

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

June 4, 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 June 4, 2013 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor (via telephone)

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

CALL TO ORDER: Mayor Bloem called the meeting to order via telephone and asked Council President Kennedy to officiate the meeting.

INVOCATION: Led by Pastor Charles Musoma, House of Prayer.

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

PRESENTATION: US 95 INTERSECTION SAFETY IMPROVEMENTS: Don Davis, Senior Transportation Planner with Idaho Transportation Department (ITD) District 1, stated that ITD has conducted a study of the US 95 corridor. The study provides an outline for future intersection improvement and clean up from recent major improvements. The 2003 corridor study was completed for the Coeur d'Alene area and included a westerly bypass (Huetter) suggestion. KMPO has been looking at the northerly Huetter corridor that includes the Ironwood to Upriver Drive area. The study is reviewing what conditions have changed in the area since the 2003 study. ITD will host an open house on June 25, 2013 in the Library Community Room to display current findings and seek public input. Additionally, Mr. Davis would like to hold a workshop with the City Council thereafter to discuss the feedback received.

PRESENTATION: MCEUEN PARK CONSTRUCTION UPDATE – This item was continued to the next Council meeting.

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

1. Approval of Minutes for May 20, 2013 and May 21, 2013.
2. Setting General Services and Public Works Committees meetings for Monday, June 10th at 12:00 noon and 4:00 p.m., respectively.

3. **CONSENT RESOLUTION NO. 13-032** 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 AUTHORIZING THE MAYOR TO ISSUE A DECLARATION OF EMERGENCY FOR THE LANDINGS WELL PUMP REPLACEMENT AND DISPENSE WITH BID REQUIREMENTS FOR EMERGENCY PURCHASING OF ALL RELATED EQUIPMENT, MATERIALS, SUPPLIES, AND SERVICES AS ALLOWED BY SECTION 67-2808 OF THE IDAHO CODE; APPROVING AN ENCROACHMENT PERMIT TO ALLOW SEVENTH AND SHERMAN, LLC TO INSTALL LANDSCAPING AREAS ON THE SIDEWALK ON SEVENTH AVENUE; AND APPROVING AN AGREEMENT WITH HOLT SERVICES INC., FOR THE ATLAS 2 WELL PROJECT.
4. **Resolution No. 13-033** - Approval of accepting the Offer of Loan #1307 with Department of Environmental Quality from the Clean Water State Revolving Fund, and authorizing the Mayor to sign said offer.
5. Approval of the Downtown Association Sponsored Horse-drawn Carriage Rides during the month of August 2013.

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

COUNCIL ANNOUNCEMENTS:

Councilman Kennedy stated that he had discussed the public comments that had come forward at the last Council meeting from Ms. Harris with St. Vincent de Paul. He asked Mr. Bruning, Past Board President of St. Vincent de Paul, to come forward and provide a few comments. Mr. Bruning stated that Ms. Harris had brought forward concerns regarding the development on Homestead Avenue, as she is the neighbor directly to the west. Mr. Bruning explained that the applicants for this housing would be required to meet HUD regulations regarding proof of chronic mental illness and low-income status, and clarified that St. Vincent de Paul does not allow anyone with felony crimes related to sex offenses, violence, or crimes against children. He further explained that only half the residents would have vehicles. In regard to Ms. Harris' concern that the residents will have a view of her hot tub, there is only one room with a view to the hot tub and they plan to plant a large tree there to obscure the view. They reviewed the on-site lighting and agree with Ms. Harris that it is excessive. They have turned off the lights and have given direction to the contractor to fix the lights and leave them off until then. Additionally, they will plant large trees along the entire western boundary to shield her house from the facility. He extended an invite to tour the building at any time.

Councilman Edinger thanked Doug Eastwood and Bill Greenwood and all the cemetery staff for work in advance of the Memorial Weekend and noted that the cemetery looked great.

Councilman Adams asked if the City Attorney would cite the state code regarding the option for officials to call in during a meeting. Deputy City Attorney Warren Wilson stated that Idaho Code 67-2342 (5) under the open meeting law section of the code allows for this option and read the code section. He stated that this meeting complies with the code.

APPOINTMENTS: The Mayor recommended the appointment of Al Hassell to the Lake City Development Corporation.

MOTION: Motion by Goodlander, seconded by McEvers to approve the appointment of Al Hassell to the Lake City Development Corporation.

Motion carried with Gookin and Adams voting No.

RESOLUTION NO. 13-034

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE LEASE OF CITY PROPERTY AT 201 HARRISON AVENUE, COEUR D' ALENE, IDAHO TO ST. VINCENT DE PAUL OF NORTH IDAHO.

MOTION: Motion by Edinger, seconded by McEvers to adopt Resolution 13-034.

DISCUSSION: Councilman Gookin stated that he would be voting against this item, as he does not believe the City should be a landlord. Councilman Adams stated that he agreed that the City should not be a landlord and would vote against this item. Councilman Goodlander stated that the H.E.L.P. Center has been valuable for citizens to receive needed assistance in one location. Those in need used to have to travel around town to get the services they need. The Center allows for consolidation of services and she is in favor of this item. She believes it is a wonderful partnership.

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

ORDINANCE 3466 COUNCIL BILL NO. 13-1011

AN ORDINANCE ADOPTING A NEW CHAPTER TO THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TO PROHIBIT DISCRIMINATION IN HOUSING, EMPLOYMENT AND PUBLIC ACCOMMODATIONS BASED UPON SEXUAL ORIENTATION AND GENDER IDENTITY/EXPRESSION AND PROVIDING THAT A VIOLATION OF THIS ORDINANCE IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE ARE SEVERABLE; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

DISCUSSION: The Council determined that public comment would be allowed for 3 minutes each. Councilman Kennedy stated that he would allow more time for Tony Stewart to speak as the proponent of the item and that Pastor Van Noy will be allowed the same period of time to present the opposing viewpoint.

Mr. Stewart stated he would present this item with Christie Wood and Norm Gissel from the Kootenai County Task Force on Human Relations. He read a letter provided by the Coeur d'Alene Tribe written in support of the Ordinance. He stated that a question arose as to why Coeur d'Alene received national coverage on this item, as that was not the case for Boise and Ketchum. Mr. Gissel stated that in 1987 Bayard Rustin gave a speech in New York regarding Coeur d'Alene as they received a Raoul Wallenberg Civic Award for their action against the Neo-Nazis. The citizens of Coeur d'Alene demanded action when bombings occurred and a new culture was born in the community. Relationships with civil rights activists were born all around the world, which is why the Wall Street Journal was at the General Services Committee meeting. He stated that what Coeur d'Alene stands for and what it does goes far beyond its borders. Man's inhumanity against man continues long after the civil rights movement, and he believes a better way to behave is to grant freedom to all. The City is a leader in civil rights matters and should act in leadership. Mr. Stewart and Ms. Wood reviewed the seven issues presented at the General Services Committee meeting. They reiterated that there are no federal or state laws protecting lesbian, bi-sexual, gay, and transgender (LGBT) persons outside of HUD housing and a Presidential order stating federal employees cannot be discriminated against; that there are several cases of discrimination and Ms. Wood gave three specific examples; there would not be additional costs to the City for law enforcement; waiting for federal and state action has taken over seven years and that they have been unable to get state legislative action; this Ordinance would protect employment, housing and public accommodation, equality, and does not create quotas, special rights or privileges, no undue burdens, exempts religious organizations and nonprofits and personal homes; and that it is a moral and democratic issue; and the decision will have an impact beyond the boundary of the community. Mr. Stewart stated that he had received a letter from the Hagadone Corporation yesterday regarding an email they received from a group out of Texas, who expressed concern regarding discriminatory actions taking place in the community. Ms. Wood stated that the legacy people leave is important as well as how human beings treat each other.

Pastor Van Noy stated that this is a community of love. He reminded the Council of the 15 statements he has published and presented previously, so he would not re-read them. He clarified that this is not a racial issue and that without this Ordinance the orthopedic organization has already agreed to travel to the city. He read a letter he wrote addressing the City Council reiterating that the Ordinance would provide protection for one group while infringing on the rights of others. He upholds traditional values and moral standards and he does not see a need for the Ordinance as no lawsuits have been filed. The three cases of discrimination presented do not have verifiable facts. This Ordinance would be a slippery slope into lawsuits and would cause endorsement rather than tolerance. The homosexual lifestyle is rejected by the three largest religions. He believes this to be an orchestrated and intentional process and infringes on the First and Fourteenth Amendment Rights of every American. This Ordinance does not protect the rights of religious persons. He provided examples of who would be in violation of this ordinance. The Ministerial Association represents thousands of people throughout the community. They will do everything to hold back the plans of those in contradiction with the Bible, and noted that they are not homophobic but disdain what harms people and asked the Council to vote no on this Ordinance.

Councilman Gookin asked Mr. Wilson if the Ordinance would prohibit a private hotel owner from renting to a LBGT person. Mr. Wilson stated that would be correct, as the Ordinance applies to employment, housing, and public accommodations (restaurants, hotels, etc.). In that event a person could make a complaint to the City who would investigate. Councilman Gookin asked if that would also apply to health clubs. Mr. Wilson clarified that it would apply and the same process of filing a complaint would apply.

Mr. Van Noy stated that the Coeur d'Alene Police Department faced this issue directly regarding a Steven to Stephanie transition and had an issue with use of the public bathrooms. Currently a Washington state health club is facing an issue with a locker room and he reiterated that sodomy is still a crime in the State of Idaho. Mr. Wilson stated that the Supreme Court has struck that law down, so even though it is still on the books it is not enforceable. Councilman Kennedy clarified that using the hotel example a homosexual could be turned down; however, if they turned down a person that was Irish (such as himself), the Irish person would be protected.

Councilman Kennedy opened public comment and reiterated the three-minute per person time limit.

PUBLIC COMMENTS:

Thomas Carter, Coeur d'Alene, stated that he is the Director of the Human Rights Education Institute and read a letter in support of the Ordinance.

Marlo Faulkner, Coeur d'Alene, stated she is a third generation native of Coeur d'Alene, and has experienced discrimination over her lifetime and spoke in support of the Ordinance.

John Renney, Coeur d'Alene, stated that he is a business owner and spoke of the unintended consequences of the Ordinance and stated that he is in opposition of the Ordinance.

Councilman Gookin asked if a person mentioned they were gay during an interview do they have protection against discrimination. Mr. Wilson stated that only if he is refused employment based solely on the basis that he is gay. Councilman Gookin asked who makes the decision that it was based on sexual orientation. Mr. Wilson stated that would be a complaint-driven process and the City would investigate the complaint.

Larry Angel, Coeur d'Alene, stated that the Council should consider letting the people vote on this major issue, and believes that this is unfair and violates state and federal laws and he is opposed to this Ordinance.

Evelyn Adams, Coeur d'Alene, spoke in support of the Ordinance and stated that she was a County Commissioner twenty years ago when they received a call they were going to be bombed by the Aryan Nations. She stated that it was good that the task force has stood up for the community over the years.

Father Dennis Gordon, Coeur d'Alene, spoke in opposition of the Ordinance as the case presented is a red herring and that it is not a racial issue. He stated it is unfair to quote Martin Luther King and felt this would place a moral burden on people.

Madge Gissel, Coeur d'Alene, spoke in support of the Ordinance. She is a pediatrician and read a statement from the American Association of Pediatricians promoting the well-being of children of Gay or Lesbian parents that stated it is in the best interest of the children that legal and social institutes allow and support them in all their diversity.

Vern Westgate, Coeur d'Alene, read the 14th Amendment to the Constitution and stated he is in opposition of the Ordinance, as it does not provide equal protection under the law and does not believe that the City has a problem and the City does not have the authority to fix national problems.

Councilman Gookin asked, in reference to jurisdiction, does the City have the authority to create and enforce this Ordinance. Mr. Wilson stated that it does, under the police powers of the city, so long as there is no state statute in contradiction. He clarified this Ordinance would not be in conflict with state statutes, nor does it violate the 14th Amendment.

Eric Seeley, Coeur d'Alene, is a former Pastor and said that this is the most important issue facing the City. He spoke in opposition of the Ordinance and felt that it would lead to future protection of sexual predators and does not protect children.

Susan Moss, Coeur d'Alene, spoke in support of the Ordinance and stated that she has experienced discrimination in the community and, as an attorney, she know that it does not violate the Constitution.

Alicia Zaas, Hayden, said that when she was a 19 year old single mother she had to use a breast pump at work and her co-workers could hear the machine and she was embarrassed. She is concerned that now a transgender male would be in a public restroom with her and/or her daughter and that would be even more uncomfortable. She spoke in opposition of the Ordinance, as it is specialized rights.

RECESS: Councilman Kennedy called for a 2-minute recess at 8:00 p.m. The meeting resumed at 8:03 p.m.

PUBLIC COMMENTS CONTINUED:

Ed Hannagan Jr., Coeur d'Alene, stated that he has been a resident for 20 years. He encouraged the Council to vote from the heart and to not be bullied or intimidated. He wants to protect his grandchildren. He spoke in opposition of the Ordinance as it erodes the rights of the majority.

Brenda Van Noy, Coeur d'Alene, spoke in opposition of the Ordinance and reiterated that this is not a racial issue. She stated that she had been molested as a child for a person's sexual preference and asked the Council to look at this for what it is... sin.

Bev Moss, Coeur d'Alene, is a 37-year resident and spoke in favor of the Ordinance. She stated their daughter had been discriminated against throughout High School and she never expected her to return to the area, as they feared for future discrimination against her, and that this Ordinance would provide such protection.

Jim Plause, Post Falls, spoke in opposition of the Ordinance, as protection is already provided and homosexuality is not a right and not determined by DNA.

Phillip Barnhart, Coeur d'Alene, spoke in opposition of the Ordinance as Godly principals have made our nation great and he has watched over the years as they have been eroded away.

Kenny Moore, Hayden, spoke in opposition of the Ordinance as it is in opposition to community will and causes a financial burden. He requested this item be put to a vote.

Brett Becker, Coeur d'Alene, spoke in support of the Ordinance and stated that he has been discriminated against in employment due to being gay and that this Ordinance would be important to others like him and will provide protection that does not exist.

Councilman Gookin asked how Mr. Becker's situation would be handled under this Ordinance. Mr. Wilson stated that the City would investigate and if LGBT were the sole purpose for dismissal that it would be a violation. Councilman Gookin asked what the recourse would be for Mr. Becker. Mr. Wilson explained that if the claim was meritless that is where it would end. If the complaint were found to have merit, the employer would get an opportunity to take remedial measures and pay a \$100 fine or go to court. The Ordinance would not require the employer to hire him back.

Chicora Sanders, said that she is a Professor of Law at the University of Idaho teaching in the area of individual rights and liberties under the Constitution. She spoke in support of the ordinance. While not a race issue, she stated that this is discrimination that is race-like, and reiterated that this Ordinance does not provide any special rights.

Roy Bird, Coeur d'Alene, stated that he prefers Coeur d'Alene as it is the friendliest place he has ever lived. He stated that discrimination is hatred of a person because they are different, which is wrong, and spoke in support of this Ordinance.

Denise Kennedy, Coeur d'Alene, stated that comparing race to homosexual is like oranges to apples, as homosexuality is a choice and spoke in opposition to the Ordinance.

Jacob Shinner, Coeur d'Alene, stated that he is Jewish and that under current laws if he were discriminated against for his religion he has recourse. He stated that if being gay were a choice and religion was a choice then religion should not be protected either. He spoke in support of the Ordinance as he believes it is unfair to offer protection to some but not all.

Ron Vieselmeyer, Coeur d'Alene, does not think the issue will ever be resolved until all agree it is a moral issue based on the Bible, and spoke in opposition of the Ordinance. He read the

introduction to the Declaration of Independence, and asked the Council to table the issue until it is proven that man is born with this sinful nature.

Marilyn Muehlbach, Coeur d'Alene, stated that she is an ordained minister and that there are many ways to interpret the passages quoted tonight. She spoke in support of the Ordinance, as an issue of governance is to protect its people equally.

Sid Vincent, Coeur d'Alene, stated he is a 13-year resident of Coeur d'Alene, and that he is in opposition of the Ordinance as a moral issue. He believes that sometime you have to protect people from things they do not understand.

Josh Swan, Hayden, spoke in support of the Ordinance, and said that he has been discriminated against, and experienced depression because of it. He made a choice to accept himself as to who he is as it is not a choice to be gay.

Sheila Vincent, Coeur d'Alene, stated she has worked in different states and in one job was told to give special privileges to those applications that appeared to be same sex. She felt that it was unfair and then received discrimination for standing up to that. She spoke in opposition of the Ordinance.

Patrick O'Neil, Coeur d'Alene, spoke in support of the Ordinance and expressed that it is protection to children through the protection of employment and housing for same sex parents such as his parents.

Lewis Bevins, Coeur d'Alene stated that he loves everyone and spoke in opposition of the Ordinance based on his faith and that homosexuality is a sin.

Lee Gains, Coeur d'Alene, spoke in opposition of the Ordinance based on the phrase "freedom of sexual expression" as that can be harmful and expression does not make it right.

Brady Smith, Sagle, spoke against the Ordinance based on the determination of what type of discrimination is right and what type is wrong. Unchangeable characteristics such as those listed in the Civil Rights Title are protected so this law is unnecessary.

Patricia Merman, Post Falls, has a Master's Degree in social work, and believes that this is a sexuality issue based on stereotypes and fear. She was recently married in a same sex marriage, which is a small piece of who she is and spoke in support of the Ordinance to have an opportunity to be treated based on who she is, not based on her sexuality.

Councilman Adams asked Ms. Merman if she agreed that this Ordinance would open the door for special treatment. Ms. Merman stated that it would be in the same way that it opened the doors to other protected classes. Councilman Kennedy asked Mr. Wilson to clarify the ordinance language regarding lawsuits. Mr. Wilson stated that this Ordinance does not give that right to sue.

Stewart Bryan, Coeur d'Alene, is an ordained minister and spoken in opposition of the Ordinance and suggested an amendment to the Ordinance to include bestiality as it is just as unnatural as homosexuality.

Councilman Gookin asked Mr. Wilson if bestiality was illegal. Mr. Wilson stated that it is illegal and homosexuality is not illegal in Idaho.

Joe Gains, Coeur d'Alene, stated that he is a retired police officer and that as an officer he conducted investigations based on observations. He spoke in opposition of the Ordinance as it changes what is perceived as ordinary and that there is an evil potential to people. He was concerned that there are 161 registered sex offenders in Coeur d'Alene.

Councilman Kennedy clarified that the Task Force sent the letter requesting this item be brought forward in February and that he had a death in the family that caused the delay in bringing the item forward. Councilman Gookin asked Ms. Wood about people of different gender in public bathrooms. Ms. Wood stated that citizens are protected from all criminal activities and this is about equal rights. Mr. Wilson provided various statistics regarding sex crimes in Idaho such as where it occurs and who is committing the crime. He stated that 1.28 % of the crimes are committed by strangers as most are committed by family and friends; 89% are committed in one's home or offender's home.

Robin Edwards, Bayview, spoke in support of the Ordinance and stated that she has lost employment based on gender identity. The founders of our country wanted a place free from the tyranny of the majority and religious persecution.

Ezra Ziegler, Coeur d'Alene, spoke in opposition of the Ordinance, based on what the majority wants and believes it is a predatory system and the behavior is not normal and asked the Council to consider public safety.

Andy Boston, Coeur d'Alene, spoke in opposition of the Ordinance as it is flawed on all levels including religious and common sense. He stated that he led a gay men's group and that every one of those stated that in a million years they would not want this, which is evidence that it is unnatural. He prepares marketing material and wants the choice of what he produces based on his beliefs.

Councilman Gookin asked Mr. Boston if his gay brother were fired what would he tell him. Mr. Boston stated that he would say that is OK because he needed a different job.

? Gulub, Coeur d'Alene, Spoke in opposition of the Ordinance and stated that everyone needs salvation. He asked the Council to judge righteously and not promote sin.

Tim Scott, Coeur d'Alene, stated that he is not a business owner, but he has served the community. He spoke in opposition of the Ordinance, as it would cause the Christian business owners to violate their consciences.

Dick Brewer, Coeur d'Alene, spoke in opposition of the Ordinance.

Lisa Scheckler, Coeur d'Alene, spoke in support of the Ordinance. She owns a business in Coeur d'Alene, employs one person, and is a member of the community. In learning about the civil rights movement as a youth, she always wanted to be on the right side of support for equal protection.

Aaron Mac, Coeur d'Alene, stated that he is a math teacher at NIC and sees the blurring lines of norms being washed out of the youth. Distinctions are important and absolute truth exists and spoke in opposition of the Ordinance and fears for future business requirements and businesses moving out of the city.

Josh Studor, Coeur d'Alene studied law at University of Idaho and is a gay member of the community, and spoke in support of the Ordinance. He stated that he and his partner have to worry about discrimination in housing and being kicked out of a restaurant.

Ron Davidson, Post Falls, stated that he had a question about being a business owner, as a Christian counselor, or daycare owner, and if he were to deny an LGBT person a position would it be a violation of the ordinance, as he is concerned it would cause discrimination on the religious businesses. Mr. Wilson stated that it would depend on the structure of the business and their religious connections and that the business would most likely be protected.

Councilman Kennedy stated that in the past the crime of domestic battery was overlooked because it was difficult to get the facts, but it was found to be important to pass the law and it is still worth doing even though it would be difficult to prove. Mr. Davidson stated that it is unintended consequences. Councilman Kennedy stated that he is still seeking an answer as to the question of why not equal protection. Mr. Davidson stated that religion is protected under constitution and sexual orientation is not.

Pat Bell, Coeur d'Alene, is currently serving at St. Luke Episcopal church and spoke in support of the Ordinance to open up our community and provide protections. He believes the Council should strive for justice, peace, and dignity of all human beings.

RECESS: Councilman Kennedy called for a 2-minute recess at 9:52 p.m. The meeting reconvened at 9:59 p.m.

Samuel Cole, Athol, stated that he is a local business owner and that the laws of unintended consequences are at play today. He spoke in opposition of the Ordinance, as it opens Pandora's Box and gave the example of the "don't ask don't tell policy" repeal and the consequence of the increase in sexual assaults, the vast majority of which are homosexual acts.

Linda Wolovich, Coeur d'Alene, spoke in opposition of the Ordinance as it is just a political action and a form of bullying to business owners and provides special rights. Mr. Wilson clarified that there is a false claims provision in the Ordinance.

Dennis Hendrickson, Coeur d'Alene, spoke in opposition of the Ordinance, as it does not provide protection to Christian/religious persons.

Susan Crowe, Coeur d'Alene, spoke in support of the Ordinance and provided an example of her Christian religious experience as self-righteousness that was not good. She believes God is love and Christians should treat their neighbors as themselves. She was a probation officer for 12 years and is currently a mental health therapist in a prison, 50% of her clients are sex offenders, most of which are heterosexual, and less than 1% nationwide are LGBT.

Brent Regan, Coeur d'Alene, spoke in opposition of the Ordinance, as he does not believe it will do what the Council hopes it to do. He stated that it is about stereotypes and this is a national issue, it did not get traction at the federal or the state level, so it is coming to a local level. Councilman Gookin asked Mr. Regan to clarify what he meant regarding stereotypes. Mr. Regan stated that human advancement is based on the ability to evaluate people on their individuality and this Ordinance is codifying stereotypes, as gender identity is conforming to stereotypes rather than the reality. Mr. Regan stated that a business owner should hire the right person for the job, not based on whether or not they are LGBT, which is smart business not a requirement placed upon the business.

David Barger, Coeur d'Alene, spoke in opposition of the Ordinance, as it is a matter of separation of church and state.

Rachel Maughan, Seattle, WA, stated she owns property in Kootenai County, and that she believes one cannot legislate morality, but can legislate behavior. She spoke in support of the Ordinance as it means treating people equally. She stated she was disturbed by the religious references and asked the Council to leave that out of their decision-making.

Kelie Loman, Coeur d'Alene, state that she has concerns about walking into a bathroom and seeing a male and spoke in opposition of the Ordinance, as she is concerned with the bathroom issue. She asked if there would be urinals in the women's bathroom and is not comfortable with females in the male bathrooms with her male children.

Mr. Wilson stated that the restrooms are not applicable to this Ordinance, because if there is lewd conduct in a restroom there are existing laws regulating that behavior. Additionally, this Ordinance would still provide that one has the right to believe what they believe; however, one would not be free to act discriminatory in employment, housing, or public facility. Ms. Loman asked about women in a boy's bathroom. Mr. Wilson stated that they can do that now.

Jon Downing, Coeur d'Alene, stated that he is an openly gay member of the community and spoke in support of the Ordinance. He teaches at NIC, leads the Gender and Sexual Alliance group, and clarified that the cases referenced by Mr. Stewart are unverifiable, because persons worry about being outed, as they do not have any protection against further discrimination. He believes this Ordinance will demonstrate the commitment that the City has against discrimination. He has not found a case where a male has posed as transgender to commit a predatory act.

Frank Roberge, CA, spoke in opposition of the Ordinance as it is against his religion.

Daniel Brennon, Coeur d'Alene, spoke in opposition of the Ordinance as it would undermine all laws and undermines the Council's authority.

Jeff Lecky, Coeur d'Alene, spoke in opposition of the Ordinance, as it is a trap for the Council and would be a mess for the community.

Jaydee Mays, Coeur d'Alene, stated that he is student at NIC and has been studying debate. He spoke in opposition of the Ordinance, as discrimination is a polar subject, and asked if the City were protecting the LGBT or were they just flipping the discrimination to the opposite position. He stated that he believes that there are laws that say discrimination is wrong.

Alisha Mets, Athol, spoke in opposition of the Ordinance and felt that some of the Council were advocating a position rather than hearing the testimony then making a decision. She did not feel it was a large issue and that Congress would have addressed it if it were an issue. She suggested an amendment to include protection for children/teens to be protected at home and from their parents.

Tony Davidson, Post Falls, spoke in opposition of the Ordinance and asked if a business hired a transgender employee as a restaurant server, but customers are leaving because they do not want to be served by that person, can an owner fire them because of the loss of business. Mr. Wilson stated that the owner would be required to judge the employee just as they would anyone else.

Ruth Townsend, Hayden, stated that she understood that it is a small percentage of the population that is pressing this issue and wondered why the majority of the people should be manipulated and legislated into submitting to the agenda of a few and spoke in opposition of the Ordinance.

Rebecca Carroll, Post Falls, stated that she is a certified school counselor and stated that she has a lot of experience working as a counselor and with children. She worked with 250 kids in Vermont and believes this issue is a major distraction, as 30% of her time was spent on gender issues. She challenged the Council to focus on the important things like education and spoke in opposition of the Ordinance.

MAIN MOTION: Motion by Kennedy, seconded by Edinger to pass the first reading of Council Bill No. 13-1011.

DISCUSSION: Councilman Gookin explained that he researched the issue and asked questions in order to make his determination. He found that the Idaho Human Rights Commission does not handle these types of complaints, nor does any other agency. The Boise code is more specific, so he looked at Moscow and Sandpoint Ordinances too. He talked to the City of Sandpoint Attorney, as their code has been around for two years. He stated that the intent of the Sandpoint code was to have a venue to resolve complaints. Councilman Gookin found that there is a state-level movement called "add the words," which would add words to the civil rights act and is similar to the proposed ordinance. He found that there had to be an exception clause because of the Boy Scout decision. The Council is now being asked to deal with this at a local level rather than at state level. Councilman Gookin stated that he believes the City does not

handle the large quantity of code enforcement complaints well, so how could it enforce this Ordinance. Mr. Wilson stated that this would be enforced by the Police Department, and explained that the complaints that the Council normally hears about are difficult to deal with issues, i.e., neighbors that do not like each other, inner personnel issues that are difficult to address. In this case, it would be difficult; however, staff and police deal with difficult codes frequently. Councilman Gookin stated that it was saddening to hear about discrimination occurring and it is wrong. He stated that this Ordinance provides the protection equal to other civil rights classifications. Additionally, the Council cannot legislate from the Bible; the Ordinance would just add the words sexual orientation to the other listed civil rights categories and he will support the Ordinance.

Councilman Adams stated that this is a liberty issue and that liberty requires responsibility, patriotism, and morality, and if one is taken away they all fall. He stated that he has studied the Bible intently, and feels that some people will disregard what they do not agree with. He stated he was concerned with the rush of making a decision and concerned with a criminal penalty for property and business owners. He is concerned about the exemption of religious organization but not the personal property of a religious person. Property owners would be forced to litigate their rights. He expressed concern about the direct costs to accommodate for business owners, and that the Council should give more consideration to the business owner.

Councilman Goodlander stated that she has done a lot of research and read many ordinances. She has been concerned with the business owners that would be forced to go against their beliefs, but unfortunately, at times she has to take one side or the other. She recalled the first confrontation with the Aryan's Nation and she believes human rights are human rights. She agrees that the City of Coeur d'Alene is an icon regarding civil rights and has stood against hate, she remembers standing across from Independence Point and saw the white hoods of the KKK against the lake, and they had a right to march, but the community stood against hate. She stated she would support the Ordinance because the City has to send the message that intolerance will not be in Coeur d'Alene.

Councilman Edinger stated that he has listened to the comments and has received calls and letters and believes that Coeur d'Alene stands out as a champion of human rights. He believes it would be a disservice to the people who pushed for human rights if the Ordinance is not approved. Additionally, he believes that when elected the Council is elected to represent all the people.

MOTION: Motion by Edinger to amend the Ordinance to amend the penalty section by striking section "a" and "c" and to be an infraction of not more than \$100.00. **Motion failed for lack of a second.**

MOTION: Motion by Edinger to strike the word transgender from the entire ordinance. **Motion failed for lack of a second.**

Councilman McEvers stated that he has tried to be open all night and had not previously made up his mind. He felt he previously did not have the right answer, so his thought for the night was to hear the testimony and then make up his mind. He did hear many important things and some

thing's confused him and felt it did not help him. He agreed it is about doing what is right for everyone. He has spent more than half his life in Coeur d'Alene and believes that in the spirit of where the community has been and who it is now; he will support this Ordinance.

Councilman Gookin asked if upon adoption of the Ordinance, if the City should extend benefits to same sex partners. Mr. Wilson stated that that item is not on the agenda tonight, but can be discussed at another meeting.

Councilman Kennedy stated that this came up from the Human Rights Task Force on Human Relations in February. He spoke to other cities who have passed these type of Ordinances and from a state-wide level and for him it comes down to the bottom line of why is acceptable to fire you because you are gay but not based on race. He has been Catholic since birth and he believes the fundamental Jesus story.

MOTION: Motion by Kennedy, seconded by Edinger to call for the question. **Motion carried.**

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

MOTION: Motion by Edinger, seconded by McEvers to suspend the rules and to adopt Council Bill No. 13-1011 by its having had one reading by title only.

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

RECESS: Councilman Kennedy called for a 2-minute recess at 11:36 p.m. The meeting resumed at 11:50 p.m.

RESOLUTION NO. 13-035

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN EASEMENT AGREEMENT FOR 401 FRONT AVENUE PEDESTRIAN TUNNEL WITH BLACK RIDGE PROPERTIES, LLC.

Councilman Kennedy stated that this item came forward from General Services without a recommendation. Mr. Chris Meyer presented this request as the applicant, stating that the purpose of the request is to build a stub tunnel from the back wall of the Front Avenue parking lot to the backside of their property line. He stated that there is a cost savings to construct this now, and described the tunnel to need a 12'x12'x12' easement, as the tunnel would be a 9'x9'x9' room intended for future use and would allow the City to use it until it is needed in the future. Black Ridge would cover all design, engineering, and construction costs, no there would be no cost to the City or delay in the schedule of the project. Mr. Meyer stated that he has provided exhibits/drawings of the proposed easement, which would sit toward the middle of the property.

Councilman Kennedy clarified that he has business relationship with Steve Meyer on an unrelated matter and legally does not have a conflict. Councilman Edinger asked why this idea

was not discussed at all the McEuen planning meetings. Mr. Meyer stated that they were not thinking of this at that time. When the contractor asked for more parking and needed 20' of the Black Ridge property, they saw the large hole on their site, and then thought of this opportunity. Councilman Edinger asked Mr. Wilson if this were granted would it set a precedent for other similar requests. Mr. Wilson said that it would demonstrate an opportunity for others to explore, but not necessarily a precedent. He clarified that he has heard from other property owners that they are interested in pursuing this option. Councilman Goodlander asked if there was some discussion when they were discussing the parking lot about providing access from the parking garage. Ms. Gabriel stated that in December the idea that this might be an option came forward and confirmed that it would be more expensive to do it after the garage is complete. Councilman Gookin stated that the Coeur d'Alene Press quoted Mr. Meyer as saying that there is no need for the access. Mr. Meyer clarified that he meant that they do not have an immediate plan for the access; however, it is a plan for potential of the future property use. Councilman Gookin stated that he felt that there should be public access from a public parking garage, and is concerned that the future use would be access to a private residence. Mr. Meyer stated that it could be open to the public during working hours and closed after hours. Mr. Wilson stated that the Council could require access through the public portion of the tunnel and that any future development would need to meet city codes for parking etc. Mr. Meyer stated that the underground access would be a competitive advantage, as it would allow covered access during winter bad weather months. Councilman Gookin asked if the City could grant a blanket easement to all the property owners. Mr. Wilson stated that each one should be reviewed individually due to the requested access point and any conflicting utilities, etc. Mr. Meyer stated that the schedule would require proposed modification by July 1, 2013.

MOTION: Motion by Goodlander, seconded by McEvers to adopt Resolution 13-035.

Public Comment:

Suzie Snedaker, Coeur d'Alene, stated that the importance of having the sidewalk and streetscape downtown is to promote activity. This underground access would be similar to the skywalk in Spokane, which takes people off the street. She expressed concern that the access would eliminate the semblance of community on the street and that it would change the public/private use of that building.

Dave Chamberlin, 1323 Birch, stated that he thinks this is a good idea because we live in an area of bad weather. He thinks this is a good idea to think ahead and the city should consider vaults at each property for future use while the wall is being constructed. There may be an initial investment by the City but those can be picked up by the private property in the future.

Jim Bossingham, Coeur d'Alene, stated that there is a perception that there are strings being pulled and that a public entity to a private entity would leave a bad taste in peoples mouth. He suggested the City add a substantial yearly fee.

Councilman Adams asked what he thought would be an appropriate fee. Mr. Bossingham suggested thousands of dollars a year, which could go back into the funds for maintenance of McEuen. Councilman Edinger asked Mr. Wilson if the City could charge a yearly fee. Mr.

Wilson stated that there is case law against selling right-of-way and he would have to look into it further.

Jim Coleman Coeur d'Alene, stated that the Idaho Transportation Department would do such a public/private partnership through an encroachment permit that would include a one-time fee. There is a belief that these types partnership generate revenue for business, cost of the permit is based on the value added to the property for having that access but not an annual fee.

Councilman McEvers asked why this is different from a driveway cut permit. Mr. Wilson stated that the parking lot is going to be there regardless of whether the tunnel occurs or not and clarified that the City is being held harmless from costs. Councilman Goodlander stated that the property owner is paying a good amount of money through the LID.

Mr. Meyer stated that they would still be obligated to meet all city codes. He stated that he hoped that once people were done doing business at the property they would access other businesses. His intent is to provide an opportunity to avoid inclement weather and reiterated that all construction costs would be borne by the corporation.

Discussion: Councilman Adams asked if the City has received any other requests. Mr. Wilson stated that he has received a call from the Coeur today stating that they will be sending in a request. Councilman McEvers stated that it appears that three parking stalls would be lost. Mr. Meyer stated that the access would modify one parking stall and it could be modified to a compact parking stall with no loss of parking. Councilman Edinger asked what the deadline would be for other requests. Mr. Wilson stated that there is no deadline; however, if they want to beat the construction deadline it would need to be requested before the next meeting. Councilman Edinger asked how the City would know how many stalls would be removed for the other requests. Mr. Wilson stated that it depends on the location of the request.

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

LAKE COEUR D'ALENE DRIVE PROPERTY TRANSFER REQUEST BY IDAHO DEPARTMENT OF TRANSPORTATION (ITD)

Staff Report: Ms. Gabriel stated that she has approached ITD about providing more time to do some master planning prior to the City Council finalizing a decision. The master planning would include review of the boat launch, public access, public docks, and would involve the property owners and associated agencies. She estimates it would take approximately four months to conduct this type of master planning. Mr. Coleman, ITD Boardmember stated that he thought that the board would be agreeable to the time extension. Councilman Kennedy asked if the planning would include a review of the use of the \$3 million. Ms. Gabriel stated that it would and clarified that it would review the resolution of one specific easement issue.

Mr. Coleman stated that the question is if ITD can hold on to the money until this is resolved, as the legislature has stated that ITD needs to do projects and get the money spent within their mission. He stated that he believes master planning is a good idea. Councilman McEvers stated

that the plan would be for the City to master plan it and suggested that ITD pay for the master planning. Mr. Coleman stated he would be willing to take that proposal to the board workshop in the next couple of weeks. He stated that he would suggested that ITD add some scope to the study that would be useful to ITD in case the City does not end up taking the property. Councilman Goodlander stated that she envisions this as an opportunity to work with the other jurisdictions as a group effort.

PUBLIC COMMENT:

Jim Bossingham, Coeur d'Alene, stated that he is retired from the Federal Highway Administration and does not see why the City needs to hurry to make a decision. He is concerned with the condition of the road, specifically the bottom of Bennett Hill. He believes the City should hire a private engineering consultant to core drill the hill and that he does not believe the City can maintain the road for \$30,000 a year.

Judy Nixon, Silver Beach Road, Coeur d'Alene, stated she is totally opposed to this proposal and the City should consider it only on the merit of what the road is, not that it may create public beaches and docks. There are already many private docks and adding a public beach next to a boat launch would not make sense. She will email the Council her concerns and would like the City to consider the real conditions of the road during the master planning.

Rachael Maughan, Seattle, owns property on Silver Beach and asked that the Council not accept this property as there is not enough information. The master plan would be a good thing and she is concerned with the removal of trees. She owns the waterfront and there is an easement across her property for the trail and she is concerned there is a movement to remove crossing over the trail. She wants input as a property owner, and would want to see master plan options. She agrees that maintaining the area for \$30,000 annually would be difficult.

Evelyn Adams, Silver Beach, Coeur d'Alene, stated that she did not hear enough facts presented for the Council to make a sound decision. During her term as County Commissioner the County looked at purchasing the property that the Beach House is currently located. They paid for a study for a potential launch and found it was very expensive and the feasibility too prohibitive. She stated that parking is tight and is a problem. She believes that Eastside Highway District should take on the road.

Linda Wolovich, Coeur d'Alene, stated she wanted to know if ITD would carry out the master plan, as she would like to get the plan done and have ITD carry it out. She believes that ITD does have the equipment to better maintain the street and that it could be a cooperative opportunity. She referenced the 2030 vision plan as an opportunity for the community to discuss this item.

Mr. Coleman stated that in the last four to five years, ITD has struggled to continue to maintain the road and they have discussed what to do with the reduced budgets. Through their classification process, Coeur d'Alene Lake Drive is on the bottom of their priority list, and it probably would not be the same level of service over the next twenty years. He suggests that the

City work through a request to ITD to participate and fund a master plan to determine the feasibility and/or cooperative agreement with agencies to take over the road.

Councilman Edinger stated that it is his understanding that the state legislature required that ITD maintain the road if it is under their ownership. He expressed concern that the \$3 million would not last long and then the taxpayers in Coeur d'Alene would have to pick up the maintenance costs. Councilman Edinger state that he believes that Eastside Highway District is the only logical agency to take over this roadway. Councilman Adams stated that he does not see how a master plan for \$30,000- \$50,000 of taxpayer dollars would help him make up his mind.

MOTION: Motion by Adams, seconded by Edinger to deny the ITD Request to transfer Lake Coeur d'Alene Drive to the City.

DISCUSSION: Councilman Goodlander stated that she believes there is an opportunity within the request and disagrees with the motion. She stated that the City is good at creating and maintaining trails as well as having the capability to deal with tree issues. She stated she is not in favor of taking on the road or putting in a boat launch; however, she sees an opportunity to plan and work in partnership with other agencies, such as Eastside Highway District. Councilman Kennedy stated that there is an opportunity to pursue master planning paid for by ITD.

Councilman Adams called for the question. **Motion Carried.**

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

MOTION: Motion by Kennedy, seconded by Goodlander to direct staff to make a request to ITD to fund and conduct a master plan that will include the other stakeholders.

ROLL CALL: Edinger No; Kennedy Yes; McEvers Yes; Gookin No; Adams No; Goodlander Yes. **Motion carried** with the Mayor voting in the affirmative.

PUBLIC COMMENTS: Councilman Kennedy called for public comments with none being received.

ADJOURNMENT: **Motion** by Edinger, seconded by McEvers to recess to June 6, 2013, at 1:30 p.m. for a Council Workshop to discuss the Annual City Strategic Planning at the Library Community Room. **Motion carried.**

The meeting recessed at 1:10 a.m.

ATTEST:

Sandi Bloem, Mayor

Renata McLeod, City Clerk