

AGENDA ITEM SUMMARY

DATE: 6/28/2012

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Findings of Fact, Conclusions of Law and Decision (Quigley Annexation) and Request for Negotiation

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

At the last Council meeting conduct on June 18, 2012, the Council decided to consider a request for negotiation by Quigley Green Owners, LLC. Just before the last Council meeting, the Quigley applicant asked the mayor to consider further negotiation before the City signed any findings of fact and conclusions of law. The Council decided to conduct a subsequent meeting to consider the request and to allow the entire council to be present. Council Member Cooley was not present for the last meeting. In the event, the Council decides not to conduct further negotiations, I am attaching proposed Findings of Fact, Conclusions of Law and Decision ("Decision") for the City's decision on the Quigley annexation request. This draft is essentially the same draft which was presented before, except I found several grammatical mistakes which have been corrected. In addition, I added the following sentence to the first paragraph of Section II(C): "Each council member's findings on the best interest standard are set forth in the following separate paragraphs."

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS

Case # _____

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)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	___
___ Safety Committee	___ P & Z Commission	___ Police	___
___ Streets	___ Public Works, Parks	___ Mayor	___

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Review and discuss the proposed request to conduct further negotiations before signing the Decision. If the Council wishes to conduct further negotiations, then I would ask for direction on how the negotiations would be handled. If the Council does not wish to conduct further negotiations, I would suggest the Council review and discuss the Decision. If no revisions or only minor revisions are necessary, make a motion to approve the Decision and authorize the mayor to sign the Decision. If substantial revisions are necessary, direct staff to make revisions to the Decision and make a motion to continue the consideration of the Decision to the next meeting.

FOLLOW-UP REMARKS:

BEFORE THE HAILEY CITY COUNCIL

In the Matter of the Application by
Quigley Green Owners, LLC, for
Annexation and Zoning

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND DECISION**

I. PROCEDURAL HISTORY AND PERTINENT FACTS

In November, 2007, Hailey received an application by Quigley Green Owners, LLC (“Applicant”) for annexation of approximately 1,109 acres into Hailey and for zoning of the parcel. Hailey has held numerous public hearings before the Hailey Planning and Zoning Commission (“Commission”) and the Hailey City Council (“Council”).

In its initial review, the Commission evaluated a proposed 379 lot development with an 18 hole golf course and recommended approval of the application subject to 54 conditions. *See Findings of Fact and Recommendation to City Council dated September 17, 2008.* Following the Commission’s recommendation, the Council evaluated the application. During the Council’s review, the Applicant agreed to eliminate any development above the pond and seek only one home site in Deadman’s Gulch under the jurisdiction of Blaine County. The property proposed to be annexed was reduced to 912 acres (“Quigley Property”). The Council eventually evaluated the application and generally found the application conformed with the Hailey Comprehensive Plan. The Council instructed staff to negotiate with the Applicant and to forward a proposed annexation agreement to the Council so the Council could better evaluate the fiscal impacts of the application. During this time, the Applicant elected to revise the application by deleting the 18 hole golf course and by increasing the property density to 444 lots. In addition, the Applicant eliminated a separate pressurized irrigation system. At this time, the Applicant submitted a draft Annexation and Development Agreement. The Council conducted several more hearings and remanded the application to the Commission to review the changes to the application and to make a recommendation to the Council regarding land use issues and compliance with the Hailey Comprehensive Plan. Consistent with Council’s instructions, the Commission evaluated the revised application and submitted a recommendation to the Council. *See Findings of Fact and Recommendation to City Council dated November 21, 2011.* At no time did the Applicant express a willingness to reduce the density proposed in the application.

Following receipt of the Commission’s recommendation of the 444 lot application, the Council considered testimony of the Blaine County Planning Director, Tom Bergin, who evaluated the potential development density if the Applicant’s land was developed in Blaine County. Mr. Bergin explained that the property has a maximum density of 105 lots as a straight lot subdivision and 129 lots as a PUD subdivision.

Following receipt of the Commission’s recommendation, the Council also received a fiscal analysis and a water appraisal. *See Quigley Canyon Ranch Cost/Benefit Study (April 26, 2012) (“Fiscal Study”) and Quigley Canyon Ranch Water Rights Valuation (February 10, 2012) (“Water Appraisal”).* The Fiscal Study recommended an annexation fee of \$2,548,560, a water

annexation fee of \$898,190 and a waste water annexation fee of \$3,084,150. The water and wastewater annexation fees were derived from the estimated costs of on-site and off-site water and wastewater capital projects. See *Fiscal Study*, pp. 27-28, Tables T and U.

The Water Appraisal evaluated all of the Applicant's surface and ground water rights. The evaluation of the water rights by an independent engineering firm, SPF Engineering, was used in the appraisal of the water rights. The Water Appraisal concluded that the highest and best use of the water rights was for mitigation, not necessarily irrigation. As explained by the Director of IDWR, Hailey would have to obtain a permit to use the Quigley water for mitigation. Hailey was advised by SPF that a permit for mitigation is feasible, but it was unclear how much of the 1880 water could be used for mitigation and how much it will cost to obtain such a permit. Water Right No. 37-19736 was recommended to be used as the mitigation water right. This water right has a very early and valuable priority date of 1880, has a diversion rate of 2.28 cfs and is appurtenant to 276.5 acres. The flow data between 2007 and 2011 demonstrated that the flow in the Quigley stream was less than the 2.28 cfs flow rate during some of the summer months. See *SFP Memo (December 31, 2008)*, p. 11 and *Water Appraisal*, p. 16, Figure 2. Ultimately, the Water Appraisal valued the 1880 surface water right between \$2,212,000 and \$3,318,000.

The Applicant was asked to explain what it felt were the appropriate annexation fees and how the Applicant proposed to fund the annexation fees. Immediately before the scheduled conclusion of the hearings, the Applicant provided the following list of contributions if the property was annexed into the City of Hailey.

Monetary

<u>Description</u>	<u>Amount</u>
Annexation Fee	\$ 2,548,560
Water annexation Fee	\$ 898,190
Wastewater Annexation Fee	\$ 3,084,150
Building Permit and DIF	\$ 2,421,180
Water Connection Fee	\$ 1,694,748
Wastewater Connection Fee	\$ 1,455,876
Meter and Inspection Fees	\$ 222,000
Net Revenue to General Fund	\$ 1,711,528
School Site	\$ 2,083,692
Public Transit Contribution	\$ 94,057
Library Contribution	\$ 47,068
Well – City Portion	\$ 61,000
Offsite Street Improvement – City Portion	\$ 247,500
	<u>\$ 16,569,549</u>

Non-Monetary

- Water Rights
- Open Space/Parks (470.75 acres)
- Bike Paths and Trails

During the May 12, 2012 hearing, the Applicant stated it felt the annexation fee of \$2,548,560 should be approximately \$2,000,000 but did not address the water annexation fee and wastewater annexation fee. At the May 12, 2012, hearing, the Applicant also stated that the City would be provided with assurances to pay all the fees but did not specify how the assurances would be made (e.g., cash payment, letter of credit, payment bond or performance bond).

On May 23, 2012, the Council made oral findings of fact and conclusions of law. This Decision sets for the Council's formal findings of fact and conclusions of law.

II. FINDINGS OF FACT

A. Relevant Standards. Under §14.01.090(C) of the Hailey Municipal Code, the Council shall make findings of fact and conclusions of law to determine:

- 1) whether the proposed application will be harmonious and in accordance with the goals and policies of applicable components of the Hailey Comprehensive Plan,
- 2) whether the proposed annexation would be in the best interests of the citizens of Hailey, and
- 3) to the extent possible, whether the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

B. Comprehensive Plan Standard. A majority of the Council and Mayor finds that the proposed application will not be harmonious and not in accordance with the goals and policies of applicable components of the Hailey Comprehensive Plan. Council Members Brown and Burke find that the application general complies with the Hailey Comprehensive Plan which calls for compact and diverse neighborhoods and phased development. *See e.g., Hailey Comprehensive Plan, §§5.4, 5.4.7, 10.1.5, and 12.1.2.* Council Members Keirn and Cooley and Mayor Haemmerle find the density of the proposed development is too great, which in turn creates undue demand on city streets. *See e.g., Hailey Comprehensive Plan §§10.3, 12.1 and 12.1.1.*

C. Best Interests Standard. All of the Council Members and the Mayor find that the proposed annexation will not be in the best interests of the citizens of Hailey. Even though all of the Council and the Mayor believe it is appropriate that the Quigley Property be annexed into the City of Hailey, the Council as a whole does not believe it is in the best interest to annex the Quigley Property now and at the proposed density. Each council member's findings on the best interest standard are set forth in the following separate paragraphs.

Council Member Brown finds that the timing of this application is not right. Even though there has been some evidence of increased home sales over the last few months, there is not enough data to show a sustainable trend. The timing is also flawed in light of the uncertainty of the Cutters lawsuit. Moreover, the uncertain fiscal impact of the proposed annexation weighs against a finding that the application is in the best interests of the citizens of Hailey.:

Council Member Keirn finds that the proposed density has significant impact on the city streets, especially when there is still considerable available infill development (e.g., Dumke property). The timing of this application is also a problem because Hailey is having a difficult time funding needed capital projects. The uncertain fiscal impact of the proposed development weighs against a finding that the application is in the best interests of the citizens of Hailey.

Council Member Cooley finds that the proposed density is the primary reason he cannot find compliance with the best interest standard. In particular, the traffic study demonstrates that there would be an unacceptable level of service even with the projected 15% decrease in traffic from the earliest plan which included a golf course. Annexation is not appropriate at this time with the proposed density even though recreation benefits are significant and even though a county development may be approved with individual wells and septic systems adjacent to the city boundaries.

Council Member Burke finds that many components of the proposed annexation are in the best interests of the city, such the recreational benefits and the associated economic benefits, but the present fiscal condition of the city weighs against a finding of compliance with the best interest standard.

For several reasons, Mayor Haemmerle finds the application as proposed is not in the best interests of the citizens of Hailey. The density of 444 lots is too dense. The city streets, especially Quigley Street, are not adequate for the density. The timing of the annexation is problematic because of the overall fiscal health of the City, because there is significant infill which can occur in the City and because present residential development is stagnant.

D. Fiscal Impact Standard. A majority of the Council and Mayor find that the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future. Council Member Burke finds the application will not have a negative fiscal impact upon the citizens of Hailey, while the remaining members of the Council and the Mayor find that the application will have a negative fiscal impact upon the citizens of Hailey.

The Quigley Canyon Ranch Cost/Benefit Study estimates the annexation fee to be \$2,548, 560. The Applicant has suggested that it receive a credit against the annexation fee equivalent to the value of the water rights to be conveyed to the City. The water rights have been valued between \$2,212,000 and \$3,318,000. *See Water Appraisal*. The Council Members and the Mayor found that the Quigley Canyon Ranch Cost/Benefit Study was problematic based on the values used by the consultant and incomplete data. Given the complexity of the water law and the range of values by the appraisal, Council Members and the Mayor also found that the valuation of the water rights was difficult to ascertain.

In addition to any annexation fee, water and wastewater improvements and other off-site street improvements will need to be paid. The improvements include water improvements estimated to be \$898,190, wastewater improvements estimated to be \$3,084,150, and street improvements to Quigley Road, Deerfield and Fox Acres estimated to be \$1,050,000. *See Fiscal Study, Tables T & U, pp. 27-28; see also Draft Annexation and Development Agreement, pp.3-5.*

The Applicant has proposed to fund any monies to be paid in the future with a Community Infrastructure District formed under Idaho Code §§50-3101 *et seq.* After being asked how the Applicant intended to pay any fees on May 7, 2012, the Applicant generally stated in the May 21, 2012, hearing that the City would be provided with assurances to pay the monies in the future. Hailey is currently involved in adversary proceedings in the federal bankruptcy court in which the developer of Cutters Subdivision and a lender are asserting that the annexation fees are illegal. The Cutters annexation fees are secured and are to be paid in installments over time. In light of the Cutters lawsuits, Hailey wishes to be paid on or before any annexation and does not wish to become a creditor, secured or unsecured. A general assurance that monies will be paid in the future is insufficient to establish compliance with the fiscal impact standard.

§14.01.090 of the Hailey Municipal Code provides that a study, such as the Fiscal Study, recommends a base amount of annexation fees and that the Council retains the right to require further monetary or non-monetary contributions. Based on the reasons set forth herein, the Council did not address the need for further monetary or non-monetary contributions under §14.01.090 of the Hailey Municipal Code.

The Applicant has provided a list of contributions which total \$16,569,549. Many of the items on the list are not properly classified as contributions to Hailey. For example, the school site estimated at \$2,083,692, is a benefit to the Blaine County School District, not the City of Hailey. In addition, some of the items are characterized as fees but are really estimates of costs of certain water and wastewater projects which the applicant proposes to be constructed by the City of Hailey. *Fiscal Study, Table U, p. 28.* Some of the improvements are required for the development (*e.g.* Woodside trunk line and much of the city well). Other sources of revenue are designed to be regulatory fees which are designed to cover the later costs of inspections and enforcement. (*e.g.* building and inspection fees). The water and wastewater connection fees are designed to cover the cost of water and wastewater improvements. *Hailey Municipal Code, §13.04.140.*

Council Member Brown noted that the value of the water rights proposed to be conveyed to Hailey is uncertain because a permit must be issued for any mitigation right and it is unknown whether there will be a one for one transfer of the surface irrigation right to the mitigation right. Council Member Keirn noted that Hailey will incur actual costs to provide municipal services and the conveyance of water rights as a credit to any annexation fee will not pay for the municipal costs to be incurred upon annexation. Council Member Burke noted that the Quigley Canyon Ranch Cost/Benefit Study found that this proposed development would generate a positive cash flow for the first twenty-five years. *See Fiscal Study, p. 29, Table V.* Mayor Haemmerle noted that the uncertain assurance to pay for costs almost makes it impossible to approve this application.

E. Concurrent Zoning Application. In light of the decision not to annex the Quigley Property, it is not necessary to adopt zoning districts for the property.

III. CONCLUSIONS OF LAW AND DECISION

Based on the findings of fact stated on the record and in these Findings of Fact, Conclusions of Law and Decision, the Council makes the following conclusions of law:

- 1) the proposed application is not harmonious and not in accordance with the goals and policies of applicable components of the Hailey Comprehensive Plan,
- 2) the proposed annexation is not in the best interests of the citizens of Hailey,
and
- 3) the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

Accordingly, the Council and the Mayor unanimously deny the application by Quigley Green Owners, LLC, to annex the Quigley Property.

Dated this _____ day of June, 2012.

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of June, 2012, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

<input type="checkbox"/> U.S. Mail	J. Evan Robertson, Esq.
<input type="checkbox"/> Facsimile	Robertson & Slette, PLLC
<input type="checkbox"/> Hand Delivered	P.O. Box 1906
<input type="checkbox"/> E-Mail	Twin Falls, ID 83303-1906
<input type="checkbox"/> U.S. Mail	Dave Hennessy
<input type="checkbox"/> Facsimile	Hennessy Property Management
<input type="checkbox"/> Hand Delivered	PO Box 2720
<input type="checkbox"/> E-Mail	Ketchum, ID 83340-2720

Ned C. Williamson

Mary Cone

From: Frank Rowland [filyrod1083@cox.net]
Sent: Wednesday, June 27, 2012 4:51 PM
To: pat cooley; Mary Cone; Martha Burke; Heather Dawson; Fritz Haemmerle; Don Keirn; Carol Brown
Subject: Quigley Annexation
Attachments: Quigley Annexation.eml

Hello All: In times when Americans in general have lost significant faith in government (polls show that both Dems and Reps have a less than 50% approval rating by Americans across the board.) I am astonished that you apparently feel the majority of your constituents would think it OK for you to change your mind on your unanimous decision to deny the Quigley annexation application. It's about trust folks. And right now you have breached that trust we placed in your hands to make reasoned decisions and to stick by them. This whole thing smacks of back room politics and secret deal making. If you wince at that last sentence, then stand up and do business that you can be proud of, and that we the people can have faith in.

Please read my attached letter sent originally to you May 4. I haven't changed my mind because a few weeks have passed. I stand by my reason for objecting to this annexation. Do you?

Respectfully,
Frank Rowland

Mary Cone

From: Frank Rowland [flyrod1083@cox.net]
Sent: Friday, May 04, 2012 5:22 PM
To: Carol Brown; burkefamily203@cox.net; Don Keirn; pat cooley; Fritz Haemmerle
Subject: Quigley Annexation

Honorable Mayor and City Council of Hailey: I am writing you to voice my concerns relative to the pending Annexation Application brought before you by the owners of Quigley Ranch.

I am not so naive as to think that the property in question will not some day be developed. The question is when, and for what compelling reasons would the City of Hailey approve annexation? It is my feeling that now is not the time, and there do not appear to be any compelling reasons for the City to obligate itself to such a burden.

There are points on this issue for which I have particular concerns:

1. The developer is making false promises regarding water availability, and granting water rights to the City. It appears from the water study that sufficient water may be available for the proposed development. However, the availability of water for more than domestic culinary use would be limited to the number of units being proposed. There would not be sufficient Quigley water to sustain landscape watering, or any other non-culinary uses. How can the developer give away water that is not available?
2. The developer proposed a secondary irrigation water system that would require waste water to be pumped from a treatment facility to the development. However, it appears that the City would foot the bill for this infrastructure. This is simply not an acceptable use of City funds and should not be a point of discussion with the developer.
3. The developer wants to "negotiate" development fees with the City, whereby the City would pay for all development infrastructure in exchange for Quigley water rights. Of course there are serious questions about the value of such rights, as well as the marketability of those rights. There may also be a question as to the legal existence of additional rights. Aside from those questions, it seems fiscally irresponsible for the City to grant annexation based upon such a tenuous concept. There should be no negotiation of development fees. The City should determine the fees in dollars and cents, and that is the cost to the developer, up-front.
4. All development requires expansion of other infrastructure. Additional electrical capacity, additional natural gas capacity all will require rights of way and other environmental disruptions to be experienced by the City. Any new infrastructure, even if idle, will require maintenance. Those costs will not have the benefit of being funded by an additional tax base until significant numbers of units are placed on the tax roles. This begs the question; "Does the City need this development at this time? I say, "No!"
5. All of this comes to head with the concept of a developer's rights. Annexation is not a developer's right. Annexation is the City's right to grant if there is a compelling need for further development, and financial and environmental issues do not burden the City. You should not feel any obligation to grant annexation. However, it is incumbent upon a developer to show its ability to perform according to statutes and ordinances. At present there are too many murky questions surrounding this application. I would say to you; "If it doesn't feel right, it probably isn't." You be the judge.

In times when Hailey is struggling with increasing demands on its resources, and shrinking budgets to meet those demands, you must think hard about the consequences of adding further risk to the

City that would have less than positive rewards, and may, at this point in time, result in disastrous consequences.

I know your deliberations on this issue will be thorough and well studied. Please also consider my points, and deny this annexation application.

Sincerely,

Frank Rowland
415 S. 5th Ave.
Hailey

Mary Cone

From: Carol Brown
Sent: Wednesday, June 27, 2012 10:15 AM
To: Karin Lindholm; Mary Cone
Subject: RE: Quigley Canyon Annexation

Karin, Thanks for taking the time to send your thoughtful comments. I did not want to vote on this with one council member on a bad phone connection and one council member absent - that was the reason for the delay in voting on the Findings of Fact. I've copied our clerk so your comments can be made part of the public comment record. We are meeting tomorrow at 5pm to vote on them. Thank-you, Carol

Carol Brown - Hailey City Council (208) 788-4221
All messages sent and received from this mailbox are part of the public record

From: Karin Lindholm [lindholmkar@gmail.com]
Sent: Tuesday, June 26, 2012 11:24 PM
To: Carol Brown
Subject: Quigley Canyon Annexation

To City council member Brown:

I am a resident of Hailey living within blocks of the Quigley Canyon land that the city council correctly and unanimously voted against annexing into Hailey. I was very relieved when I heard that the council appropriately rejected the annexation. I commend your reasoning and appreciate that Hennessy's promises of ski trails, hiking trails, biking trails, schools, water rights, etc did not inappropriately entice you into voting yes for the annexation. He is not to be trusted and he has demonstrated his true colors within less than 24 hours of your decision.

Let him apply for development under Blaine County zoning. This will allow a more reasonable density of homes and people for the area. This is the right thing to do.

My other grave concern is property values. I have watched my current home value drop another 30K this past month. You must be sensitive to the residents in your community. My home value went from 605K to 289K over the past 6 years. I cannot sell my home for what I now owe on it. It will only continue to decrease in value with more homes in an area that does not need it. If you have residents moving out of the area, further home foreclosures, there will not be the income for the city to sustain services, there will be job losses, more people egressing from the area and the city may find itself in a situation similar to Stratton CA which is now declaring bankruptcy. We have voiced our opinions for 4 years and you have listened and made the correct choice to decline annexation into the city. This was the absolute right choice for the residents, the city, and the environment.

Sign off on the findings of fact and officially terminate the application. Let him proceed with a development under Blaine County zoning (at one-quarter the density allowances) and end his participation with the city for good.

Thank you for your time,

Karin Lindholm
821 Buckskin Dr
Hailey, ID

Mary Cone

From: Heather Dawson
Sent: Wednesday, June 27, 2012 9:21 AM
To: Mary Cone
Subject: FW: Quigley Annexation
Attachments: Quig-AGAIN.pdf

From: Carol Comtaruk [<mailto:comtaruk@cox.net>]
Sent: Tuesday, June 26, 2012 3:31 PM
To: Heather Dawson
Subject: Quigley Annexation

Heather - Would you please enter the attached letter into the official record and forward copies to all of the council members and mayor prior to the meeting set for Thursday, June 28, 2012, at 5:00p.m. Thank you.

Carol

It is with utter disbelief that the Mayor and Council have, yet again, given preferential treatment to Mr. Hennessy. A phone call from Mr. Hennessy to the Mayor at 3:00 p.m. on June 11, 2012 was all it took to get this matter back on the table. Seriously?

At the May 23, 2012 meeting, in his comments against this annexation, Mayor Haemmerle stated that after the Woodside street project, the City would have approximately \$500,000 remaining in its coffers—a shockingly low amount.

According to the *Mountain Express*, Mr. Haemmerle stated: "Frankly, I don't know if this is a negotiating tactic, a bluff or real." "[Hennessy] had better bring his absolute best offer." Really? We're back to negotiating? Mr. Hennessy was given an additional two weeks *past* the cutoff time in order to come up with his "best offer" and to answer the Mayor's two specific questions: "How much should your annexation fee be and how are you going to pay for it?" The applicant simply could not answer either question. And now the Mayor is saying Hennessy had better come up with his best offer – again? How many times? Also at the last meeting Mr. Hennessy was asked if there was anything else he would like to add (unlike those of us who had already commented) and his reply was: "No, we're good." Apparently they weren't good enough.

Regardless of whether the applicant now wishes to build one home or 200 on the property, the City simply cannot afford the infrastructure required for this development. As soon as the property is annexed, the applicant will be able to legally demand, and the City must provide for, water, sewer, police patrols, fire protection and snow plowing – even if the neighborhoods are bereft of homes (remember Cutters?). You have tipped the scales on this one.

It is incumbent upon the City to do the right thing and sign the Findings of Fact prepared by Ned Williamson for signage at the May 23, 2012 meeting.

Very truly yours,

Carol Comtaruk
Hailey ID

Mary Cone

From: regiorn@cox.net
Sent: Tuesday, June 26, 2012 7:26 PM
To: pat cooley; Heather Dawson; Carol Brown; Martha Burke; Fritz Haemmerle; Don Keirn; Mary Cone
Subject: QUIGLEY ANNEXATION: SIGN THE FINDINGS OF FACT TO DENY THIS REQUEST

To the Mayor, Council Members and Staff Members

Let the outrage begin! After your last scheduled meeting, it was very distressing to read that the Council did not sign the Findings of Fact to formally deny the current request for Quigley annexation.

We probably cannot attend the hastily called June 28th meeting re further discussion of the Quigley annexation, but we wish to go on the record in opposition to any further consideration of the current development proposal. The P&Z recommended against it, and in your deliberations you wisely considered the overall fiscal, social and environmental health of the City of Hailey in voting unanimously to deny this application. At this late date, the developer cannot modify it and do an "end run" to bypass the requirement that a revised application must be submitted after waiting a full year, be reviewed by P&Z, and comply with the tenets of the Amended Annexation Ordinance.

Property values keep falling, foreclosures are a daily occurrence, the taxpayer base keeps dwindling, the City of Hailey remains understaffed and underfunded. Nothing has changed to justify further negotiation on this proposal. You have denied it for very valid reasons.

Please do not fail in your responsibility to represent the best interests of the citizens of Hailey. Do not reward the bullying tactics of this developer, abide by the City's legal requirements, and sign the Findings of Fact to close this chapter on the Quigley annexation.

Thanks for your time and service to the community.

Lorna Emdy & Reginald Solomon
211 Pike Street
Hailey, Idaho

Mary Cone

From: Gloria Carlton [gloria@svskylan.net]
Sent: Friday, June 22, 2012 1:36 PM
To: Carol Brown; Don Keirn; Heather Dawson; Martha Burke; Mary Cone; Fritz Haemmerle; pat cooley; Robin Crotty
Subject: Denial of proposed Quigley Development Annexation
Importance: High

Dear Mayor Haemmerle and Hailey City Council Members Burke, Brown, Cooley, Keirn –

I was shocked and alarmed to hear of your decision on June 18, 2012 to change your minds regarding your vote to delay and not sign off on the FINDINGS of FACT, regarding the denial of the Quigley development project.

Your original reasons for denial were based on good, valid, factual information. How can you possibly turn around and say that you changed your minds? None of the reasons for denial have changed. I still can't afford to pay more taxes, the city, unless it just won a giant lotto, doesn't have any money to spend on the project, the current high school traffic has yet to be controlled after all these years and still makes crossing roads in our neighborhood dangerous in the mornings, lunch time and 3:30 in the afternoon. Our roads just plain can't handle more traffic, and not only was there not enough water before, it appears that we are going to be suffering a long drought.

Don't you think that our infrastructure needs to be changed and improved before even considering more homes? Don't you think that our Police Dept., Fire Dept., and all of our public services need to be expanded first? Don't you think that we should be planning emergency drought situations for the current citizenry and businesses before considering expanding the citizen base? I hope you're not giving in to the developer due to his tremendous temper tantrum that he threw after the meeting of May 23, 2012. I loved hiking that hill, but not at the expense of what the developer wants to do. Not at the expense of losing my quality of life.

And I remember reading that the applicant must wait one year before resubmitting any request for that parcel of land. Aren't you breaking the law by changing your minds? What happened to the common sense the Council was displaying when it gave the reasons for denial? Something is very wrong here.

Sincerely,
Gloria Carlton
841 Eastridge Drive
Hailey, ID

"Stand for something or you will fall for anything."
-- unknown

Mary Cone

From: Carol Brown
Sent: Tuesday, June 19, 2012 4:46 PM
To: Isimpson; Mary Cone
Subject: RE: Quigley

Hi Lily, I'm copying Mary Cone so your comments can be made part of the record. Carol

Carol Brown - Hailey City Council (208) 788-4221
All messages sent and received from this mailbox are part of the public record

From: Isimpson [lilisimpso@aol.com]
Sent: Tuesday, June 19, 2012 2:47 PM
To: Fritz Haemmerle; Carol Brown; Don Keirn; pat cooley; Martha Burke
Subject: Quigley

Dear Mayor Hammerle and Council;

Your approval of Ms. Brown's motion to not sign the Findings of Fact of the Denial of the Quigley Annexation Application is an abdication of the public's trust in you as their representatives.

Your decision to engage in public negotiations and to allow comment by the applicant's representative in last night's hearing could be considered an act of deceit by a public that has quietly and with decency observed 4 years of hearings, with limited opportunity for considered input. Treated like unruly children, we have waited with patience and trusted in you to make fair, public and legal consideration of this application. Despite being referred to as a "free for all" by the applicant's attorney, we played by the rules in the single public comment hearing, as our belief was in democracy in action.

In your consideration to negotiate with the applicant, there are many issues.

Your annexation Ordinance states that:

D. Decision. The Council has the sole and absolute discretionary right to approve, approve with conditions or deny an application for annexation. In addition, the Council is authorized to require, as a condition of approval, that the applicant and the City enter into an annexation agreement providing for the terms and conditions of an approved annexation. In the event a subsequent development proposal materially differs from the development shown in approved annexation, the annexation agreement shall provide that the proposed development may be denied, that the applicant shall be responsible for any increased annexation fees and/or that the property may be de annexed. There shall be no right of an appeal by an applicant or by an affected party from an adverse recommendation by the Commission or from an adverse decision of the Council on an annexation application. If the Council elects to approve the application for annexation with or without conditions, the Council shall also establish the appropriate zoning district(s) for the annexed property in accordance with the procedures set forth in Article XIV of the Hailey Zoning Ordinance.

The decision was made in a several-month publicly noticed deliberation hearing. Does it not mean anything to you that you publicly voted unanimously to deny this application, leading the community to believe that the issue was over? Do you feel more responsibility to the applicant's financial outcome than to your constituents?

After 4 years of opportunity to change the application, is it appropriate to engage in last minute negotiations with the applicant about density, only one of the problems with compliance with the Comprehensive Plan? This is not material for last minute deal making, but complex issues that require, by law, analysis. The reduction of several hundred houses and the changes in the Fiscal Impacts Study will involve a proposed development that is materially different from the previous annexation application. As you will recall, the applicant has already been allowed to greatly change the application from the one that went dormant in August of 2009: the multiple differences are

outlined on your Quigley annexation website. You should ask yourselves honestly: was the applicant truly not allowed to negotiate before the vote, or did he just not think he would be denied?

I have tried to refrain from the words I want to use about the way you have handled this situation. But, I will say that I feel extremely violated by having invested so much time in your process and placed my trust in you. At your hearings, I have endured constant criticism about the County, while viewing multiple violations of public process, your attorney's and planner's commitment to the applicant, and lack of transparency on your watch. I have respectfully submitted my comment to you only to be shouted down on items noticed on the agenda, or limited to 5 minutes of comment on the biggest land use action in this County in 35 years. Your flagrant disregard of LLUPA may be legal, but shows total disdain for the people who will be affected by your decisions, which is why the Act was created. Your violation of the Open Meetings Law is shameful, and reflects the sort of small town politics that I thought were over in the last City election. Finally, those of you who have something to gain personally from this annexation should have long ago recused yourself.

I was so proud of you during the deliberations-your strength, your awareness and commitment to the financial state of your citizens, your professionalism on such a difficult decision.

I am in hopes that if you wish to entertain a different application, you will require the applicant to apply for one. If he cannot afford to go through that process, he has no business developing a property of that size and having that impact on the community.

With regards,

Lili Simpson

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Mary Cone

From: Carol Brown
Sent: Tuesday, June 19, 2012 4:45 PM
To: Mary Cone
Subject: FW: Quigley....again?!!!

For the record.... Carol

Carol Brown - Hailey City Council (208) 788-4221
All messages sent and received from this mailbox are part of the public record

From: billy [wilfrahug@cox.net]
Sent: Tuesday, June 19, 2012 3:30 PM
To: Carol Brown
Subject: Quigley....again?!!!

Carol,

Here is the e-mail that I sent Pat last night assuming that all Council members would receive it. Today I learned Pat was on the Middle Fork, I envy him!

I was reluctant to call you at home and leave a message, but I was beside myself after hearing of events at the meeting. I won't do so again.

I am always curious as to who and what the continuing dialogue in ongoing 'ex parte' communications influenced this turn of events. I long ago lost any hopes of transparency in the process, and would simply remind the Council once again that they represent the citizens of Hailey, not various special-interest 'players' unhappy with the outcome of this annexation request -- particularly those in the real estate and construction industries, or north valley, who appear unwilling to accept that the bubble burst almost four years ago and without a Plan B, they will continue to suffer. I am already on Plan D, with consideration of E and F already intruding on my consciousness.

I appreciate your thoughtful denial of a proposal that promised to be a disaster for the City and its citizens. I respectfully ask that you apply a healthy skepticism to whatever discourse follows what I perceive as simply another tired manipulation motivated by personal relationships and pathological self-interest. **THE COMMUNITY COMES FIRST!**

Thankyou for your service.

William F. Hughes
241 Eureka

The following letter was sent last night to Pat Cooley in a fit of pique!

Pat,

Denial of the Quigley application was not predicated on the density alone, but also on about every other issue addressed in the Comprehensive plan.

The City and its citizens cannot accept the exposure to risk this annexation represents. **AGAIN, ALL THIS ANNEXATION REQUEST IS ABOUT, IS USING THE CITY AND CITIZENS OF HAILEY TO SOCIALIZE THE LIABILITIES ATTACHED TO A REAL ESTATE INVESTMENT THAT HAS LOST WELL OVER HALF OF ITS VALUE.** That reality **CANNOT** be negotiated.

The applicant's actions immediately following denial reveal the nature of the beast you are dealing with. The continuing manipulations of the process in an attempt to ram this disaster down the throats of property owners in Hailey is disgraceful. I suppose if you have no management skills, that perpetuating the conflict and chaos that

lawyers feed on at the expense of citizens is the predictable DEFAULT position. The Council has appeared to take offense when I have used the word "collusion". I have been careful with the context in the past.

The City and many of its citizens are in fragile financial condition. Obviously those attempting to resurrect this disaster have never experienced such struggle. How have we done with the obligated short-term benefits of previous annexations? Where is the endless supply of revenue promised to citizens? How are the lawsuits going and how many more can we anticipate?

The Council provided the applicant every opportunity to present a more coherent and intelligent development proposal. The Council denied the proposal he presented. The time to negotiate specific elements of the proposal has passed. Simply changing the density and perhaps offering a few million more dollars simply delays the TRAIN WRECK this annexation represents to the City and its citizens by a year or two.

The deceit employed in attempting to use not signing the Findings of Facts, to take the lid off a can of worms that has already stretched the patience and good will of the community to its limits is simply disgraceful. I can't express how disappointed I am that the Council has chosen to participate in this deceit.

If the May 23rd meeting was recorded, with all due respect I ask the Council to listen to the recording. Don was the only one that made any sense at all, though I consider the Council to be a sensible group. Sometimes I make sense, sometimes all I can muster extemporaneously is incoherent babble, particularly after a long day and three hours of torture at a meeting waiting for the agenda item relevant to my concerns. I know you feel sorry for Mr. Hennessy, but Mr. Hennessy's feelings are not the interests Council members were elected to represent. Given the evidence, the Council made the absolutely correct decision in denying this annexation request

billy