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

December 18, 2012

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Library Community Room December 18, 2012 at 6:00 p.m., there being present upon roll call the following members:

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

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

INVOCATION: Led by David Warnich, New Life

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

PRESENTATION OF MOBILE SANTA ROUTE: Firefighter McAuliff presented the updated mobile Santa web site www.cdafire.org/santa.html. He stated that Santa now has a GPS chip that will allow citizens to track his movement through town on December 19-23, 2012. Mr. McAuliff encouraged citizens to stop the truck to meet Santa and donate food for the local food bank. Members of Local 710 donate their time and have purchased the fire truck utilized for this event.

PUBLIC COMMENTS:

Sandi Bloem, Mayor

<u>FRONT AVENUE PROJECT</u>: John Montandan, 1010 Sherman Avenue, stated that he owns a building located at Front Avenue and 4th Street that he currently rents to the Berry's. According to the Front Avenue plan, his building will not be allowed a curb cut. He stated that the current curb cut has been there 40 years, and his renters need to be able to drive into the garage for furniture deliveries. Mr. Montandan stated that if he does not get a curb cut he will lose his renter, and requested the Council allow a curb cut at this location.

Carol Berry, 115 S. 4th Street, rents Mr. Montandan's property for the Wigget Antique Market Place. She likes their location and would like to stay there; however, needs the lower access for pickup and delivery of furniture. The building is old and is very difficult, and sometimes impossible to move large pieces from downstairs to upstairs.

Councilman Gookin requested an explanation of what a legal taking amounts too. City Attorney Mike Gridley stated that under the constitution the government could not take something away from a citizen without just compensation. City Administrator Wendy Gabriel stated that this topic would be discussed at the workshop on December 27, 2012 and that the City is still working on solutions with property owners. Mrs. Gabriel clarified that the elimination of the curb cut would not eliminate the garage or pedestrian access to the garage, and the plan included an allowance for a loading zone. Ms. Berry stated that their current experience with loading zones is that they are rarely open for that use. Councilman Edinger stated that he believes it would be difficult to get furniture from the basement to the front loading zone and feels the garage access would be better. Mayor Bloem asked if the furniture on the upper level was loaded through the garage or through the upper access. Ms. Berry stated those items are loaded from the alley. Councilman Adams asked about prescriptive rights and if the curb cut would be determined as a prescriptive right. Mr. Gridley stated that he would need to look at the history of the use and that prescriptive rights normally apply if it were the only access to the property. Additionally, since this is city right-of-way one would generally not allow for prescriptive rights. Mrs. Gabriel stated that she would take some pictures of the specific circumstances to share with the Council at the December 27th meeting. Councilman Kennedy stated that one of the challenges is that a vehicle parks on the sidewalk at the garage entrance and impedes the pedestrian use of the sidewalk. Ms. Berry stated that they are aware that they are not allowed to block the alley or the sidewalk or they will be ticketed.

<u>LID CONCERNS</u>: Lorna Kaiser, 8635 E. Sunnyside Road, stated she is concerned about the LID issue and that the state should change those laws. She believes people already pay taxes on their property and they should not have to pay more. She is concerned that there is authority to assess an LID up to the value of someone's home. Ms. Kaiser stated that the power should go back to the people, that cities should not have authority to create an LID and believes it is a double tax. Ms. Kaiser asked that the Council consider her statements when voting on LID's. Councilman Gookin stated that previous LID's have been used to get people off septic tanks, provide improvements to 4th Street, and Sherman Avenue.

<u>RELIGIOUS CONCERN</u>: Dave Barger, 530 W. Harrison Avenue, wished all a Merry Christmas and prays for the entire nation for healing. He believes that the human mission is to be missionaries of the church and that the 501 C3 corporate church should not have been created. Mr. Barger presented a document from Blackwater Backup.

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

DISCUSSION: Councilman Gookin believes that that the bills submitted should be a formal public presentation at least once a quarter.

- 1. Approval of minutes for November 29, 2012 and December 4, 2012.
- 2. Approval of Bills as Submitted
- 3. Annual Road and Street Financial Report
- 4. CONSENT RESOLUTION NO. 12-053 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 AN AGREEMENT WITH KOOTENAI COUNTY FOR BILLING SERVICES FOR COMMERCIAL SOLID WASTE ACCOUNTS WITHIN THE CITY LIMITS; AND APPROVING A MEMORANDUM OF AGREEMENT FOR PUD-1-11 WITH NORTH IDAHO COLLEGE.

5. Setting of a public hearing on January 15, 2013 for the 2013-2018 CDBG Consolidated Plan and the 2013 Action Plan

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

COUNCIL ANNOUNCEMENTS:

<u>Councilman McEvers</u> stated, in jest, that with the end of the world coming he wanted to say he appreciated everyone and cares for the community. He wished the community Happy Holidays.

<u>Councilman Goodlander</u> expressed her gratefulness for the community and that she is proud of what they have accomplished. She wished the community a Merry Christmas.

<u>Councilman Adams</u>, in honor of Charles Shultz of Charlie Brown fame, expressed his concern with the meaning of Christmas and recommended the reading of Luke, Chapter 2, and wished the community a Merry Christmas.

Councilman Gookin wished the community Happy Holidays. He stated that there have been a lot of items within the blogs regarding the recent embezzlement issue and that he has said some things in the paper that have been questioned. He explained that he believes the City Council should conduct an audit, report, etc. about what went on and how it went on, and how the city is fixing things, not that people should be fired. Mr. Gookin wants the public to be informed in a public meeting and feels he needs more data to share with citizens. He recommends the city have an independent body appointed by the City Council to conduct an investigation.

Motion by Gookin, seconded by Adams to place the discussion of appointing an independent body to perform an investigation of the embezzlement on the next City Council meeting agenda.

DISCUSSION: Councilman McEvers explained that the City Council was appraised of the situation in executive session and what preventative measures were implemented. Councilman Gookin stated that he envisions a group of volunteer concerned citizens with financial expertise to perform the investigation. Councilman Gookin stated that he would like the result of the investigation to be a public presentation of information and to demonstrate that our staff is doing their job. Mayor Bloem stated that a full presentation would be made at a City Council meeting after the sentencing, which is scheduled for February 5. Councilman Kennedy suggested that the discussion of an independent investigation take place after the sentencing.

Motion by Gookin, seconded by Adams to withdraw the motion to place the discussion of appointing an independent body to perform an investigation of the embezzlement on the next City Council meeting agenda.

COUNCIL ANNOUNCEMENTS CONT.:

<u>Councilman Edinger</u> wished all a Merry Christmas and Happy New Year. Mr. Edinger suggested that some of the questions regarding the audit could come forward under the General Services section of the agenda tonight.

<u>Councilman Kennedy</u> stated that in light of the tragedy in Connecticut, our Police Department has proactively met with the School District to discuss increased awareness and conducted a review of school security. He wished a Merry Christmas to all.

ADMINISTRATOR'S REPORT: The McEuen design project is at the 90% complete milestone, therefore a City Council workshop will be held on December 27th at the Parkview Towers, 3rd Floor at 7:30 a.m. The City anticipates completing the construction documents in early January and advertising for bids later in January. Santa and members of the Coeur d'Alene Firefighters Local 710 will be around town collecting food and cash donations for the food bank December 19-23, 2012. Santa will start out at K-Mart from 4:15 p.m. to 4:30 p.m. each day for quick pictures. Santa's journey will last from 4:30 – 8:30 p.m. each evening. To track Santa's location, visit www.cdafire.org. The City has added a new feature to the city's online communication channels: City Council in Brief. This is a quick summary of what happened at the Council meeting. It will be posted on the website and the blog. Lt. Bill McLeod graduated from the FBI National Academy last Friday. The FBI National Academy is the most prestigious command school in the world and is 10 weeks long. Over 30 countries and 49 states had command staff attending the academy session. Thank you to all of the officers, civilians, and service clubs who volunteered their time for this year's Holidays and Heroes program. Police officers and firefighters volunteer their time to make this event special and are happy to work in partnership with businesses, civic groups, and citizens in the surrounding area to make a needy child's Christmas a little bit brighter. City of Coeur d'Alene Firefighters recently participated in the annual "Fill the Boot" campaign for Muscular Dystrophy. Members of the Fire Department also participate in the Muscular Dystrophy summer camp programs where they are mentors to children with the disease. Members of Local 710 raised \$21,768 -- double what they raised last year. On Tuesday, December 25th, Coeur d'Alene City Hall and most other city offices and facilities will be closed for the Christmas holiday. Emergency calls for Police, Fire, and Streets can be made by dialing 9-1-1. City of Coeur d'Alene garbage pickup will also be delayed by one day. City Hall and other city facilities will open Wednesday, December 26th, at 8:00 a.m. The City of Coeur d'Alene is a proud contributor to the Kootenai County United Way campaign. Between payroll deductions and golf tournament proceeds, the city provided \$5,935.00 to local organizations through United Way. The League of American Bicyclists has recognized Coeur d'Alene as a bicycle friendly community, giving it a 2012 Bronze award. The bronze level recognizes the city's commitment to improving conditions for bicycling through investment in bicycling promotion, education programs, infrastructure, and pro-bicycling policies. The Building Department received a great kudos recently from Jack Johnston of Northwest Consulting Services, LLC., wherein he stated that during his complex commercial permit process he encountered professionalism of staff, specifically Ted Lantzy, Steve Johnson, and Vicky Walter. Through the month of December, there is an exhibit in the Parkside Gallery on the lower level of the Coeur d'Alene Public Library that features artwork created by fifth-graders at the Sorensen Magnet School of the Arts and Humanities. "G-art-bage! – One Person's Trash is Another's Art" reimagines famous paintings using recycling materials. The project was funded through a grant provided by the EXCEL Foundation. The public is encouraged to stop by the

library and view the art. Congratulations to the citizens of Coeur d'Alene in winning against the city of Spokane in the 2nd annual Mayor vs. Mayor "ring off" for the Salvation Army. Congratulations to Mayor Bloem in raising \$9,567 for the community.

RESOLUTION 12-055

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN AGREEMENT FOR AUDIT SERVICES, WITH MAGNUSON, MCHUGH & COMPANY, PA, ITS PRINCIPAL PLACE OF BUSINESS AT 2100 NORTHWEST BLVD., COEUR D'ALENE, ID 83814.

Councilman Kennedy stated the General Services Committee discussed this item and recommended approval of this agreement. Finance Director Troy Tymesen stated that audit services have changed and developed over the years; however, the city is still required to conduct an annual Financial Statement Audit. This type of audit assures that all of the city's financial statements accurately reflect the state of the city's finances. Additionally, the city receives more than \$500,000 in federal funds, so it is required to conduct a single audit. Both audits do not look at asset theft, that type of an audit would be a forensic audit. Forensic accounting is a specialized side of audit and accounting. The reason organizations conduct a forensic audit is that they are concerned that someone is conducting fraud/theft. The required audits are not meant to uncover asset theft, as they are meant to ensure that the financial status reflects what is reported. Mr. Tymesen assured the Council that the City has checks and balances in place.

Mr. Tymesen stated that he would refrain from commenting on specifics of the embezzlement case until after sentencing. Tymesen stated that the cost difference between a financial statement audit and a forensic audit will vary depending on the size of the organization and the level of detail requested of the audit. He estimated it could cost \$30,000 to \$100,000. The City has shut down the automated clearinghouse process, and has partnered with the bank in resolving checks and balance issues.

Mr. Tymesen stated that Magnuson and McHugh has conducted the city's audit since 1999 and is able and capable to continue services. They also provide services to other area cities. Mr. Tymesen informed the Council that the audit needs to be completed by March 10, 2013. Councilman Goodlander reiterated that our A1 bond rating is based on audit information, and demonstrates how creditworthy the city is, which is encouraging to those interested in investing in municipal bonds. Councilman Gookin asked for an explanation of the city's policy regarding RFP's for audit services. Mr. Tymesen explained that the Idaho State Statutes provides that RFP's are not required for professional services agreements. He explained that that there are not many agencies capable of doing the city audit in the area, and has contacted one company out of Missoula, who was not willing to provide a quote as they didn't feel they could beat the price of Magnuson and McHugh. Councilman Gookin asked the auditor, Ms. Hackwith, to clarify how the payment policy related to McEuen Park would work, since LCDC will pay the vendor directly and the park is an existing asset. Ms. Hackwith stated that it would be a donated asset, and would be reported in the financial statements within the GASB 34 financial statements. Ms. Hackwith stated that she is aware that the public perception is that auditors are to looking for fraud during financial statement audits. She has clarified in her annual presentations to the City what a financial statement review includes and

clarified that they are not performed to seek fraud, rather so that financial statements can be relied upon to be materially correct. Ms. Hackwith clarified that they do confirm that the amount of money staff says is in the bank is in the bank and that they do a random sampling of transactions. She did confirm that a person would need to be a trained forensic auditor and the costs would vary dependent upon where the concerns are and what type of recommendations are sought. Councilman Kennedy felt that after the City Council review of the embezzlement, the Council could determine if there is a need to conduct the forensic audit. Ms. Hackwith explained that auditing firms are required to undergo a peer review audit every three years. The peer review process includes a review of their independence and objectivity with client relationships. Councilman Adams asked if it would be acceptable for an independent body to audit Magnuson and McHugh's work. Ms. Hackwith stated that it would be difficult for a citizen group to audit their independent audit due to the specialty of services. Councilman McEvers asked when it would be recommended to pay to conduct a forensic audit. Ms. Hackwith stated that an internal auditor position would make more sense, that would way they would know the systems and would be specifically trained to the organization.

Motion by Kennedy seconded by Adams to adopt Resolution 12-055.

DISCUSSION: Councilman Adams reiterated that there were many good questions asked at the General Services Committee meeting and recommended citizens watch that meeting on the city website or catch it on Channel 19. Additionally, he is in support of Councilman Gookin's request for a quarterly financial presentation.

Motion by Gookin seconded by Adams to direct staff to obtain quotes for auditing services. Motion failed.

DISCUSSION: Councilman Gookin stated that he felt that Magnuson and McHugh has been doing the audit for a long time and he feels another set of eyes would be beneficial and the city should let firms know we are interested in accepting bids. Councilman Edinger stated that Mr. Tymesen had contacted other firms, such as the firm out of Missoula, who would not submit a bid. Councilman Edinger believes that Magnuson and McHugh has done an excellent job over the years, and to change based on one incident would be the wrong thing to do. He would not be in favor of another group doing the audit. Councilman Kennedy reminded the City Council that there is a tight timeline to complete the audit and that 97% of audits do not find fraud.

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

RECESS: The Mayor called for a 5-minute recess at 7:51 p.m. The meeting resumed at 7:58 p.m.

RESOLUTION 12-054

A RESOLUTION DECLARING THE INTENTION OF THE MEMBERS OF THE COUNCIL OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO CREATE LOCAL IMPROVEMENT DISTRICT NO. 151; DESCRIBING THE BOUNDARIES OF THE PROPOSED DISTRICT AND THE PROPERTY PROPOSED TO BE ASSESSED;

GENERALLY DESCRIBING THE IMPROVEMENTS PROPOSED TO BE CONSTRUCTED; STATING THE PORTION OF THE TOTAL COST WHICH WILL BE PAID BY THE LEVY OF ASSESSMENTS AND THAT WHICH WILL BE PAID FROM OTHER SOURCES; DESCRIBING THE METHOD OF ASSESSMENT; STATING THE TIME AND PLACE WHEN AND WHERE PROTESTS MAY BE FILED AND WHEN AND WHERE A PUBLIC HEARING WILL BE HELD TO CONSIDER ANY SUCH PROTESTS; PROVIDING FOR THE EFFECTIVE DATE OF THIS RESOLUTION; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

Mrs. Gabriel stated that the purpose of tonight's resolution includes the continued discussion regarding the LID. With approval, the LID formation would continue and would allow notices to go to property owners and allow for the setting of the public hearing. At the public hearing on January 2, the Council will be allowed to accept protest of LIDs, and then at the January 15 public hearing, the Council may consider any protests and discuss the formation of the LID. Estimated project cost is still \$2.9 million, with the LID share at 39% (\$1,126,800) at \$400/front foot and the city's share at 61% (\$1,773,200) as a starting point. Discussions will continue regarding the front foot costs and percentage that should be included in the LID. Phil Boyd, Welch Comer Engineers, explained that changes to the LID boundary include two parcels based on where the improvements were occurring. Mr. Boyd stated improvements would be contained to Front Avenue public rights-of-way. Mr. Boyd also reiterated that the \$400/front foot costs were based on prior LID cost examples, such as Sherman Avenue and Lakeside Avenue.

Mrs. Gabriel requested the Council approve the Resolution, which still allows for amendments to costs moving forward. City Council can request staff to bring different cost scenarios to the next City Council meeting. Mrs. Gabriel clarified that at the January 15th public hearing, the City Council will consider the ordinance with the costs as presented tonight, or with a new cost scenario, or not at all.

Councilman Gookin questioned whether the agreement for design services should have been brought back with an amendment, since the \$400,000 design costs are now being included in the LID cost estimates. Mrs. Gabriel explained that the original concept was a whole project. What is currently presented are items that can be funded in the LID and that there should be an amendment to the contract to add the costs of forming an LID. Mr. Boyd explained that the distinction between the removal of the 2nd Street parcels and keeping the Parkside frontage in the LID, is that the road will be completely removed and replaced in front of Parkside and no improvements will be added in front of the 2nd Street parcels. Ms. Quade stated that the LID is based on benefits derived, meaning that it includes the benefits of the entire project, not individual property benefit. Councilman Gookin stated that he does not agree with including Parkside since the street is being paid for by the city and he does not agree they are receiving the same benefit as the other parcels. Ms. Quade stated that the City Council would be able to make the determination as to the benefit derived per property at the next City Council meeting. She clarified that all properties would stay within the LID and that the City Council will need to stay within the bounds of the law and have a reasonable basis for their determination of benefit derived. Mr. Boyd clarified that the angled parking is included in front of Parkside, which is also a benefit as it provides additional parking stalls.

Councilman Kennedy expressed that he wants to move forward with the LID and wants the costs to be lower. Mr. Boyd stated that to lower the costs within the LID will required a change in the scope

of work and/or the city portion of the project would need to go up. Mr. Dobler reiterated that the LID's have historically had combined funding sources such as grants, impact fees, general fund, and the City Council has always determined the fairness of the LID participation. Ms. Quade stated that the Idaho code allows the participation amount to be equal to the benefit received but no higher; however, the City Council can come in with a lower number. Mrs. Gabriel clarified that the resolution calls out that the city's portion of funding will come from the General Fund, as a place holder; however, she will be bring back funding options at the January 2 meeting. Mrs. Gabriel stated that the City has not formally asked LCDC for funding, as the project was not far enough along. Mrs. Gabriel assured the City Council that LCDC is still an option and that additional information regarding design and funding will be presented at the December 27th meeting. Councilman Kennedy stated that he believes we should ask LCDC for funding. Councilman Edinger is in favor of the LID but believes it should be less and that LCDC should provide funds toward the project. Councilman Gookin stated that LCDC was formed to do this project, so they should fund the project. Councilman Goodlander agrees that the city should go back to the LCDC after the December 27th design meeting.

Motion by Kennedy seconded by Goodlander to adopt Resolution 12-054 and direct staff to bring back different funding options that lower the property owner's percentage.

DISCUSSION: Councilman Kennedy stated that he feels the LID is appropriate and fair; however, he believes LCDC should contribute.

Motion by Edinger to amend the motion to start the funding scenarios at \$275.00/front foot. Motion failed for lack of second.

Councilman Kennedy stated that the project engineers have heard the City Council's concerns and they should have the flexibility to bring back funding options, potentially including one for \$275.00/front foot.

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

PERSON FIELD ACQUISITION: Mr. Gridley stated that the School District has extended the timeline for negotiations for the acquisition of Person Field to January 7, 2013. He will present additional information at the January 2, 2013 City Council meeting. Councilman Gookin thanked Mr. Gridley, Mr. Anthony, and Mr. Tymesen for the time they are putting into the acquisition of this property.

PUBLIC HEARING: HUD 2013-2018 CONSOLIDATED PLAN

Nancy Mabile, Panhandle Area Council Grant Administrator, presented the City's 2013-2018 CDBG Consolidated Plan. Ms. Mabile informed the City Council that this public hearing is a requirement of HUD to allow for public comments prior to the publication of the draft plan. A second public hearing will be held on January 15, 2013 to adopt the Consolidated Plan and Action Plan. Ms. Mabile informed the City Council that the plan included public input from two public forums, one public survey, as well as input from a City Council Workshop. Based on the public input, the plan includes the existing five goals from the previous Consolidated Plan

and the proposal of one additional goal providing for public service projects. More information is available on the City website at www.cdaid.org.

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received. Mayor Bloem closed the public hearing, as no further action was requested.

PUBLIC HEARING: AUTHORIZATION OF FILING A PETITION OF JUDICIAL CONFIRMATION FOR WASTEWATER TREATMENT PLAN IMPROVEMENTS

Sid Fredrickson, Wastewater Superintendent, stated that this is an opportunity for the City Council to hear public comments. Ms. Quade provided an update of the process of judicial confirmation that the expenses are ordinary and necessary. She asked the council to listen to the comments, then at the meeting in January move forward with approval.

PUBLIC COMMENTS: Mayor Bloem called for public comments with none being received. Mayor Bloem closed the public hearing, as no further action was requested.

EXECUTIVE SESSION: Motion by Gookin seconded by Edinger to enter into Executive Session as provided by I.C. 67-2345 § I: To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim likely to be filed.

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

The Council entered into Executive Session at 9:04 p.m. Members present were the Mayor, City Council, City Administrator, City Attorney, Finance Director, and Deputy City Administrator.

Matters discussed were the McDonald and Filios Claims. No action was taken and the City Council returned to its regular session at 9:15 p.m.

Motion by Edinger, seconded by Kennedy to approve the City Attorney's recommendation to pursue a settlement negotiation in the McDonald claim. Motion Carried.

Motion by McEvers, seconded by Goodlander to approve the City Attorney's recommendation to deny the Filios claim. Motion Carried.

ADJOURNMENT: Motion by Edinger, seconded by Kennedy to recess to December 27th at 7:30 a.m. at the Parkside Event Center, Floor 3, 601 E. Front Avenue for an update on the McEuen Park Project. Motion carried.

The meeting recessed at 9:23 p.m.	
ATTEST:	Sandi Bloem, Mayor
Renata McLeod, City Clerk Apprentice	