

AGENDA ITEM SUMMARY

DATE: December 28, 2009

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Receipt of Planning and Zoning Commission's Findings of Fact and Conclusions of Law - Colorado Gulch Preserve Annexation.

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Planning and Zoning Commission approved Findings of Fact and Conclusions of Law on December 21, 2009 recommending denial of the Colorado Gulch Preserve Annexation application.

Section 14.01.090 states the Council schedules a public hearing upon receipt of the Commission's Findings of Fact and Conclusions of Law

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)

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

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Discuss when a public hearing should be scheduled before the Council on this application.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

FILE COPY

On August 3, 2009, September 8, 2009, October 5, 2009, November 2, 2009 and November 16, 2009, the Hailey Planning and Zoning Commission considered an application by Hartland Development Company, LLC for annexation of Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road). The property comprises approximately 21.81 acres. Proposed for a future residential subdivision, the property is now largely undeveloped within Blaine County and zoned Residential - 1 acre lots (R-1) and Flood Plain (FP). The subject property lies generally west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision. The Commission having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice

Notice for the public hearing held on August 3, 2009 was published in the Idaho Mountain Express on July 15, 2009. The notice was mailed to property owners within 300 feet, to public agencies, and to area media, on July 15, 2009. The public hearing on August 3, 2009 was continued on the record to September 8, 2009. The public hearing was continued on the record again to October 5, 2009, to November 2, 2009 and to November 16, 2009.

Application

The City has received an application by Hartland Development Company LLC for annexation of 21.81 acres of the Colorado Gulch Preserve located within Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road). The parcel is located west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision.

The applicant is proposing development of 94 residential units and requesting General Residential (GR) zoning of the property should annexation be approved. The property is currently located in the County and is zoned Residential - 1 acre lots (R-1) and Flood Plain (FP).

Pursuant to Idaho Code Section 50-222, (3) (a), the subject application represents a Category A annexation, because it involves "residential enclaved lands of less than one hundred (100) privately-owned parcels... which are bounded on all sides by lands within a city and by the boundary of the city's area of city impact." The subject property is within the Area of City Impact. Category "A" annexations do not require the consent of the property owners, however in this instance the property owner has given consent to the applicant.

A portion of the subject property is directly adjacent to Della View Subdivision to the north. Two parcels (Tax Lots 7731 and 7732) also lie to the north, between the subject property and Della View Subdivision and are located outside of the city limits. Airport West Subdivision lies across Broadford Road to the east. Two parcels (Tax Lots 3913 and 7505) also lie to the east, and are located outside City Limits. County land lies to the south, and the Bigwood River and Della View Mountain are to the west.

The proposed annexation, if approved, would leave Tax Lots 7731, 7732, 3913 and 7505 and Broadford Road as islands of county land, surrounded on four sides by land incorporated into the

city. The Council will consider whether a city-initiated annexation of those tax lots and Broadford Road is appropriate. No indication of agreement to annexation has been received from the owners of the tax lots.

The property owner owns an additional 160 acres to the west of the 21.81 acres proposed for annexation. This other portion includes floodplain, wetland, mountain overlay and avalanche areas under County zoning and would remain in the County under the applicant's proposal. The applicant is negotiating a conservation easement on this portion of the property with two home sites to be developed within the County.

Procedural History

The application for annexation was received December 6, 2007 and certified complete as of the date of receipt of the draft annexation agreement on January 29, 2008.

After the first public hearing before the Commission on August 3, 2009 the applicant was asked to provide the following information:

- Traffic update – an update has been given to the City Engineer; his comments are below.
- Wildlife study – the applicant has hired a wildlife biologist to conduct this study.
- Verify no mining activity (past and present) – an email from Jim Koonce, Mining Engineer, dated August 20, 2009 states that there was no mining on the subject property east of the Big Wood River.
- Wetland memo – current proposal does not change 2003 study
- Impact of trail on wetland – the applicant states that there is an existing trail through the wetlands and no change is proposed, therefore there is no change to the impact.
- Determine if lift station is needed – the applicant's engineer states a lift station is needed; the City Engineer would like the applicant to explore how to avoid another lift station on the city system.
- Update all plans and narratives based on 94 units – see attached.

The Commission reviewed the applicant's response to the information requested on September 8, 2009. Additional information was requested as follows:

- A plan showing the existing and proposed trail on the lower portion of the applicant's property.
- Address the indirect impacts of development on the bench in the wildlife assessment.
- Address all of the City Engineer's concerns and comments in written form for the City Engineer to review.
- Update the traffic studies and water studies.

On October 5, the Commission began discussion on Comprehensive Plan compliance which led to a request to have a workshop with the applicant on November 2 to discuss changes to the proposed site plan.

Commissioner Scanlon and Commission Johnston were not able to attend the November 2 workshop and Commissioner Pogue recused himself. The main topic of discussion at the workshop was the proposed trail, the existing trail along the river through the portion of the property not included in the annexation request and subject to a conservation agreement.

Department Comments

Life Safety

- Fire Department memo dated June 17, 2009
- Building Department email dated June 4, 2009

Parks and Lands Board

- memo dated July 30, 2009

Public Works – water, wastewater, traffic

- email dated July 21, 2009
- email dated September 1, 2009 with comments on the applicant's update narrative and updated traffic study.

Update of Studies

Pursuant to Section 14.01.050, Submittal Requirements, "unless the Administrator determines, in the Administrator's sole and absolute discretion, one or more of the following studies are not warranted based on the size, scope and impact of a proposed annexation, the following studies shall be submitted":

a) Traffic study showing impact on adjacent streets and streets that would serve the proposed project.

A traffic study has been updated; see City Engineer's comments.

b) Floodplain study (if applicable).

The established Flood Plain boundary is shown on the plans; a study was not required at the time of application submittal.

c) Avalanche study (if applicable).

The Red and Blue Avalanche zones are depicted on the existing constraints map. The portion of the property requested for annexation is not located within close proximity of these avalanche zones, therefore a avalanche study was determined to not be warranted.

d) Wetland study (if applicable).

Determined to not be warranted at time of application submittal. See letter from Steve Fisher dated August 23, 2009.

e) Wildlife study.

Determined to not be warranted at time of application submittal. A study was requested by the Commission and was presented by the applicant on October 5, 2009.

f) A Level I environmental study showing the presence of any hazardous waste.

Determined to not be warranted at time of application submittal and was not requested by the Commission.

g) Contour map depicting 15% and 25% slope lines measured at two foot (2') intervals.

The property is not within the County Mountain Overlay District. Therefore, a contour map was determined to not be warranted at time of application submittal and was not requested by the Commission.

Commission Review

According to Section 14.01.080, Commission Review, of Hailey Ordinance No. 889, the Commission's review should result in findings on 1) whether the proposed annexation will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan and (2) whether the proposed annexation generally complies with the Hailey Comprehensive Plan.

The Commission also makes a recommendation that the property sought to be annexed should be zoned as one or more particular zoning districts, as more fully described in the Hailey Zoning Ordinance. Pursuant to Section 14.01.040 consideration of zoning classification shall be consistent with the requirements and standards of Article XIV of the Hailey Zoning Ordinance.

To help facilitate the Commission's deliberation on the application, information on the reoccurring issues to date was summarized for the Commission as follows:

Trails and Park Requirement

The desire for a future formal (legal) trail along the river, running north-south through the property, to connect Heagle Park and Colorado Gulch Road is shown on the Comprehensive Plan Park, Trails and Green Space Map. The applicant has proposed a trail running south-east through the property to connect Heagle Park with the Broadford entrance to Colorado Gulch Road.

Both trails would be valuable community assets and would meet City of Hailey Comprehensive Plan Goals and Policies. It was suggested that the Commission consider including both trails as a recommended condition of annexation.

The required parks contribution of a development with 94 units is 2.6 acres. The 17 acres of "green space" proposed by the applicant would meet the park contribution requirements and would provide additional community benefit. The space would need to be deed restricted to ensure public access and use and to prohibit development. The "green space" parcel would not have to be annexed into the city in order to count towards the required parks contribution. Furthermore land within the floodplain can be counted toward parks contributions. The Flood Hazard Overlay section of the Hailey Zoning Code allows recreational uses in the Floodplain, but not in the Floodway.

Configuration of Lots and Zoning

While Title 14 of the Municipal Code requires the applicant to submit the approximate number and size of lots and a schematic design of the project, Title 14 prohibits the review of a subdivision application until after an annexation agreement has been adopted. Therefore, it was recommended that the Commission focus on zoning rather than the configuration of lots and design details of potential structures.

The Commission discussed whether the western and northern portion of the property should be zoned Limited Residential (LR-1) in the event the property is annexed. This would limit lot sizes to no less than 8,000 square feet in the portion of the property closest to the existing subdivisions to the north which are also zoned LR-1.

Involuntary Annexation

The four Tax Lots and the portion of Broadford Road that would be surrounded by land located within the city boundaries should this application be annexed, according to the City Attorney, would have to be annexed as well.

The logical zoning of these parcels would be designated the same zoning as the parcels immediately adjacent to the subject Tax Lots (TL 7731/7732 LR-1, TL 3913 SCI-SO, TL 7505 SCI-I). The existing uses would be allowed to continue if annexed into the city.

The city would not require additional right-of-way width associated with Silver Star Drive which separates Tax Lots 7731 and 7732. If the owners of those Tax Lots applied for a subdivision of their property in the future, then the road would be required to be brought into compliance with city standards.

The owners of the Tax Lots may have concerns over the costs associated with being annexed into the city. It was suggested the Commission consider recommending a condition of annexation that applicant pay for the cost of water and sewer infrastructure and connection fees or that the proposed annexation not be pursued as a means of avoiding the subsequent annexation of Tax Lots 7731, 7732, 3913 and 7505.

Future Growth and Density

Actual population growth since 1990 has ranged between 0.1% and 11.2% annually. The average growth rate since 1990 is 4.5%. Using this average growth rate to estimate future population growth, Hailey could potentially have a population of approximately 19,000 by 2025; an increase of approximately 10,000 people (see population projection table attached). This is equivalent to an additional 3,906 households assuming an average of 2.56 people per household.

There is approximately 243 acres of vacant land within the existing city limits. If the airport site is included a total of 443 acres of vacant land exists within the current city boundaries. Again, assuming 2.56 people per unit, an increase of 10,000 people would require 3,906 units. At a density of 4 units per acre, the existing vacant land would accommodate 1,772 units. An additional 534 acres would need to be brought into the city to accommodate the remaining 2,136 units associated with the projected growth.

To plan this growth *without* expanding the current city boundaries, the land use efficiency in Hailey would have to change from 1.31 units per acre to 9 units per acre. Current zoning would have to adapt to allow for this change in overall land use efficiency. Otherwise the city boundaries would have to be expanded by approximately 2,982 acres if developed at the current land use efficiency trend of 1.31 units per acre.

It is possible the City Council could limit future growth, however until that happens it is the responsibility of the city to plan for potential future growth. From a landuse efficiency perspective, 4 to 5 units per acre is reasonable to balance expansion and infill, does not significantly conflict with existing landuse patterns overall and would translate into developments with a mix of lot sizes; some similar to the larger 12,000 square foot lots found in the Limited Residential zoning district and some similar to 6,000 square foot lots found in the General Residential zoning district.

Traffic Impacts

Broadford Road is identified as a Pedestrian and Bicycle Route in the Comprehensive Plan Park, Trails and Green Space Map. The Broadford Road right-of-way width is 60 feet which constrains what type of facilities can be designed for the road. The proposed street section for Broadford Road has been developed through the Complete Streets planning process still to be reviewed by the Commission and Council and is included as an attachment. It is recommended that the applicant pay for improvements to Broadford Road in conformance with the anticipated standard recommended in the Complete Streets standards.

Improvements to Broadford Road and to the intersection of Broadford Road and Cedar Street were recommended as conditions of approval had the Commission concluded that the annexation should be pursued.

Applicable Comprehensive Plan Policies

The Commission considered whether the proposed annexation generally and specifically complies with the Comprehensive Plan. The table below highlights polices that are particularly applicable.

Topic	Comprehensive Plan Summary	Applicable Comp Plan Policies
Growth	Protect environment, quality of life, and infrastructure from damage by unchecked, unmanaged growth	1.5.2; 4.4; 7.1; 7.1.3; 10.3; 12.1.1
	Promote, manage and accommodate infill development, and control and/or limit expansion	12.1
	Future growth should pay for itself	12.1.5
	Limit exposure to natural and man-made hazards	2.5; 2.6; 2.7; 2.8
Land Use	Provide a balanced mix of uses and housing types	5.4; 5.4.1; 5.4.5; 5.4.7; 5.7.1; 7.2; 8.1; 8.2; 10.1.5; 12.1.2 12.1.6; 13.0
	Use land efficiently and ensure orderly residential development relative to public facilities and services	5.6; 5.6.2; 5.6.3; 5.6.4; 5.7, 6.3; 10.1.3; 13.0.1
	Use design standards to retain community character	5.5.2, 8.1.5; 13.0.1
	Consider public safety and welfare service needs	9.4; 9.6

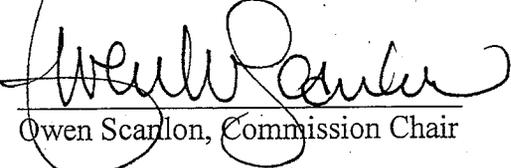
Topic	Comprehensive Plan Summary	Applicable Comp Plan Policies
Transportation	Increase opportunities for alternative transportation	5.7; 8.1.4; 10.1; 10.2; 10.3.1; 12.1.8; 15.12
	Reduce the need for residents to travel long distances	6.3.1
	Provide for creation and maintenance of transportation infrastructure	9.0.1; 10.3
	Consider public safety and welfare service needs	9.4; 9.6
Infrastructure	Maintain or improve service levels of all City utilities and facilities to adequately and efficiently provide for the health, safety, welfare and convenience of the City. Recognize that infrastructure limitations may at certain times necessitate certain controls or restrictions on development in order to maintain acceptable service levels.	9.1.1 – 9.1.8
Environment and Natural Resources	Protect wildlife habitat and migration corridors	1.1.3; 1.1.4; 1.3; 1.4; 3.4
	Preserve and protect water resources (watercourses, wetlands, groundwater)	1.1; 2.8.2; 5.6.1; 9.0.2; 9.0.3
	Preserve and protect green space and open space	1.3; 3.2; 3.4
	Protect the environment from damage	1.5
	Promote renewable energy, conservation of energy and natural resources	1.6; 7.1.5
Recreation	Create and preserve a variety of recreational opportunities	1.1.2; 1.3; 3.4; 4.1; 9.0.4
	Provide recreational opportunities in a financially responsible manner	4.2; 4.3

Based on the entire record the Commission finds that the application does not generally comply with the Hailey Comprehensive Plan. In particular, the application does not comply with the Hailey Comprehensive Plan concerning the availability of water resources and the associated impact of growth on water resources and orderly residential development relative to public facilities and services given the fact that some County property owners would be involuntarily annexed as a result of the proposal.

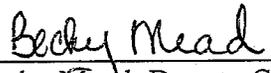
CONCLUSIONS OF LAW AND RECOMMENDATION

Based on the entire record and the above Findings of Fact, the Commission recommends that the application for Annexation be denied.

Signed this 7th day of DECEMBER, 2009.


Owen Scanlon, Commission Chair

Attest:

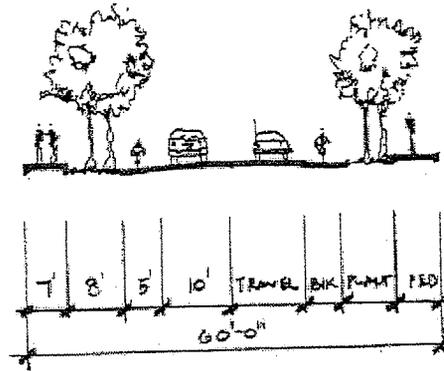

Becky Mead, Deputy Clerk

**Table 10 Population Projections
Wastewater Facility Plan
City of Hailey**

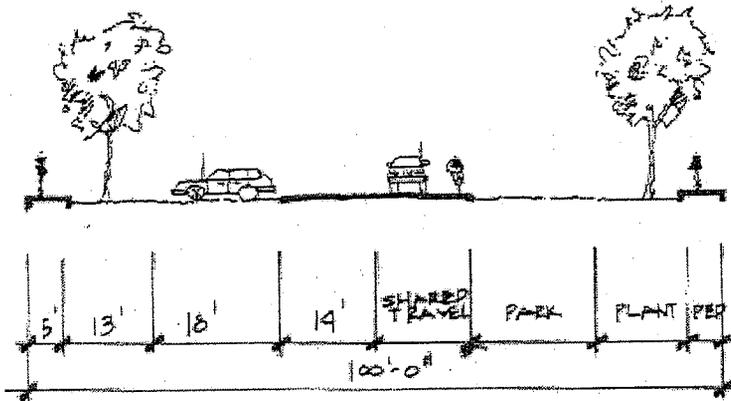
Year	(4.3%)		(2.5%)		(6.50%)	
	Population	Average Growth Rate	Population	Low Growth Rate	Population	High Growth Rate
1990	3,575		3,575		3,575	
1991	3,942	10.3%	3,942	10.3%	3,942	10.3%
1992	4,203	6.6%	4,203	6.6%	4,203	6.6%
1993	4,481	6.6%	4,481	6.6%	4,481	6.6%
1994	4,816	7.5%	4,816	7.5%	4,816	7.5%
1995	5,059	5.0%	5,059	5.0%	5,059	5.0%
1996	5,394	6.6%	5,394	6.6%	5,394	6.6%
1997	5,522	2.4%	5,522	2.4%	5,522	2.4%
1998	5,526	0.1%	5,526	0.1%	5,526	0.1%
1999	5,577	0.9%	5,577	0.9%	5,577	0.9%
2000	6,200	11.2%	6,200	11.2%	6,200	11.2%
2001	6,749	8.9%	6,479	4.5%	6,479	4.5%
2002	7,043	4.4%	7,043	8.7%	7,043	8.7%
2003	7,244	2.9%	7,244	2.9%	7,244	2.9%
2004	7,423	2.5%	7,423	2.5%	7,423	2.5%
2005	7,589	2.2%	7,589	2.2%	7,589	2.2%
2006	7,751	2.1%	7,751	2.1%	7,751	2.1%
2007	8,553	10.3%	8,553	10.3%	8,553	10.3%
2008	8,938	4.5%	8,767	2.5%	9,109	6.5%
2009	9,340	4.5%	8,986	2.5%	9,701	6.5%
2010	9,760	4.5%	9,211	2.5%	10,332	6.5%
2011	10,200	4.5%	9,441	2.5%	11,003	6.5%
2012	10,659	4.5%	9,677	2.5%	11,718	6.5%
2013	11,138	4.5%	9,919	2.5%	12,480	6.5%
2014	11,639	4.5%	10,167	2.5%	13,291	6.5%
2015	12,163	4.5%	10,421	2.5%	14,155	6.5%
2016	12,711	4.5%	10,682	2.5%	15,075	6.5%
2017	13,283	4.5%	10,949	2.5%	16,055	6.5%
2018	13,880	4.5%	11,222	2.5%	17,099	6.5%
2019	14,505	4.5%	11,503	2.5%	18,210	6.5%
2020	15,158	4.5%	11,790	2.5%	19,394	6.5%
2021	15,840	4.5%	12,085	2.5%	20,654	6.5%
2022	16,552	4.5%	12,387	2.5%	21,997	6.5%
2023	17,297	4.5%	12,697	2.5%	23,427	6.5%
2024	18,076	4.5%	13,014	2.5%	24,949	6.5%
2025	18,889	4.5%	13,340	2.5%	26,571	6.5%
2026	19,739	4.5%	13,673	2.5%	28,298	6.5%
2027	20,627	4.5%	14,015	2.5%	30,138	6.5%
2028	21,556	4.5%	14,365	2.5%	32,097	6.5% ⁽¹⁾
2029	22,526	4.5%	14,725	2.5%	34,183	6.5%
2030	23,539	4.5%	15,093	2.5%	36,405	6.5%
2031	24,599	4.5%	15,470	2.5%	38,771	6.5%
2032	25,705	4.5%	15,857	2.5%	41,291	6.5%
2033	26,862	4.5%	16,253	2.5%	43,975	6.5%
2034	28,071	4.5%	16,660	2.5%	46,834	6.5%
2035	29,334	4.5%	17,076	2.5%	49,878	6.5%
2036	30,654	4.5%	17,503	2.5%	53,120	6.5%
2037	32,034	4.5%	17,940	2.5%	56,573	6.5%
2038	33,475	4.5%	18,389	2.5%	60,250	6.5%
2039	34,982	4.5%	18,849	2.5%	64,166	6.5%
2040	36,556	4.5%	19,320	2.5%	68,337	6.5%

(1) Facility Plan Period to 2028

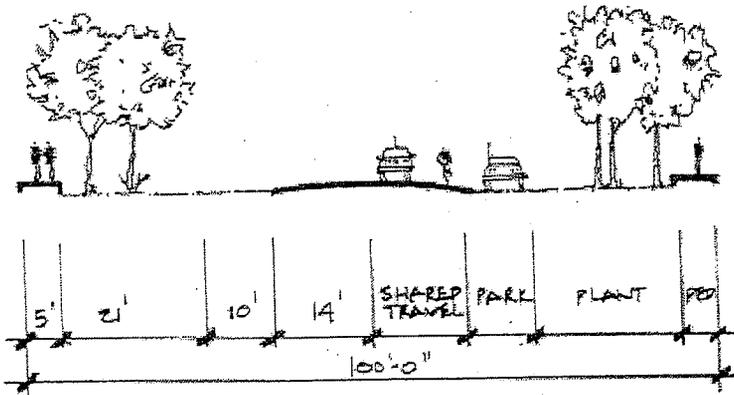
- I. Street Type: Residential
- Street Classification: Collector
- ROW width: 60'
- Parking: none
- Applies to: Broadford Rd



- J. Street Type: Residential and Historic Sidewalk District
- Street Classification: Local
- ROW width: 100'
- Parking: 90° angled
- Applies to: all 100' streets not already included in another type



- K. Street Type: Residential and Historic Sidewalk District
- Street Classification: Local
- ROW width: 100'
- Parking: parallel
- Applies to: all 100' streets not already included in another type



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of December, 2009, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

- | | | |
|-------------------------------------|---------------------|--|
| <input checked="" type="checkbox"/> | U.S. Mail | <u>Applicant:</u>
Stevens Family Ranch, LLC |
| <input type="checkbox"/> | Via Electronic Mail | 4644 Lincoln Blvd. Suite 552 |
| <input type="checkbox"/> | Via Facsimile | Marina Del Rey, CA 90292 |
| <input type="checkbox"/> | Hand Delivered | |
| | | |
| <input type="checkbox"/> | U.S. Mail | <u>Applicant's Co-owner:</u>
Jeff Pfaeffle, Managing Member |
| <input checked="" type="checkbox"/> | Via Electronic Mail | Heartland Development Co. LLC |
| <input type="checkbox"/> | Via Facsimile | <u>pfaeffle@cox.net</u> |
| <input type="checkbox"/> | Hand Delivered | |
| | | |
| <input type="checkbox"/> | U.S. Mail | <u>Applicant's Representative:</u>
Brian Yeager, Galena Engineering |
| <input checked="" type="checkbox"/> | Via Electronic Mail | PO Box 425 |
| <input type="checkbox"/> | Via Facsimile | Ketchum, ID 83340 |
| <input type="checkbox"/> | Hand Delivered | <u>byeager@svskylan.net</u> |
| | | |
| <input checked="" type="checkbox"/> | U.S. Mail | <u>Applicant's Land Planner</u>
David Clinger & Assoc. LTD |
| <input type="checkbox"/> | Via Electronic Mail | 21759 Cabrini Blvd. |
| <input type="checkbox"/> | Via Facsimile | Golden, CO 80401 |
| <input type="checkbox"/> | Hand Delivered | |

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk

AGENDA ITEM SUMMARY

DATE: 12/28/2009 **DEPARTMENT:** Admin & Legal **DEPT. HEAD SIGNATURE:** HD

SUBJECT Discussion of extending Rubbish Hauling Franchise Ordinance and Agreement from its expiration date in April, 2010 for a period of 3 years, until April 2013.

AUTHORITY: ID Code 50-329 IAR _____ City Ordinance/Code _____

BACKGROUND:

Recently Hailey was awarded an OER Grant for a feasibility study, which will be conducted in the next year and will study the feasibility of treating food waste, yard waste, sludge, and any other organic materials in a manner which will create compost. The treatment site will be a key element of the study, as reducing hauling costs to Ohio Gulch is one of the goals of the grant.

During the same period, a private business is exploring the feasibility of creating a compost center in the Bellevue Triangle, where organic materials generally hauled to the landfill can be hauled there to create compost.

At the end of 2010, Hailey should have a new vision for companies interested in hauling rubbish, which may include hauling 30% of the waste stream to a location other than the Ohio Gulch Landfill site.

At the same time, Blaine County government is considering whether or not it should take over management of the Recycle Center at Ohio Gulch.

With these potentially sweeping changes afoot, Hailey's current rubbish hauling contract and exclusive franchise ordinance is coming to the end of its term, which will expire April 10, 2010. Rather than producing a Request for Proposals and seeking new bids on a program which will have very few changes now but potentially a magnitude of changes in 2-3 years, we recommend amending the franchise ordinance and agreement to allow another extension (3-years), after which a full revisit of the program, with Request for Proposals and new contracts, can be pursued.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

Budget Line Item # _____ YTD Line Item Balance \$ _____

Hailey currently collects a 6% franchise fee and a 6% billing contract from the rubbish hauler, which amounts to more than \$150,000 per year.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:

____ City Attorney ____ Clerk / Finance Director ____ Engineer ____ Mayor
____ P & Z Commission ____ Parks & Lands Board ____ Public Works ____ Other

Hailey Environmental Leadership Program (HELP) has been consulted, and agrees that more feedback from the community is needed to improve the rubbish hauling program. Information gathering should be conducted in tandem with the feasibility studies.

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

We recommend extension of the current programs (agreement and ordinance) for up to 3-years, with the ability to move toward development of a new program earlier than 3 years should one of the compost alternatives be constructed as a completed project in less time than 3 years. Discussion tonight, with instructions to city staff to begin working on an extension agreement and ordinance, which will be published and adopted over the next several months.

HAILEY ORDINANCE NO. 840

AN ORDINANCE OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO, GRANTING WOOD RIVER RUBBISH, INC., A FIVE YEAR FRANCHISE WITH AN ADDITIONAL TWO YEAR RENEWAL TERM TO COLLECT SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF HAILEY, IDAHO; PROVIDING FOR DEFINITIONS; PROVIDING FOR MANDATORY SOLID WASTE COLLECTION; ESTABLISHING THE RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND THE CITY OF HAILEY; ESTABLISHING THE METHODS OF COLLECTION OF SOLID WASTE AND RECYCLABLE MATERIALS; PROVIDING FOR SOLID WASTE AND RECYCLABLE MATERIAL COLLECTION FOR ANNEXED PROPERTIES; REPEALING INCONSISTENT PROVISIONS OF PRIOR ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to adopt a comprehensive solid waste and recycling program for both residential and commercial properties within the City of Hailey; and

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to grant a single franchise to provide such services:

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO:

Section 1. GRANT OF FRANCHISE

Pursuant to Idaho Code §50-329, the City of Hailey hereby grants to Wood River Rubbish, Inc. ("Franchisee"), an Idaho corporation, the authority, right, privilege and franchise for a term of five (5) years, with an additional two (2) year renewal term, beginning April 11, 2003, to engage in the business of collecting, transporting, processing and disposing of solid waste and separated recyclable materials kept or accumulated and placed for collection by all residential and commercial customers within the corporate limits of Hailey, Idaho, and to perform all of the work described in the Franchise Agreements; provided, however, this authority, right, privilege and franchise does not extend to the self-hauling of solid waste or

recyclable materials, hazardous waste or medical waste. It shall be unlawful for any person or legal entity to engage in the business of solid waste and recyclable material collection and transportation over and upon the public right-of-ways within the City of Hailey, except as otherwise provided herein.

Section 2. DEFINITIONS

A. “Commercial customer(s)” mean those owners and/or occupants of commercial, light industrial, industrial, governmental and institutional uses, schools, all other businesses, and multi-family residential complexes consisting of five or more dwelling units, and those individuals and entities performing construction and/or demolition services that generate waste building materials for either residential or non-residential projects.

B. “Franchise Agreements” mean those agreements executed by Franchisee and the City of Hailey for residential and commercial solid waste and recyclable material collection for the term of the Franchise granted hereunder, and as subsequently amended.

C. “Hazardous materials” means any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Idaho to be “hazardous” as that term is defined by or pursuant to federal or state law.

D. “Multi-family residential complex” means a building or property containing two (2) or more dwelling units and includes duplexes, apartments, townhomes and condominiums.

E. “Recyclable materials” means products or substances designated by Hailey and the Southern Idaho Solid Waste District, including but not necessarily limited to paper, plastics, cardboard, aluminum, tin cans, glass, newspaper, magazines and oil.

F. "Residential customer(s)" mean those owner(s) and/or occupant(s) of single family residences and multi-family residential complexes consisting of four or less dwelling units.

G. "Self-hauling" means the collection, hauling and disposal of solid waste by generator of the solid waste in the generator's container and vehicle directly to the transfer station or a landfill.

H. "Solid waste" means any garbage, refuse or other discarded material generated by residential and commercial customers.

Section 3. MANDATORY SOLID WASTE COLLECTION

No residential or commercial customer shall be permitted to refuse to accept the solid waste collection and recyclable material services to be provided by the Franchisee in accordance with the Franchise Agreements. Except as otherwise provided herein, residential and commercial customers shall not be exempt from the payment of a mandatory weekly minimum charge established for solid waste and recyclable material collection services in accordance with this Ordinance and the Franchise Agreements. The payment of mandatory weekly minimum charges do not apply to those commercial customers who provide construction and/or demolition services that generate waste building materials for either residential or non-residential projects; provided, however, commercial customers who provide such construction and/or demolition services shall not be permitted to refuse to accept the solid waste collection and recyclable material services to be provided by the Franchisee in accordance with the Franchise Agreements and shall be billed for the charges for the collection services provided by the Franchisee in accordance with this Ordinance and the applicable Franchise Agreement. Multi-family residential complexes consisting of five or more dwelling units shall use container(s) provided

by the Franchisee in excess of the 95 gallon roll carts, while multi-family residential complexes of four or less dwelling units may use 32 or 95 gallon roll carts for each dwelling unit.

Section 4. RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND CITY

A. The Franchisee shall have the right and privilege to use the streets, alleys and other public right-of-ways within the City of Hailey, and to collect solid waste and recyclable materials, in accordance with this Ordinance and the Franchise Agreements.

B. The Franchisee shall collect all solid waste and recyclable materials from residential and commercial customers within the City of Hailey.

C. The City of Hailey is responsible for maintaining the streets, its alleys and its public ways in a passable condition. If such streets, alleys and public ways are not passable, then the Franchisee shall be excused from not making a proper timely pickup of the solid waste and recyclable materials.

D. The Franchisee shall make pickups only if the solid waste and recyclable materials are placed within the public right-of-way at the edge of any pavement or adjacent to a curb or placed in alleys on designated days as established by the Franchise Agreements.

E. Except as otherwise provided in Section 3 of this Ordinance, the City of Hailey shall charge all residential and commercial customers located within the City of Hailey standard weekly rates for collection and transportation of solid waste and recyclable materials. The City of Hailey shall also charge standard rates for extra pickups of solid waste and recyclable materials and other services. The standard rates shall be established by resolution, filed with the City Clerk. All charges for solid waste and recyclable material collection shall be due and payable to the Hailey City Clerk on or before the twenty-fifth of each month for which the service was rendered, and upon failure to pay within the time as prescribed herein, each

residential or commercial customer shall pay, in addition to the amount due, the sum of fifty cents, and interest on the delinquent amount at the rate of twelve percent per year. All delinquent charges or fees not paid within thirty (30) days of the date when first due shall be imposed as a lien against and upon the property or premises against which such charge or fee is levied or assessed. The City Clerk shall, at the time of certifying the City taxes, certify such delinquencies together with all penalties to the Tax Collector of Blaine County, all of which will be collectible as other taxes. Upon collection, the fee and interest on the delinquent amount shall be remitted to the Franchisee. In addition to the above, the City shall be entitled to disconnect the municipal water service where the property or premises is served by municipal water and such valve shall not be opened or placed back into service until all delinquent charges and fees have been paid in full. Prior to termination of municipal water service, the residential or commercial customer shall be given the opportunity to have a due process hearing before the City Council.

F. The Franchisee shall comply with all ordinances of the City of Hailey and all laws of the State of Idaho, and shall follow strictly a procedure of operation as to be sanitary. Franchisee shall replace all containers upright where found with lids on them. Containers and lids shall not be placed or thrown on the streets, alleys or adjoining property. The Franchisee shall not permit containers to be thrown from its truck to the pavement or parkway, nor in any other way permit damage to occur by rough or improper handling thereof. The Franchisee shall not permit solid waste or recyclable material to be spilled during collection and shall be responsible for cleaning up and removing such spillage.

G. Franchisee and its agents and employees, shall not enter enclosed structures, such as garages, enclosed porches, sheds, buildings or otherwise for the purpose of collecting solid waste and recyclable materials.

H. Unless otherwise provided in this Ordinance, the specific duties and obligations of the City of Hailey and Franchisee are more particularly described in the Franchise Agreements.

Section 5. DUTIES AND OBLIGATIONS OF RESIDENTIAL AND COMMERCIAL CUSTOMERS

A. Residential and commercial customers shall place all containers for collection of solid waste and recyclable materials on public right-of-ways at the edge of any pavement, adjacent to a curb, or in a convenient location allowing the Franchisee to collect the solid waste and recyclable materials and still allowing public access on the public right-of-ways. The containers shall be placed adjacent to the residential or commercial customer's property or premises on designated days as established by the Franchise Agreements. The containers for solid waste and recyclable materials must be clearly visible to the Franchisee from the street or alley from which collection is made.

B. Residential and commercial customers shall not permit any solid waste and recyclable material to be deposited or left in the public right-of-way or on private property, where the deposit of the solid waste or recyclable material was caused by the residential or commercial customer, or caused other than by the Franchisee's mishandling or spilling of solid waste and/or recyclable materials. The residential and commercial customer shall be responsible for cleaning up and removing such deposit of solid waste or recyclable material.

C. The residential and commercial customers shall not place or permit to be placed any hazardous material in any container placed for collection of solid waste or recyclable materials by Franchisee.

D. Residential and commercial customers shall place containers for solid waste or recyclable materials for collection no later than 7:00 o'clock a.m. on the designated day of collection, but no sooner than the evening before the designated day of collection. Following collection by Franchise, the residential and commercial customers shall remove the containers from the public right-of-way as soon as possible on the same day of collection.

E. No container used in the collection of solid waste or recyclable materials shall be loaded beyond its volume or weight capacity, or in such a manner to be unstable or likely to cause damage or create litter.

Section 6. ANNEXATIONS

If the city annexes additional areas, the Franchisee's right to collect solid waste and recyclable materials within the City of Hailey shall extend to the newly annexed area.

Section 7. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 8. REPEALER

Hailey Ordinance Nos. 459, 628, and 656 are hereby repealed in their entirety and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 9. PENALTY

Any person, firm or other legal entity violating any provision of Sections 2 and 5 of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment. Each day such

violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 10. EFFECTIVE DATE

Except as otherwise provided herein, this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law. The rates adopted under Section 4(E) of this Ordinance for solid waste and recyclable material collection services shall be effective beginning May 1, 2003; the rates in effect on the effective date of this Ordinance shall continue in effect through midnight, April 30, 2003.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 31st DAY OF MARCH, 2003.

Susan McBryant, Mayor

Attest:

Heather Dawson, City Clerk

Published: Wood River Journal April 9, 2003

HAILEY ORDINANCE NO. 866

AN ORDINANCE OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO, AMENDING HAILEY ORDINANCE NO. 840 BY THE DELETION OF WOOD RIVER RUBBISH, INC. AND BY THE ADDITION OF OBRAS, L.L.C., d/b/a CLEAR CREEK DISPOSAL, INC. AS THE FRANCHISEE OF THE FRANCHISE GRANTED BY THE CITY OF HAILEY TO COLLECT SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF HAILEY, IDAHO; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to maintain a comprehensive solid waste and recycling program for both residential and commercial properties within the City of Hailey; and

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to grant a single franchise to provide such services; and

WHEREAS, the Hailey City Council adopted Hailey Ordinance No. 840 that granted Wood River Rubbish, Inc. an exclusive franchise to provide solid waste and recycling services for both residential and commercial properties within the City of Hailey, subject to the residential and commercial franchise agreements dated April 11, 2003 ("Franchise Agreements"); and

WHEREAS, Obras, L.L.C., d/b/a Clear Creek Disposal, Inc. has sought and received approval to assume the duties and obligations of the Franchise Agreements; and

WHEREAS, the Hailey City Council Council finds it necessary to amend Hailey Ordinance No. 840 to show that Obras, L.L.C., d/b/a Clear Creek Disposal, Inc. is granted the franchises established in Hailey Ordinance No. 840, subject to the terms and conditions set forth therein and subject to the terms and conditions of the Franchise Agreements.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO:

Section 1. Section 1 of Hailey Ordinance No. 840 is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

Pursuant to Idaho Code §50-329, the City of Hailey hereby grants to ~~Wood River Rubbish, Inc.~~ Obras, L.L.C., d/b/a Clear Creek Disposal, Inc. ("Franchisee"), an Idaho corporation, the authority, right, privilege and franchise for a term of five (5) years, with an additional two (2) year renewal term, beginning April 11, 2003, to engage in the business of collecting, transporting, processing and disposing of solid waste and separated recyclable materials kept or accumulated and placed for collection by all residential and commercial customers within the corporate limits of Hailey, Idaho, and to perform all of the work described in the Franchise Agreements; provided, however, this authority, right, privilege and franchise does not extend to the self-hauling of solid waste or recyclable materials, hazardous waste or medical waste. It shall be unlawful for any person or legal entity to engage in the business of solid waste and recyclable material collection and transportation over and upon the public right-of-ways within the City of Hailey, except as otherwise provided herein.

Section 2. Section 6 of Hailey Ordinance No. 840 is hereby deleted in its entirety and replaced with the following language:

In the event the City of Hailey annexes additional territory during the term of this Ordinance, the Franchisee shall have the exclusive authority and privilege to engage in the business of collecting, transporting, processing and disposing of solid waste and recyclable materials, as described in Section 1 of this Ordinance, in the annexed territory for the remainder of the term of this Agreement, unless the additional territory annexed by Hailey is served by another solid waste and/or recycling company, in which case the Franchisee shall have the non-exclusive authority and privilege to engage in the business of collecting, transporting, processing and disposing of solid waste and recyclable materials, as described in Section 1 of this Ordinance.

Section 3. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 4. Except as otherwise provided herein, this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 22nd DAY OF MARCH, 2004.

Susan McBryant, Mayor

ATTEST: _____
Heather Dawson, City Clerk

Publish: Wood River Journal April 21, 2004