything about it until Tuesday. He suggested that it be sent back to Mr. Anthony asking him to call a meeting with the neighborhood and let the neighborhood try and come up with some ideas to mitigate any problems that this might cause.

Councilman Adams asked Mr. Anthony to address Mr. Frank's concerns. It was agreed that Mr. Anthony would discuss the request as an agenda item later in the meeting.

### MCEUEN

Terry Beckford, 670 N. Chisholm Court, Post Falls, said that he is quite concerned about how the McEuen project was bid, and the process for reviewing the bids and awarding or recommending the project to go forward. He noted that he read an article by Tom Hasslinger about a public information officer for the project and Mr. Beckford contacted him to say that it is an extremely important role and that the Public Information Officer needs to know everything about the project so that they can disseminate the information. He said that he contacted the City Administrator, but she didn't answer until after the March 7<sup>th</sup> meeting. He and Ms. Gabriel spoke after the meeting and he told her that there are so many pitfalls in reviewing the bids. He made the recommendation that the city have a pre-award meeting to identify all of the potential pit falls and to find out if the contractor covered them.

Mr. Beckford said that he has been in this business for nearly 50 years, and has been doing work of a similar nature with all of the major mining companies around the world and that he knows exactly what is happening with these bids. He wrote down 17 bullet items and sent them to Ms. Gabriel, and also sent a copy to Gordon Dobler, and a courtesy copy to Councilman Gookin. He admired the fact that during the March 7<sup>th</sup> meeting, Councilman Gookin was one of the very few that asked questions. Mr. Beckford doesn't think there have been enough questions asked by the city. Mr. Beckford said that the city has a problem and he'd like to know what they plan to do about it.

Councilman Gookin asked Mr. Beckford exactly what he is afraid is going to happen. Mr. Beckford said that the 17 points he raised are what could happen. Many bidders do "front-end loading" of a bid and a high mobilization cost. He said that normally the city would want to develop a contingency for the project and it should be done in a reasonably scientific manner, with variables. He doesn't know how the city has covered all the underground utilities under Front Street. He thought Ms. Gabriel was deeply involved in the bid evaluation process, but clearly she is not familiar with what is being done.

Councilman Gookin confirmed that Mr. Beckford's opinions are based upon his experience all over the world, with very large contracts, and felt that it might benefit the city if Mr. Beckford got in touch with the engineers and reviewed some of his concerns.

Councilman McEvers commented that the city does projects all the time, including highways and parks, and he doesn't get it. He said it feels like a stall, but he's getting used to it. There is always something wrong with the project, and it's getting kind of old. It's not like this is the city's first project.

Councilman Kennedy commented that by state law they have to follow very specific line items. Engineers and architects have been meeting every week for probably 15 months. All of that goes to the process of putting together a bid. Councilman Kennedy further noted that the city has a staff person filling the Public Information Officer position.

Ms. Gabriel said that on March 7<sup>th</sup> the city council approved the lowest bidder according to state law and they had a pre-award meeting last Friday morning. On Friday afternoon the contract was signed and the contractor was given a Notice to Proceed yesterday. The questions that our experienced engineers and architects had, as well as contractor questions, were raised so they could make sure they were all on the same page.

Councilman Edinger asked why only Councilman Gookin received the email from Mr. Beckford. Mr. Beckford said that first of all, he wasn't sure it was right to give the email to everyone. He had a long discussion with Councilman Gookin after the March 7<sup>th</sup> meeting and told him he would be happy to send him his thoughts. There was no intention to not send it to everyone. Mr. Beckford stated that he is certainly not trying to hold the project up. He would love to see it go forward and be a successful project, and hopes that there are no pitfalls.

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

**DISCUSSION:** Councilman Gookin questioned the liability insurance requirements for Porky G's BBQ concession. Mr. Gridley confirmed that it was a misprint and that it would be corrected.

1. Approval of Council Minutes for March 5, 2013, and March 7, 2013
2. Approval of Bills as Submitted
3. Setting General Services and Public Works Committees meetings for Monday, March 25th at 12:00 noon and 4:00 p.m., respectively.
4. **CONSENT RESOLUTION NO. 13-016:** 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. 1 TO THE CONTRACT WITH RC WORST & CO., INC. FOR LANDINGS WELL PUMP REHABILITATION PROJECT; APPROVING THE PURCHASE OF TWO UTILITY VEHICLES FROM LAKE CITY FORD FOR THE WATER DEPARTMENT; APPROVING A LEASE AGREEMENT WITH GARY STINNETT (PORKY G'S) FOR MEMORIAL FIELD CONCESSIONS; APPROVING AN AGREEMENT WITH ROW, INC. FOR LAKE ACCESS FROM THE EAST END OF INDEPENDENCE POINT FOR KAYAK GUIDED TOURS; APPROVAL OF SS-7-12, BELLE STARR SUBDIVISION, FINAL PLAT, AND SUBDIVISION AGREEMENT AND SECURITY APPROVAL AND APPROVING A

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH COEUR D'ALENE MINES CORPORATION;

- a. Approval of Change Order No. 1 to the Contract with RC Worst & Co., Inc. for Landings Well Pump Rehabilitation Project
  - b. Purchase of two Utility Vehicles from Lake City Ford
  - c. Lease Agreement with Gary Stinnett (Porky G's) for Memorial Field Concession
  - d. Agreement with ROW, Inc. for lake access from the East end of Independence Point Beach
  - e. Approval of SS-7-12, Belle Starr Subdivision, Final Plat, and Subdivision Agreement and Security Approval
  - f. Approval of Temporary Easement Agreement with Coeur d'Alene Mines
5. Approval of Beer/Wine License – The Country Club, LLC., 216 E. Coeur d'Alene Avenue (New)
  6. Beer/Wine License – Bullman's Wood Fired Pizza, 2385 N. Old Mill Loop (New)
  7. Beer/Wine License – Locker Room Salon II, 2942 N. Government Way (Change in Location)

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

**MOTION:** Motion by Adams, seconded by Gookin, to move Item I-1 and I-2 forward on the agenda, since he has fairly lengthy announcements to make. Motion carried.

**MOTION:** Motion by Kennedy, seconded by Gookin, to move the Council Announcements to the end of the agenda. Motion carried.

ORDINANCE NO. 3460  
COUNCIL BILL NO. 13-1003

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING MUNICIPAL CODE SECTION 4.25.030 TO ALLOW ALCOHOL TO BE SERVED AT THE JEWETT HOUSE BY PERMIT; 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.

**STAFF REPORT:** Councilman Kennedy said that this request has gone through the Parks & Recreation Commission, and General Service Committee, and is a request from the Jewett House Board. Part of the reason for the request is the Jewett House receives a number of requests each year for weddings where people do not choose to use the facility because they can't have a Champaign toast at their wedding. The Jewett House has also deferred some maintenance issues that need to be addressed that could be funded by these types of events. The events would be very space appropriate and would be highly controlled, highly permitted, and would be for the most part weddings.

Steve Anthony said that he serves as liaison to the Jewett House Board and said that serving of alcohol has been discussed by the Jewett House Board over the last seven or eight years. At first they were a little hesitant to move forward with it and were waiting to see how it worked at Riverstone Park. The board also observed the library and their special event that went very smoothly. They have received calls from people who would like to book weddings if this is approved by the council. The Jewett House charges \$250.00 per hour. By being able to serve alcohol by permit, that will extend the time that the guests use the building. Alcohol would be served by a licensed caterer only and a permit issued. Once the permit is filled out, it would go to the Jewett House Board for their review and if they feel it would be a good event, they will sit down with the bride and their caterer to go over all their guidelines. They are also putting some checks and balances in place in that they have eliminated the beach, and alcohol would have to be kept on the Jewett House grounds themselves. Mr. Anthony said that they would like to try it for at least a year.

Councilman Goodlander noted that the beach in front of the Jewett House is connected to the house and asked Mr. Anthony to explain. Mr. Anthony said that the Jewett House was given in trust to the City of Coeur d'Alene by the Potlatch Corporation, with the grounds and 100 feet beach frontage. Access to Sanders beach and the house are synonymous. The Potlatch Corporation gave the city permission to hold weddings and special events at the house as an opportunity to earn money. As long as the city is a good steward of the property, Potlatch is very satisfied. Mr. Anthony noted that he did contact Potlatch to let them know that this item was going before the council and they did not have any objections.

Mr. Anthony confirmed that if something were to happen with the trust agreement with Potlatch, that the city would lose access to the public beach. Part of the agreement with Potlatch is to keep the house in good shape, and keep the grounds and beach clean. The building is in need of a roof, boiler, carpeting, and interior painting, and is over 7,400 square feet. The Jewett House Board receives about \$11,000 a year, which basically covers utilities. They have been looking at ways to build up the trust fund.

Councilman Edinger asked why weren't the neighbors notified that this was going to happen. Mr. Anthony said that he would have to take the blame as the liaison. He noted that he received no phone calls after the story was in the paper and said that if anybody from the neighborhood would have called, he would have been glad to meet with him.

Councilman Kennedy said that he received two calls from neighbors supporting the request. Mr. Anthony said that since the house next door to the Jewett House was built, they have had at least three or four events where alcohol was served and from his observations, they didn't have a negative impact on the neighborhood. By ordinance, the Jewett House is considered a park, and activities can't go past 11:00 p.m.

Mr. Frank said that when he saw the proposal, it was very vague in his opinion. The number of guests is unclear, there is no time limit, although he was told it would usually be limited to 3 hours. There are no provisions for the number of nights this would be allowed. Mr. Frank noted that it is a very busy neighborhood during any day and especially weekends in the summer and early fall, and he doesn't think anybody has thought about where these people are going to park. He also said that



the proposal says nothing about whether music will be allowed outside. He is also concerned that all types of alcohol would be allowed. He urged the council to give the proposal back to Mr. Anthony and have him meet with the neighborhood and work it out.

Mr. Anthony commented that music is allowed at the Jewett House now, so that wouldn't change. They also have weddings there, with anywhere from 150 to 200 people. Basically, the only change is they are going to allow the opportunity to purchase a permit and use a licensed caterer for the events.

Councilman Gookin asked if Mr. Anthony thought that allowing for an alcohol permit would increase the number of weddings. Mr. Anthony said they have two pending weddings now, and if the council makes a decision tonight, they are meeting with the bride and groom tomorrow.

Councilman Gookin asked if there is there any mechanism right now that notifies the neighbors. Mr. Anthony said that there was not, but that he has been the liaison for 30 years and received a few complaints a long time ago when people would party on the beach, but as far as weddings go, he has not received any complaints.

Councilman Gookin asked if there was any consideration given to limiting the permit to beer and wine, as opposed to all forms of alcohol. Mr. Anthony said it was discussed but they felt that since they would be using a licensed caterer, they didn't want to be that restrictive. He also noted that the caretaker of the Jewett House, Marla, did some research and talked to Greenbriar who also does weddings and serves alcohol, and they didn't have any problems.

Councilman Kennedy said that if a decision is delayed, then the Jewett House won't have the revenue this year and his inclination to move forward with approving the request since it has worked at Riverstone and has been through the committee structure, while being engaged with neighbors in the area.

Mr. Anthony said that he would invite Mr. Frank to the next Jewett House Board meeting so that he can address any concerns that he might have.

**MOTION: Motion by Kennedy, seconded by Goodlander, to pass the first reading of Council Bill 13-1003.**

**DISCUSSION:** Councilman Gookin asked why there are two separate sections in the code entitled "beer, wine, liquor prohibition." Mr. Gridley said that it probably has to do with the fact that the Jewett House is consider a park facility, but he would have to review the code section. Councilman Gookin said that he doesn't have a problem with alcohol in the parks. His concern is that the code keeps listing exceptions and wondered if this is something that the city should look at universally as opposed to considering exceptions. Mr. Gridley explained that the municipal code evolves over time, and that it would probably be worthwhile to address things in a more global fashion. Councilman Gookin said that until this is resolved, he will vote no like he did on the library request.

Councilman McEvers said that Greenbriar is in a private area and they all seem to survive. It is just business, and all of the responsibility falls on the caterer. He thinks things are quieter on Sanders Beach than they ever were since there is so little beach left and he will support it.

**ROLL CALL:** Goodlander, Yes; Gookin, No; Kennedy, Yes; Edinger, Yes; Adams, Yes; McEvers, Yes. **Motion carried.**

**MOTION: Motion by Edinger, seconded by Kennedy, to suspend the rules and to adopt Council Bill No. 13-1003 by its having had one reading by title only.**

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

### **RESOLUTION NO. 13-017**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO ESTABLISHING A POLICY FOR ALCOHOL SERVICE AT THE JEWETT HOUSE SENIOR CITIZEN RECREATION CENTER.

**MOTION: Motion by Kennedy, seconded by Goodlander, to adopt Resolution 13-017.**

**ROLL CALL:** Gookin, No; Kennedy, Yes; Edinger, Yes; Adams, Yes; McEvers, Yes; Goodlander, Yes. **Motion carried.**

### **RESOLUTION NO. 13-018**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE FUNDING AND LETTER OF AGREEMENT FOR PUBLIC TRANSPORTATION WITH THE KOOTENAI COUNTY.

**STAFF REPORT:** Mr. Tymesen said this is an agreement with Kootenai County regarding public transportation that takes place in our area. It includes Citylink and other providers. The preponderance of funds comes from the Federal Transit Administration. The request is the same as last year, and they have been doing it for a number of years. The city pays for less than 3% of the total transportation cost. Mr. Tymesen said that four years ago the city was able to take advantage of the partnership to pick up the Specialized Needs Recreation van and the city provided the match.

Councilman Gookin asked about the SNR van and asked if that is a service provided by the city, or is it part of what the city is funding. Mr. Tymesen said that the van is an asset that is controlled by the City of Coeur d'Alene and used for Specialized Needs Recreation. It is not open to everyone but is more of a destination vehicle.

Councilman Gookin noted that when the city is funding Citylink, they are also funding paratransit, which is the door to door service and the money is not separated.

**MOTION: Motion by Kennedy, seconded by Edinger, to adopt Resolution 13-018.**

**DISCUSSION:** Councilman Adams noted that he opposed the item last year and will again this year for the same reasons. Also, last year he presented an article about the federal government being broke. He personally believes that public transportation is outside the realm of anything the government should be involved in. Councilman Adams does not think it is a good use of federal dollars. He commented that the \$44,000 could be better spent providing benefits to seven or eight city employees. He will oppose it.

Councilman Gookin said he agrees with Councilman Adams that the federal government is broke. He also noted that he receives a lot of complaints about Citylink, but he does like the paratransit part. It would be great if the city could just fund that service itself. He will be voting yes.

**ROLL CALL:** Kennedy, Yes; Edinger, Yes; Adams, No; McEvers, Yes; Goodlander, Yes; Gookin, Yes. **Motion carried.**

**The mayor called for a five-minute break at 7:30 p.m. The council meeting resumed at 7:47 p.m.**

ORDINANCE NO. 3458  
COUNCIL BILL NO. 13-1005

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AMENDING MUNICIPAL CODE SECTIONS 13.08.010, 13.08.020, 13.08.030, 13.16.010, 13.16.030 TO ESTABLISH NEW WASTEWATER RATE AND CAP FEES; 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.

**MOTION: Motion by Goodlander, seconded by Gookin, to pass the first reading of Council Bill 13-1005.**

**DISCUSSION:** Council Gookin thanked Mr. Fredrickson for his work on the ordinance and for everything that he does.

**ROLL CALL:** Edinger, Yes; Adams, No; McEvers, Yes; Goodlander, Yes; Gookin, Yes; Kennedy, Yes. **Motion carried.**

**MOTION: Motion by Goodlander, seconded by Kennedy, to suspend the rules and to adopt Council Bill No. 13-005 by its having had one reading by title only.**

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

**RESOLUTION NO. 13-019**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO ESTABLISHING A NOTICE OF TIME AND PLACE OF PUBLIC HEARING OF THE PROPOSED AMENDED BUDGET FOR FISCAL YEAR 2012-2013, AND INCLUDING PROPOSED EXPENDITURES BY FUND AND/OR DEPARTMENT, AND STATEMENT OF THE AMENDED ESTIMATED REVENUE FROM PROPERTY TAXES AND THE AMENDED TOTAL AMOUNT FROM SOURCES OTHER THAN PROPERTY TAXES OF THE CITY FOR THE ENSUING FISCAL YEAR AND PROVIDING FOR PUBLICATION OF THE SAME.

WHEREAS, it is necessary, pursuant to Idaho Code 50-1003, for the City Council of the City of Coeur d'Alene, prior to passing an Amended Annual Appropriation Ordinance, to prepare a proposed amended Budget, tentatively approve the same, and enter such proposed amended Budget at length in the journal of the proceedings; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the following be and the same is hereby adopted as an Amended Estimate of Expenditures and Anticipated Revenue of the City of Coeur d'Alene for the fiscal year beginning October 1, 2012:

<b>GENERAL FUND EXPENDITURES:</b>		
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	
<b>TOTAL GENERAL FUND EXPENDITURES:</b>	<del>\$30,257,605</del>	33,077,248

<b>SPECIAL REVENUE FUND EXPENDITURES:</b>		
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 Canopy	68,000	
Arts Commission	7,000	
Public Art Funds	245,000	
<b>TOTAL SPECIAL FUNDS:</b>	<b>\$ 4,073,933</b>	<b>\$ 5,363,242</b>
<b>ENTERPRISE FUND EXPENDITURES:</b>		
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	
<b>TOTAL ENTERPRISE EXPENDITURES:</b>	<b>\$33,684,003</b>	<b>\$ 34,045,774</b>
FIDUCIARY FUNDS:	\$ 2,538,100	
STREET CAPITAL PROJECTS FUNDS:	770,000	
DEBT SERVICE FUNDS:	1,381,865	
<b>GRAND TOTAL OF ALL EXPENDITURES:</b>	<b>\$72,705,506</b>	<b>\$ 77,176,229</b>

BE IT FURTHER RESOLVED, that the same be spread upon the Minutes of this meeting and published in two (2) issues of the Coeur d'Alene Press, seven (7) days apart, to be published on March 20, 2013 and March 27, 2013.

BE IT FURTHER RESOLVED, that a Public Hearing on the Budget be held on the 2nd day of April, 2013 at the hour of 6:00 o'clock p.m. on said day, at which time any interested person may appear and show cause, if any he has, why the proposed amended Budget should or should not be adopted.

**STAFF REPORT:** Mr. Tymesen said that Idaho Code 50.1003 allows for budget amendments at any time during the fiscal year. He reviewed the proposed budget amendment, which included funds for McEuen, and the acquisition of Person Field and Bryan Field. He also reviewed the increase in revenues from inspection fees, which will result in almost \$437,000 in new revenue that had not been anticipated.

Mr. Tymesen reviewed the sources of income for the McEuen project and commented that due to the donation from Ace Waldon and his trust, the parks department has been doing improvements at Phippeny Park. He also reviewed the Ramsey Baseball Field construction and the need to do a transfer out of the impact fees for parks.

Councilman Gookin thanked Mr. Tymesen for bringing the budget amendment forward, and said that he can't understand how we are taking money from next year's budget and putting it into this year's budget. Mr. Tymesen said that what they are doing is securing the funds for McEuen, Person Field, and Bryan Field in this fiscal year. When they come forward with the financial plan next year, they will seek to reimburse the rainy day, or Fund Balance fund.

Mr. Tymesen explained that council has agreed to utilize the overlay funds for next year for Front Avenue.

Councilman Edinger commented that the Fund Balance is taking a pretty good hit for McEuen. Mr. Tymesen said that the goal from the Finance Department is that they don't spend much of the money they are now appropriating until very late in the project. That will give them time to collect more money that will assist when the money is paid out. If they had to pay it all out today, then obviously the fund balance would take a significant hit.

Mr. Tymesen confirmed that the 2014 overlay is going into Front Street. Council Edinger asked what would happen if the council not to allocate the overlay money when they did their budget for 2014. Mr. Gridley said that the council could do that tomorrow if they wanted. It is not etched in stone. The money would have to come from someplace else or the project would have to be adjusted in some manner.

Mr. Tymesen confirmed that the council would just be setting a public hearing for the budget amendment and not approving it at this time. He also confirmed that council needs to approve the budget amendment so that McEuen, Personal Field, and Bryan Field can move forward.

**MOTION: Motion by Kennedy, seconded by Goodlander, to adopt Resolution 13-019.**

**DISCUSSION:** Councilman Edinger commented that if the city purchases Person Field, which is really the city's in the first place, all the money will be gone from the Parks Capital Improvement fund. Mr. Tymesen said that, yes, we are spending our savings in order to acquire Person Field, and the Parks Capital Improvement fund is being drained for the improvements to McEuen. The Cherry Hill 15<sup>th</sup> Street baseball will not be done at this time due to the dollars that are going into McEuen and with the acquisition of Person Field and Bryan Field.

Councilman Edinger said that he will be voting against this amendment and he believes that the city owns Person Field and that the \$750,000 purchase price is wrong. He thinks that too much money is being spent out of other funds to do McEuen.

Councilman Gookin asked if, when the city purchased the Cherry Hill property, was the budget amended to deal with that. Mr. Gridley said that they certainly amended it at one time at the end of the year. Councilman Gookin asked if checks were drawn before the end of the year to make a down payment. Mr. Gridley said that his recollection was that it was in the summer, and it was a much smaller amount. Councilman Gookin said that he is wondering if the only reason this budget amendment is coming forward is simply to put Person and Bryan in them, which is something that he supports, along with a lot of stuff that deals with McEuen, which is stuff that he doesn't support.

Councilman Kennedy said that during the last year he recalls more than one occasion when staff was requested to not do end of the year global amendments to the budget, and Councilman Gookin was one of the ones who requested it.

Councilman Kennedy said that he doesn't think the council can advocate like crazy that Mr. Tymesen figure out a way to spend money, and then when it comes time for him to allocate the money say that it is politically tough and you're not going to do it. Councilman Gookin said that he could see an amendment just to handle Person, but there are a lot of other things in the amendment that make it unpalatable. He appreciates the budget amendments, but thinks there is a little "carrot and a stick." He would love to have the amendment split up between Person Field and the rest of it.

**MOTION: Motion by Goodlander to call for the previous question. Motion carried.**

**ROLL CALL:** Adams, Yes; McEvers, Yes; Goodlander, Yes; Gookin, Yes; Kennedy, Yes; Edinger, No. **Motion carried.**

**QUARTERLY FINANCIAL UPDATE:** Mr. Tymesen presented financial review and said that the General Fund expenses are running right on track. He doesn't see any big challenges with the winter that would bust the budget. Revenue is tracking ahead of plan and the Building Department is back to levels that are very good. As of today they have received over \$432,000 in fee income, which is 75% of plan. The city receives large sums of money throughout the year on a quarterly basis and they feel that the revenue streams will be consistent to what they've done in the past. Mr. Tymesen sees no swings except for the better.

Mr. Tymesen noted that year over year during one of the worst recessions, the city was able to maintain its Fund Balance. The significant news is that the city is running at about 16% in the Fund Balance as compared to the total expenses in the General Fund. That is healthy. There are dollars dedicated in the Fund Balance that they are not anticipating paying out this year. The Fund Balance dedicated dollars will be going down as the city makes its acquisition of Person and Bryan Field, and will creep down to about 12% in the Fund Balance, which will be the lowest seen in a while. Mr. Tymesen mentioned that last year, thanks to the department heads, expenses were less than anticipated in the amount of \$1 million. Also, revenues came in slightly ahead of where they anticipated. The Insurance Fund case is on appeal.

Mr. Tymesen reviewed the McEuen Park Construction Project source income. His concerns include the Parking Fund in that they have moved the Parking Fund dollars into the McEuen project. He noted that this will not be a good year for parking due to the construction, and they also need to acquire some equipment. The Parking contract will be coming forward in the very near future.

The Insurance Fund received a large sum of money, however if the appeal is not successful for the city, there will be no money in the Insurance Fund, which is a concern.

The Sanitation Fund has not raised rates in a number of years. The fund is going into the red and it needs to be brought back into the black. Work is being done and a proposal will come before the council in the very near future.

Mr. Tymesen commented that his goal is to share with council any large swings that are running off the financial plan.

Councilman McEvers asked if there was going to be revenue coming in for parking this summer. Mr. Tymesen said the city will still have its parking lots and anticipates bringing to council a modified rate for the area that they have created at Memorial Field. They have graded and done some work so that they have temporary construction parking. It will be busy on the weekends and they are working in partnership with the Downtown Association to see whether a shuttle can be used Memorial Day through Labor Day for downtown workers. The city is also proposing giving up the new lot to the south of City Hall for downtown parking.

Mr. Tymesen noted that the Finance Department is one of the finest teams he has had an opportunity to work with, and they oversee the budgets and accounts payable for fourteen departments and six enterprise funds. Mr. Tymesen said that he regrets the significant impact to the citizens of the City of Coeur d'Alene, and specifically the impact to his team in the Finance Department as the result of the U.S. v. Sheryl Carroll, the former payroll coordinator for the city. Mr. Tymesen explained how the irregular transactions were uncovered and that Ms. Carroll was terminated on July 24, 2013. He thanked all of the professionals who worked on the case, including the U.S. Attorney's Office, the Kootenai County Prosecuting Attorney, the U.S. Marshall Service, and Kootenai County Detective Ellis. Mr. Tymesen noted that this is the most serious crime he's ever been party to, and the situation has been a tremendous drain. He also explained that the embezzlement was done by a process using the Automated Clearing House, or wire transfer, which allowed Ms. Carroll to move money directly to her checking account. A vacation triggered an opportunity for staff to uncover the irregularities. Mr. Tymesen praised Vonnie Jensen for her work in uncovering the theft. As a result of this theft, the city has shut down all Automated Clearing House transactions except for payroll.

Some of the lessons learned include continuing to look for technology for help the Finance Department do the volume of work that they are charged to do. They are also working with the Automated Clearing House people to set up debit transactions, which creates a great path to document.

Councilman Kennedy said that it is his understanding that the insurance company was also defrauded in this situation because they weren't getting the full premium, but they didn't know that



because it was self-reported. He asked how the insurance company has handled that in terms of how we deal with them and is there any risk of them coming back to the City of Coeur d'Alene or are they taking responsibility. He also asked if there are any other liabilities potentially outstanding. Mr. Tymesen commented that the insurance company has been phenomenal and have reworked their procedures and set up a program of checks and balances so that when it deviates they get on the phone with their clients. They have worked out an extended agreement to continue their relationship. This event has actually changed the industry and how they work. Mr. Tymesen further noted that the banks are doing the same thing as well and there are new computer programs where the account number and routing number need to have some correlation to the name of the account.

Mr. Tymesen said that he has talked to at least a half dozen vice presidents at banks as to how these things can happen. The fall back would be that the city put two people in front of a computer screen every time that an Automated Clearing House transaction, however, they are pushing hundreds of those per month. Embezzlement occurs, unfortunately, and Mr. Tymesen said that he is extremely disappointed. They have changed their procedures and will be better.

Council Gookin said that the term "forensic audit" gets tossed out a lot. After discussing it with Troy, the real thing the city needs is risk management. A risk management assessment is where someone who is an expert would come in and examine policies and procedures to make sure this doesn't happen again. Mr. Tymesen suggested that he has pushed the finance department too far. They are not adequately staffed to handle the volume of transactions they are doing. They do not have anyone that is at all close to being a full time internal auditor. The department has seven people total, and has never been that "skinny" in personnel in probably 15 years.

Mr. Tymesen said the question has come up as to where is the money. This appears to be an individual who spent more money that she earned, but it wasn't spent on large, significant items. There was no sophistication in the use of the funds.

Mayor Bloem thanked Mr. Tymesen for his presentation and said the public has been asking a lot of questions. She commented that Ms. Carroll's actions took a toll on a lot of people, including the citizens, and the sentencing wasn't a happy day.

Councilman Goodlander thanked Vonnie Jensen for her work. She noted that she has great confidence in the finance department and appreciates the clarification for the public.

**AUDIT REPORT:** Toni Hackwith of Magnuson & McHugh presented the results of the city's audit for fiscal year ending September 30, 2012. She reviewed what a financial statement audit is and that it is required by Idaho State statutes. The primary purpose is to assure that the financial statements fairly state the financial position as of a certain date and that they conform to generally accepted accounting principles, and that there is adequate presentation and adequate disclosures. They don't look at every transaction, but they look at the balance sheet. They also report on internal controls over financial report but don't issue an opinion on internal control systems.

In their report this year, they issued a significant deficiency due to the embezzlement, and Ms. Hackwith noted that procedures have been undertaken to take care of that deficiency.

Ms. Hackwith reviewed opportunities for strengthening internal controls, including vendor set up, passwords, journal entry approvals, and bank reconciliation approvals. She also reviewed the financial highlights from the last year, including the \$3.5 million liability that was recorded in the Insurance Fund. Even with a \$2 million transfer to the Insurance Fund, the city was able to maintain a fairly consistent unassigned fund balance. Embezzlement funds in the amount of \$69,000 were recorded in the current year's statements, and other years were taken out of prior year Fund Balances.

Ms. Hackwith reviewed a graph of a five year comparison of General Fund revenues and expenditures, and unassigned fund balance trends. She explained why a Fund Balance is important as the city's revenue stream is not consistent month to month, and it also helps to ensure future financial stability, and provide prudent resources to meet unexpected emergencies, and protect the city from unnecessary borrowing.

Ms. Hackwith also reviewed the Water Fund Operating Revenues and Expenses and demonstrated that for the last five years revenues have less than expenses for both funds.

Councilman Adams asked if the water fund has a surplus, how could expenditures exceed revenues. Ms. Hackwith said that for the Water Fund this last year the operating revenue was \$4 million and the operating expenses were \$5 million. That isn't taking into account CAP fees or capital contributions. The Wastewater and Water funds do not have a fund balance – they have net assets. They are managed, operated, and reported on a full accrual basis of accounting.

**WASTEWATER PERMIT COMPLIANCE OPTIONS:** Mr. Gridley said that in 1998 the city began planning and working with the State of Washington and the Department of Environment Quality regarding water quality in the Spokane River. The city has a permit to put treated effluent into the Spokane River. It does affect the water quality in Idaho but also the State of Washington. The State of Washington has set water quality standards that the city must meet. Since that time, the city has been planning, designing, and working with regulators from the Environmental Protection Agency, the State of Idaho Department of Environmental Quality, and the State of Washington Department of Ecology about water quality in the Spokane River and how our treatment plant affects them. As we grow as a community, there is more demand on our system and more demand for putting treated effluent into the river and that impacts water quality. Since 2004, the city has been operating on an expired permit that has basically been renewed administratively. The council has approved expansion of the treatment plant to meet the requirements. A lot of money has been spent, including on pilot projects. In November of 2012 the city received a draft permit from the EPA and the regulatory authorities telling them what their limits would be. This was the first time the city had an opportunity finalize the planning and design for the treatment plant that would comply with a negotiated compliance schedule that would meet the compliance standards. The council voted unanimously to support going forward with a judicial confirmation for what was finally determined to be the project that would be needed to comply with federal requirements. The judicial confirmation is done in situations for ordinary and necessary expenses of a municipality. One of the things they do on an ordinary basis is provide wastewater treatment and clean water. The necessity comes about because the city has to meet these permits, and it has to meet the permit compliance schedule or run the risk of being fined up to a million dollars a month for not being in compliance. The city went forward with a judicial confirmation based on the law

and the facts in this case. The opinion of legal staff including outside counsel was this fit perfectly with a judicial confirmation procedure. The council approved it unanimously and it was taken to Judge Luster, after giving the appropriate notices, having public hearings, and notifying the newspaper. There was one person that objected – Councilman Adams, in court. The net result of that is that even though they believe that based upon the law and facts that Judge Luster will approve the confirmation, because of the opposition by Councilman Adams and then his statement that he will appeal if it is confirmed, they are a year down the road. Regardless of whether the appeal has any merit, it will proceed through the full Idaho Supreme Court process.

The dilemma is the city has a compliance schedule and the clock is starting to run. They have negotiated with people in good faith to meet it and run the risk of being fined if it is not met. Mr. Gridley suggested two things that can be done to address the issue. One is to go to a vote of the people. The city didn't do it to begin with because they thought it fit so squarely with the judicial confirmation process and thought it would be a waste of money and a waste of time. Because of the opposition, the city is going to be delayed if it doesn't move forward. No matter what Judge Luster does, if there is opposition, the city has to notify the county by April 5<sup>th</sup> that they want to have an election. The election would be the third Tuesday in May (May 21<sup>st</sup>). Because of the compliance schedule, they feel like they should do it now if they are going to do it. The other part is there is a DEQ funding mechanism where they have money that they can loan at a very low rate that the city can qualify for but they need to get into that program the first part of May.

The other option would be that the city forego the election and just raise everybody's rates by about 23.5 percent a year for the next five years.

Mr. Gridley said that they are asking for the council to direct staff to start the preparations for a public vote, including drafting the ballot, so they could come back to the April 2<sup>nd</sup> council meeting with the ballot language and with a proposal to go forward with an election that would authorize the issuance of bonds.

Mr. Fredrickson noted that the city council has already previously authorized the order of approximately \$1.5 million in membranes for installation in the first phase of the project. Those membranes are slated for delivery this fall and if they are not installed within one year after delivery, the seven year warranty for those membranes will be null and void. As part of the compliance schedule, they have to, within one year after the permit is issued, furnish a very detailed engineering report. They are going to have to continually ask their engineering staff to update the cost estimates for the projects. As the economy is slowly rebounding, so are construction costs going up. Because of the creep and escalation of the construction costs, Mr. Fredrickson thinks that the cost estimate for the election was very conservatively high, but includes all incidentals. They cannot campaign for the election but can certainly furnish fact sheets. They will also have a need for bond counsel and ongoing engineering needs as well.

Councilman Goodlander asked what would happen if the vote wasn't the 50% plus one as required for approval. Mr. Fredrickson said that in that event the city would need to go through the appeal process on the confirmation, assuming that Judge Luster's decision was in the affirmative. Mr. Gridley said that the other option would be to do the rate increase to fund it now, or to have another election in November.

Councilman Kennedy commented that this is disheartening to contemplate. Mr. Fredrickson discussed what would possibly happen if the city didn't do anything and noted that it would be a \$37,500 per day fine. If the city misses the first milestone, his guess is that the DEQ, who wrote the schedule of compliance, would issue a moratorium on sewer connections. At the same time, in all likelihood the EPA would probably approach a federal judge to issue a compliance order. Mr. Fredrickson explained that the permit cycles are five years and the city was able to persuade DEQ that a ten year compliance schedule was reasonable. The Sierra Club and the State of Washington do not agree and have filed a lawsuit. If the EPA goes to a federal judge, he would be very surprised if a federal judge would go beyond a permit schedule on a compliance order. Mr. Fredrickson said that definitely, the EPA would go for administrative fines, but beyond that he doesn't know.

Councilman Adams said that the city has been operating off of an expired permit for almost nine years now and it is his opinion that the threat of fines and a moratorium is speculative and there is no experience. Mr. Fredrickson responded that he has 40 years of experience and he has seen it. Councilman Adams responded that the Constitution of the State of Idaho requires that the city go to a vote.

**MOTION: Motion by Councilman Adams that the City go to the voters as the Constitution says we should, and ask them to approve a vote for a bond to upgrade our sewage treatment facilities.**

Mr. Gridley said that the motion would be more appropriate if it directed staff to draft the necessary ballot language and bring it to the next council meeting for their approval to send to the county for the May 21<sup>st</sup> election.

Mr. Tymesen said that if it is approved in early May or June, the city is probably still in line for the DEQ funding. The later it goes, the less likely those dollars will be available. Mr. Fredrickson said they have not had a formal grant offer yet, but their indications were that as long as they are moving expeditiously to get authority, they will probably hold the funds. After July 1<sup>st</sup>, he wouldn't count on it.

**Councilman Gookin seconded the motion.**

Councilman Adams asked if he is still considered an adverse party. Mayor Bloem said that this matter was not being discussed in executive session.

Mr. Gridley said that if Judge Luster approves the judicial confirmation, there would be up to 42 days from that time to appeal, which blows any chance to do an election. If Judge Luster rejects the petition, he said he would do it within 30 days, so Mr. Gridley believes that would still be before the April 5<sup>th</sup> time period.

Councilman McEvers said that he wants to vote no because its bull, but he feels like he has to vote yes because if not, we all come tumbling down. He feels torn between voting yes for something he doesn't think is the right thing.

**AMENDED MOTION: Motion by Adams, seconded by Gookin, to amend the motion that council direct staff to draft the necessary ballot language and bring it to the next council meeting for their approval to send to the county for the May 21<sup>st</sup> election.**

**DISCUSSION:** Councilman Edinger asked if the city doesn't follow the agreement that they have, could DEQ withhold money or not give them money for some other project. Mr. Fredrickson said it is not a written contractual agreement but is an agreement in principal, so he doesn't know. Mr. Gridley said it is their experience that you don't want to thumb your nose at state or federal regulators.

Councilman Gookin said that he thinks that the city needs to get the gears set up and prepare for something that may or may not happen. Based on what happens in the future the city can follow through or not, but it has to be defensive and get everything in order. He really thinks that we will find support in the community if we have to go to a vote.

**Councilman Goodlander called for the question. Motion carried.**

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

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

**DISCUSSION:** Councilman Adams said that this motion means the clerk will have to hang around while council is in Executive Session. Councilman Gookin wanted to make sure that the council announcements will be televised. Councilman Kennedy said that it seems like there are a lot of things being done for theatrics lately and it is very frustrating.

**ROLL CALL:** McEvers, Yes; Goodlander, Yes; Gookin, Yes; Kennedy, Yes; Edinger, Yes; Adams, No. **Motion carried.**

The Council entered into Executive Session at 9:52 p.m. Those present were the Mayor, City Council, City Administrator, and City Attorney. Matters discussed were those of labor negotiations, and pending litigation or controversies not yet being litigated but imminently likely to be litigated. No action was taken and the Council returned to regular session at 10:19 p.m.

### **RESOLUTION NO. 13-020**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING A MEMORANDUM OF UNDERSTANDING, WITH THE POLICE DEPARTMENT LIEUTENANTS.

**MOTION: Motion by Goodlander, seconded by Kennedy, to adopt Resolution 13-020.**

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

**COUNCIL ANNOUNCEMENTS:**

Councilman Gookin said there has been a lot of concern expressed about the Freedom Tree. He thinks that before it comes down there needs to be some kind of a decommissioning ceremony so that we can honor the tree and local groups who have expressed concern. Councilman Kennedy said that an event has been planned.

Councilman Adams said that his ethics complaint against Mr. Gridley was received by the Idaho Bar Association this morning at 7:53 a.m. Boise time. He also noted that a week ago Saturday he received a supplemental memorandum in support of the petition for judicial confirmation, and a supplemental affidavit of David Clark in support of the judicial confirmation. Councilman Adams has submitted an Amicus brief to the court in response to those two supplementals.

Councilman Adams then read a statement regarding various emails and memorandums that he sent to Mr. Gridley and Mr. Ingalls that were not responded to, and recited sections of the Idaho Constitution and Idaho statutes. He stated that the mayor and council do not have the authority to exclude him from any discussions regarding the judicial confirmation because it is not substantiated. He believes that Mr. Gridley is using a logical fallacy that would fall into the category of “begging the question” or circular reasoning. He further said that Mr. Gridley is not the ultimate authority on this and the only reason he is allowed to get away with it is because a majority of the body is allowing him to. Judicial confirmation is merely judicial confirmation of a legislative act.

Councilman Adams said that on March 15<sup>th</sup> he received an email from Mr. Gridley which stated in essence that Mr. Gridley would not answer his questions.

**MOTION: Motion by Adams that council direct Mr. Gridley to provide each city council member on or before Friday, March 22<sup>nd</sup>, a full written response to Councilman Adam’s four questions set forth in his memo to Mr. Gridley.**

**Motion died for lack of a second.**

Mr. Gridley said that when you take a position in court and respond to the judge that “I oppose the other side,” you are adverse. He also said that as far as the other allegations go, he would not answer Councilman Adams’ questions individually because he doesn’t trust him and Councilman Adams has accused Mr. Gridley of bullying him. Mr. Gridley said that he would be happy to discuss these matters with the full council present, but will not have individual conversations with Councilman Adams.

**ADMINISTRATOR’S REPORT:** City Administrator Wendy Gabriel stated that she was reluctant to stand up while Mr. Beckford was making his public comments, but wanted to provide

council with the rest of the story. Ms. Gabriel has been very cautious about engaging Mr. Beckford in the McEuen project as she doesn't know him at all and has never seen him at any public hearings on McEuen. She noted that "out of the blue" Mr. Beckford sent her an email that he wanted to be involved. His email was copied to Tom Hasslinger of the Coeur d'Alene Press, and Councilman Gookin, which was a red flag. Why involve the Coeur d'Alene Press and copy a council member who has voted no on every matter pertaining to the park? Ms. Gabriel said that Mr. Beckford then emailed her and said he has grave concerns, but he doesn't know about the project – another red flag. In a phone call with Mr. Beckford last week, Mr. Beckford said, "I have total mistrust for what these engineers have done." He wanted to quiz the engineers, look them in the eye, and he would know if they are lying. That mindset concerns Ms. Gabriel. The engineers are not working on companies with 45,000 employees and 20,000 engineers, which Mr. Beckford said was his experience. The engineers and designers work for and own their own small businesses. They live here, work here, play here. They own this project. They have been working on this project for years, and even the contractor owns this project and if it doesn't go well they stand to lose so much more than dollars. Ms. Gabriel said that if the council would like a third party to review the process, they should propose someone. She suggested that someone with preconceived notions would not be a good fit, and further stated that unless the majority of the council advises her otherwise, she will not be engaging Mr. Beckford.

**ADJOURNMENT:** Motion by Kennedy, seconded by McEvers, that there being no further business, this meeting be adjourned.

**MOTION RESCINDED.**

**MOTION:** Motion by Kennedy, seconded by McEvers, that there being no further business, this meeting is recessed to March 28<sup>th</sup>, at 12:00 noon for a Joint Meeting with the Lake City Development Corporation in the Library Community Room.

The meeting recessed at 10:35 p.m.

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Sandi Bloem, Mayor

ATTEST:

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Amy Ferguson, Deputy City Clerk