

AGENDA ITEM SUMMARY

5/5/14  
DATE: 4-21-14

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: NW

SUBJECT:

Public Art Ordinance Amendment

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

During the process of drafting bond documents for the Bio-Solids project, I discovered a conflict between the Public Art ordinance and Revenue Bond Act. Generally speaking, Hailey's Public Art ordinance requires 1.25% of the cost of a capital improvement project to be dedicated to public art. I was advised by our bond attorney that revenue bonds should not be used to pay for public art. Consequently, I have drafted the attached ordinance so a project funded by revenue bonds is excluded from the requirement of using 1.25% of the construction cost for public art.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Attorney	<input type="checkbox"/> Clerk / Finance Director	<input type="checkbox"/> Engineer	<input type="checkbox"/> Building
<input type="checkbox"/> Library	<input type="checkbox"/> Planning	<input type="checkbox"/> Fire Dept.	<input type="checkbox"/> _____
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	<input type="checkbox"/> _____
<input type="checkbox"/> Streets	<input type="checkbox"/> Public Works, Parks	<input type="checkbox"/> Mayor	<input type="checkbox"/> _____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Discuss the proposed amendment and instruct staff to put the proposed ordinance on the next agenda under Public Hearing.

FOLLOW-UP REMARKS:

4/21/14 - no action made by council  
next mtg ordinance amendment will be  
presented to council as Public Hearing on 5/5/14  
5/5/14 - Public Hearing & council  
Mayor conducted 1<sup>st</sup> reading of b.d. adopted Ord # 1150  
5/19/14 - 2<sup>nd</sup> reading



HAILEY ORDINANCE NO. 1150

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 3.08.020 OF THE HAILEY MUNICIPAL CODE, TO EXCLUDE A PROJECT FUNDED BY REVENUE BONDS FROM THE DEFINITION OF CAPITAL IMPROVEMENT BOND; BY AMENDING SECTION 3.08.030 OF THE HAILEY MUNICIPAL CODE TO DELETE A PROJECT FUNDED BY A REVENUE BOND AS AN ELIGIBLE CAPITAL IMPROVEMENT PROJECT; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE

WHEREAS, the Mayor and Hailey City Council have been advised that a capital improvement project funded by a revenue bond should not be required to comply with the Chapter 3.08 of the Hailey Municipal Code (Public Art) because public art does not necessarily generate revenue as required by the Revenue Bond Act under Idaho Code §§50-1027 *et seq.*; and

WHEREAS, the Mayor and Hailey City Council wish to comply with state law by amending Chapter 3.08 of the Hailey Municipal Code to exclude a Capital Improvement Project funded by revenue bonds from the requirement of complying with the Public Art Chapter of the Hailey Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAILEY, IDAHO:

**Section 1.** The definition of "Capital Improvement Projects" set forth in Section 3.08.020 of the Hailey Municipal Code is amended by the addition of the underlined language, as follows:

"Capital Improvement Projects" shall, for the purposes of this Chapter, mean every capital municipal construction or improvement project or portion thereof, paid for wholly or in part by the City where the total cost of such project is reasonably anticipated to be in excess of twenty five thousand dollars (\$25,000.00). A Capital Improvement Project shall include construction, renovation or remodel of any public park, public building or structure, street or road, or public parking facility whether developed by the City or developed privately and leased back to the City. Capital Improvement Projects shall exclude:

1. Maintenance of public improvements such as streets, sidewalks, curbs, alleys or right-of-way improvements;
2. Subsurface public utility improvements such as storm and sanitary sewers, water lines, fire hydrants, and other appurtenances;
3. The portion of a Capital Improvement Project funded by State and/or Federal monies which prohibit expenditure of such monies for the arts;
4. A Capital Improvement Project undertaken before the effective date of this Ordinance; or
5. A Local Improvement District.
6. A Capital Improvement Project funded by revenue bonds.



**Section 2.** Section 3.08.030 of the Hailey Municipal Code is amended by the deletion of the stricken language, as follows:

**3.08.030 Applicability.** Capital Improvement Projects shall be governed by this Chapter. In the event a bond is used to fund a Capital Improvement Project, the Capital Improvement Project shall be an eligible capital improvement project if so approved by a) the bond election ordinance, or b) ~~the bond ordinance authorizing revenue bonds or~~ c) other appropriate laws or regulations. Where a Capital Improvement Project is funded in whole or in part by State and/or Federal monies, only the portion of the Capital Improvement Project which permits expenditure of such monies for the arts shall be used to calculate the one and twenty-five hundredths percent (1.25%) dedication for the arts. Where a Capital Improvement Project is funded in whole or in part by State and/or Federal monies and the State or Federal monies do not allow for expenditure of such monies for the arts, only the portion of the City's required financial contribution to such Capital Improvement Project shall be used to calculate the one and twenty-five hundredths percent (1.25%) dedication for the arts and such percentage shall be in addition to the City's minimum required contribution to such Capital Improvement Project.

**Section 3.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

**Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**Section 5.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Fritz X. Haemmerle, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Mary Cone  
Hailey City Clerk

Publish: Idaho Mountain Express \_\_\_\_\_, 2014

