

**MINUTES OF THE REGULAR MEETING OF THE
HAILEY CITY COUNCIL
HELD MONDAY, NOVEMBER 28, 2005
IN THE HAILEY TOWN CENTER MEETING ROOM**

The regular meeting of the Hailey City Council was called to order at 5:30 p.m. by Mayor Susan McBryant. Present were Council members Rick Davis, Martha Burke, Don Keirn, and Carol Brown. Staff present included City Attorney Ned Williamson and City Clerk Heather Dawson.

CONSENT AGENDA

After a question about an invoice to US Bank for Hailey's Local Improvement District bond payment, Brown moved to approve the consent agenda as presented. Davis seconded; the motion carried unanimously.

- CA 373 Motion to declare meter system equipment as surplus equipment
- CA 374 Motion to approve Third Amendment to Planned Unit Development Agreement for Copper Ranch
- CA 375 Motion to authorize payment of claims for October and November invoices

OB 376 2ND READING ORDINANCE 925 - SUBDIVISION AMENDMENTS

OB 377 2ND READING ORDINANCE 926 - COX CABLE FRANCHISE

Mayor McBryant conducted the 2nd reading of Ordinance 925 and 926 by title only.

EXECUTIVE SESSION

Keirn then moved that the council go into executive session to discuss pending litigation, land acquisition, and personnel issues. Burke seconded; a roll call vote showed all in favor. The council went into executive session at 5:35 p.m. and emerged, after a motion and roll call vote, at 5:55 p.m.

INCLUSIONARY HOUSING AMENDMENTS TO SUBDIVISION ORDINANCE

Grotto introduced the concept of inclusionary zoning, regulations by which development can be asked to contribute deed restricted housing. She said the commissioner who voted in opposition to the ordinance as it is currently drafted was not opposed to community housing, but to the 30% density increase which the draft would allow.

Definitions within the new language include "community housing plan", which is a plan the developer would submit with a development that would later become binding upon the development. "Income category" is defined as well, starting at 51% of area median income to 140% of area median income. Although it is likely that the Blaine County Housing Authority may administer Hailey's community housing units, it is possible that another entity may do so, and so that is defined. Subdivisions of 5 or more dwelling units or lots will be required to put 20% of their lots into community housing. Community housing units are to be made available largely at the beginning of a development, rather than at the end of a development as we've been seeing under our PUD ordinance. Other

types of deed restrictions that the council may feel are important in a housing development could be approved in a community housing plan. The first alternative, discretionarily under the council's approval, is in-lieu fee for housing units. Another alternative is the conveyance of land. If a developer wants to provide community housing units off-site rather than within the development, they may be required to provide 150% of housing. The next alternative is consolidated community housing units, where two developers could go together and build one housing unit. A developer could propose studio units to meet unit requirements. If a very large family is on the list, a developer could ask for an alternative of a larger unit to satisfy, for example, a 1.2 unit requirement. An applicant can apply for complete waiver of the requirement, but would have to show that all the project's economic benefit is lost because of the requirement. Water and sewer hookup fees and building permit fees could be deferred until the time of certificate of occupancy.

Grotto then outlined the various densities that would accompany these community housing developments. Density bonuses were a change made at the last moment during the last commission meeting on this matter. When the lot sizes are small, she was concerned that setbacks may need to be reviewed. Payment of in lieu fees would benefit the developer in light of a density bonus. The parks dedication requirement is calculated on the base density, not on the increased density allowed under this 30% density bonus.

Williamson said inclusionary zoning ordinances have been upheld in the face of constitutional challenges. When drafting these ordinances, several elements are important. From the findings of fact a council should be able to leap into the ordinance and justify it. When we last touched the findings of fact, which are contained in the "whereas" clauses, we felt it all was there, even though some word smithing may be in order. The requirement is established, the procedure is laid out, and the crux of the matter is the community housing plan. Alternatives are suggested by the literature he has read, and several alternatives have been drafted. Incentives and concessions should be provided as well, and thus the deferral of fees, the density bonuses, and the parks requirements on base density are deemed to be incentives or concessions. The Blaine Ketchum Housing Authority's deed conveys title and has deed restrictions. It also addresses the pool of buyers and the procedure for getting a qualified pool of buyers. It also contains conditions and covenants, foreclosure action, and future sales. The deed does allow for rentals, and Hailey's goal has been to have owner-occupied housing. This ordinance can be complex or simple, depending upon the council's direction.

Brown corrected a density error of 20% on page 2, clarifying that should apply to community housing. She asked if in-lieu fees could be used for maintenance of units. Williamson said the fees could be used only for purchase of units. Brown asked if the commission had talked about a way to bank the fractional units. Grotto said that had not been discussed. She clarified that alternatives would need to be approved by the council. Mayor McBryant asked about the Blaine Ketchum Housing Authority's procedure for renting, and wondered why that would be used. Michael Davis said renting a unit is allowed for going to school or other legitimate short 1-year sabbatical reasons, when the owner shows clear intent of returning.

Townsend Gulch resident Jim Laski, owner of Countryside Villa, has been working with city staff on a development of 421 housing units. The idea behind the design is to make an affordable housing development. They are interested in how this proposed ordinance will impact that development. He questioned whether the density increase is appropriate in all locations. The question is do we want to change that type of project to increase the density. The cost to the community includes a loss of greenspace, with bigger and bulkier buildings. Without taking advantage of the density increase, the impact of the ordinance is alarming. Under our present scenario, the difference in the projected sales prices comes to \$207 per foot, a loss to the developer of \$23,750,000, or an additional load of \$700,000 for the remaining 80% of the units. The second option of using the in-lieu fees alternative, currently at \$180/square foot, results in a \$13,358,000 added cost to the project. This would be allocated across the entire market units. The incentive would be for developers to pay the in lieu fees rather than build the units. A tax is created on market rate units. Laski said it is a two fold issue – do we want all that density increase in Hailey, and is development in Hailey similar to the north county; are the costs out of reach? Prices are getting problematic, but Hailey’s proposed ordinance may become a component against creating reasonably priced market rate units. Units that are not deed restricted will be going between \$200 and \$500 thousand, but if we add this extra load, it will make those less reachable. It may work better if there is a sliding scale in respect to the density bonuses, with credits to developers for market priced housing, limiting some market appreciation for local based buyers. Credit also could be given for equity builders assisted purchase programs, where developers help first time buyers with down payment for sharing an equity stake in the houses.

Martin Flannes of Robin Hood Drive said he supported this concept generally. He does believe that density belongs in the city. Most valley residents want to see growth within cities rather than across the county at large. It is ironic that neither Sun Valley or Hailey has a seat at the table of the housing authority. Hailey should insist on being on that authority. The housing authority will own the land, and Hailey won’t have a say over the disposition of the housing and land. Some of the proposed ordinance language is loose in terms of providing units or make one available. He suggested more specific language such as “construct and offer for sale” be used, so you can tell when the requirement has been met. Who is to determine income guidelines, and does the sale price fluctuate with interest rates?

Jim Latta of 360 Croy Canyon said as chairman of First Bank of Idaho, has been an advocate in the background for affordable housing. Many years ago the state wanted to require insurance companies to give insurance to all, and the result was that insurance companies all left the state. The intent was good, but what was put in place didn’t work. He said that Laski’s comments were detailed, and emphasized that sometimes you need to run the numbers to figure out the results that will accord. There’s a clause that says the units will stay in affordable housing in perpetuity. In a foreclosure situation, the housing authority typically has the first option, then it goes to a market rate unit, and if that language isn’t in the deed, no lender will lend on these. Having the community

housing units up front is a hardship on the developer. If the ordinance is not inflexible, the goals and intent should be able to be achieved.

Jan Edelstein of Second Avenue South asked the council to think how Hailey might be 10 years from now if we do or do not act on this ordinance. In the last three years housing in affordable areas has doubled, and units are not there any more for the local economy person. We need to create the community housing inventory, and there's housing we need to make up for what we naturally lose in this marketplace. What is that inventory we need 10 years from now, and how do we get from here to there?

John Campbell, developer of the Cutters parcel, said his comments hinge around a point Williamson made about flexibility and alternatives. Laski's point of establishing a community housing method that is not based on the amount of money made or limits money made, but is based on the fact that a buyer lives and works in the valley. There are no restrictions on income to qualify in Telluride, the unit had to be owned and operated by someone who lived and worked in the school district. It is then guaranteed to be affordable. If those employees can't afford to buy the unit, the unit won't sell. That makes for a simpler system and is easier to implement. There would be no worries about improvements made by homeowners, or having to sign off on capital improvements made by the homeowner. He encouraged the council to keep their mind open. Some employees of the city may make too much money to qualify under current Blaine Ketchum Housing Authority income limits, but may not be able to afford a property.

Lisa Pettite of Cottonwood Street, said she is a member of Advocates for Real Community Housing (ARCH). Her husband is an electrician, and she teaches piano lessons at CSI. Her family's first preference would be to stay here, but it has been frustrating trying to find a home. She applauded the council's efforts and hoped that the ordinance would benefit Hailey, and would stop some of the commuting from outside the valley to local jobs.

Michael David of 222 Galena, and executive director of the Blaine Ketchum Housing Authority, thanked Lisa for making her comments, saying he and she are probably the only people who have spoken who can't afford to buy a house in Hailey. This is a very good draft of an ordinance, equivalent to drafts written by consultants. The housing authority believes that the City of Hailey should have a seat on its board. The city of Hailey has already provided units through its PUD ordinance. Four of the five buyers were Wood River High School graduates who wanted to buy back into this community. He said there is a need for setting out some clear definitions and standards, and for having some flexibility within the ordinance. Deed restriction is one method, but not the only method, of creating community housing.

Mayor McBryant closed the public hearing. She said that community housing has become the mantra of the year, and the city of Hailey put a moratorium in place to try to get its arms around this issue. The document is a cooperative effort between staff and the commissioners.

Davis said deed restricted units won't solve our problems in perpetuity, and he liked the mechanism that Telluride is using. He was not in favor of a 30% density bonus, saying it will be a huge cost to the city. In a perfect world, if developers helped people get into affordable units by paying a down payment, that concept would be worth looking at. If we are going to require 20% community housing participation, we need to start making money before we start digging into their pockets. Setbacks on smaller lots needs to be looked at. Standards requiring green construction makes these units harder to come by. Defining whether the 20% requirement is a problem needs to be figured out – what if this stops development in our community. We would have 20% of nothing. Pricing guidelines are a must. He is generally a proponent of some kind of ordinance.

Don Keirn said he favors an ordinance, and commended staff on its work. This is new territory, and whatever we come up with here we'll need to be flexible to address the problem. He would like the density limited to 20%, or have a floating element as an alternate. There's no question that the affordable housing will drive up the general market place, but some flexibility on the sale of market rate units up front may be helpful. We can work around the rental problem, and he agreed we should have a seat on the housing authority.

Burke said that there are many people in the room who could not afford to buy a house right now. If she hadn't bought 30 years ago, she would not be able to afford a house here. She had never heard of the Telluride option. She wanted to look at the rental option. 30% density may be too high. 20% of nothing won't drive the market down. She said there's a market component we haven't talked about in this setting.

Brown said she liked all the findings of fact paragraphs, they set the stage nicely. She would be willing to consider the leave of absence clause, although she was opposed to outright rentals. She would move the timing of the units to developer concessions. Community banking of fractional units would go a long ways. A 30% density increase is too much, 20% would be more appropriate. The concept is working under fair market value with our PUD ordinance; 5 units have been built. She liked the comment regarding flexibility, and her primary goal is to build inventory first. The department heads are the highest paid employees in city government, and we have only one department head that owns a house within Hailey. She isn't quite ready yet to go down the other option roads, such as Telluride. If growth slows down, that's not necessarily a bad thing.

McBryant said developers will develop when it suits their timing. A density bonus does not need to go hand in hand with this ordinance. This community has been planned out through hours of identifying how many people will live within each zone. She didn't want to see a density jungle in the middle of an established neighborhood, such as Woodside. The discussion about flexibility becomes interesting, and maybe a different formula on a reverse scale may be appropriate. People in the city would like to see development according to the plan that was in place when they bought their property. She felt other alternatives may need to be pursued. She questioned whether this document is the right place to include all the alternatives. Maybe those need to be in another document that is reviewed frequently. None of her comments refer to areas

currently not inside the city limits. Her comments are not meant for any area that may be annexed – the rules are different for those areas.

Williamson said Section 4.11.4.6 could be based upon residency and employment. It is one thing to base requirements on school district employees, that makes sense, but what about the other workers? How are we going to judge what that is? How do we judge what the other trades in the valley are, and what income those trades bring in, and how that is limited? Burke said if we spread our knowledge too thin, this won't happen now. Davis said this is a great format to start with, especially if someone comes with a plan for a project that gives us flexibility. Brown said she would support that only in the extent that it moved us forward in our goal for community housing. Burke said she read the ordinance several times, and until Grotto started to explain it, it wasn't a fluid thought process. She would like to continue fine tuning what was presented tonight.

McBryant summarized that although is does not support a 20% community housing requirement, the other council members did. McBryant also did not support any density bonus. Brown supported that comment. Williamson said it goes to the takings argument, a city needs to provide concessions if it is going to demand community housing. Quid pro quo should help immensely in the face of a takings challenge. We do have a potential challenge on property within the city.

Brown said one piece of information that would be helpful to her would be to know the large parcels. Williamson said there are many condo units in the downtown core, Ed Dumke's property, and a central Woodside parcel. Grotto said land subdivisions will be fairly limited around the city, but within the downtown core we could see a significant number of units. Brown asked what was the density increase on the units in the PUD process? Grotto said the private streets gave them more land to build on, and we required one unit of housing for 10 units constructed. Brown said if that stands up in a PUD, why wouldn't it stand up here? Williamson said it is voluntary in the PUD process, but in this matter there is no choice.

Brown moved to continue this matter to December 12, 2005. Davis seconded; the motion carried unanimously.

INCLUSIONARY HOUSING AMENDMENTS TO ZONING ORDINANCE

Grotto said originally the zoning ordinance included within each district a density bonus. She said it had been determined that it would be easier to present that information in a table such as that shown in the subdivision ordinance. As it stands now, this ordinance doesn't talk much about community housing. It simply sets out some definitions that mirror those in the subdivision ordinance. In the townsite overlay district there was no maximum density, and she said she will add that to make that very clear. Section 3 and 4 is the main part, with its changes to the PUD article. It contains a laundry list of amenities that a PUD can provide in order to qualify as a PUD. She increased that former requirement of 10% to be 10% above the new community housing requirement. We have talked about other things the city will need, such as off-site sidewalk improvements, underground parking, and sustainable buildings. Likewise she has taken

out any additional density bonus for community housing. She added a couple of new items that could qualify for density bonus.

Brown said asked how the parks requirement is different from those in the subdivision ordinance. Grotto said it is almost double the amount of greenspace requirement.

Mayor opened the public hearing. There was none. Brown said she wanted the density bonuses across the board significantly reduced. She questioned a density bonus at all in a PUD where a density bonus already exists. Davis too noted that density bonus should be limited within the PUD ordinance. Keirn said a not-to-exceed amount on total bonus categories needs to be established. Brown said the PUD is a good tool that has encouraged some creative planning, but she did not want to add density upon density.

Davis moved to continue this matter to December 12, 2005. Brown seconded; the motion carried unanimously.

COX COMMUNICATIONS FRANCHISE AGREEMENT

Williamson outlined Cox's recent reaction to wanting a longer agreement, and their unwillingness now to sign an agreement that they had previously said would suffice, and which the council had authorized its approval. Davis said within 5 years, technology will solve the problem. Brown agreed, saying it will take care of the offensive language problem. The council agreed that a shorter term and no offensive language is their choice.

WOODSIDE ELEMENTARY PUD AGREEMENT

Williamson said the city had come up with PUD requirements for the Woodside Elementary School PUD, but since that approval the school district said they could not meet the dates of the previous agreements. Another element to amend is that the payment of \$35,000 should have been due March 2006 rather than 2005.

Davis wanted to know why the school district couldn't perform under the dates. Williamson said a school district representative said the contractor couldn't make that happen.

Keirn said the neighbors were to be apprised of the schedule. Brown said she had talked with Harold Webb on Friday, November 25, who was stunned at the extension request. No representative of the school had been in contact with either he or Pat Robinson. He wanted to know how the area will be planned, and was concerned that there won't be an emergency access this winter. There are huge piles of dirt right behind the neighbor's houses. Davis said he walked the site with Brown. McBryant said the school district has focused on the affordable housing component and ignored the approval they were given. The applicant is not a good neighbor and has defied an approval that was given by a government authority. Williamson said a design review hearing before the planning commission on Dec 19 can not proceed without a signed agreement. That agreement can be negotiated between now and the next council meeting on Dec 12. He is disappointed that a school representative isn't here. Another more drastic measure would be for the

council to instruct revocation of some of the permits that have been granted. Davis said it is too late for the piles this winter, but what is the most upsetting is the lack of communication to the neighbors. Brown said had the school district chosen to contact the neighbors, we would understand better the need for extension. The silence is what is sending a different message to her which is not one that she can repeat.

McBryant wanted the removal of the debris at a minimum, and the removal of the dirt piles. Davis wanted some contact with the neighbors. McBryant said dirt could be removed at the end of April, rather than June, and she felt this matter is a real breach of trust. Hellen said weeds will become a problem by June as well. He suggested work start by April 30 and finish by May 15. Williamson suggested requiring a bond. Shay said building permits will be pulled by the district as soon as the design review approval is granted.

Mayor directed Williamson to contact the school district, let them know this matter has been continued to December 12. If not substantially underway by April 30, a percentage of the bond should be pulled by the city. She wanted the school to set up a meeting schedule with neighbors to inform them of progress.

INTRODUCTION TO WATER METER RATES

Hellen said some preliminary information had been presented to the council to outline highlights of the Chapter 13 ordinance rewrites that are being prepared. The biggest issue will be how we charge, taking out equivalent connections, basing hookup fees on the size of the service. Connection fees and base monthly bills will be affected by the same multiplier based on the size of the service. Fees for disconnection will be raised to \$50.00. Cross connections is a DEQ requirement, and applies to irrigation systems. DEQ wants us to do a test of the system each year, and he said the property owner will be required to have the test conducted at their own expense. He said the watering restrictions between 10:00 a.m. and 5:00 p.m. should be kept in place, but there is no need to retain the odd/even schedule. The metered rate is being structured under the goals of fairness and encouraging conservation. He would like to see a reduced rate on apartment units with little greenspace around them. The base bill will not include a cost for the amount of water used.. He said he will encourage the start of the metered rate in March.

Ray Hyde said we are now reading 2300 meters (of 2800 meters). Citizens are getting information they never had before, which has been a good educational tool. Two leaks were found that used over 600,000 gallons per month. Jan Edelstein said the average monthly use is 7000 per month – there is so much that can be done from an educational standpoint.

TRANSIT AUTHORITY

Brown said the attached agreement is being considered for adoption, and if Hailey wants to see it go any other way, we should speak up now. The greatest concern is how will the system get paid for, and so we do need an agreement to be responsible to owners of a valuable asset. We want to only be giving grant monies to one bus company in the

valley. If the two bus systems were merged, there is much more grant money that would be available. Mayor McBryant said she has had a conversation with a legislator regarding other parties trying to target future Hailey local option tax monies for this use. There is clearly an expectation that Hailey will contribute funds.

CONSOLIDATED DISPATCH

Brown said that there is mention in meeting announcement of a Memorandum of Understanding, which we haven't entered into. She is worried that we will suddenly be presented with a bill.

COUNCIL REPORTS

Brown said she is continuing to work with staff on an Area of Impact draft.

Keirn said he would like to revisit the leash law ordinance. Brown said she would like to revisit the matter. It is on the books that we won't enforce the law, but we are enforcing it.

The council directed the clerk to post the Blaine County 2025 meeting to be held on Wednesday, November 30, 2005 at 7:00 p.m. at the community campus, since a quorum of Hailey council will attend.

MAYOR REPORTS

Mayor McBryant said she has been approached with and is supportive of a concept to develop a Hailey Arts Council. It is appropriate in light of our efforts to keep our downtown vital. This concept needs to happen sooner rather than later because it ties to the decisions being made relative to historic overlay, townsite overlay, and to the discussions we're having about increasing density in the downtown core. Ketchum, for example, has a gallery district, which may have been promoted by building size requirements.

Mayor McBryant said city department heads had held back on spending 153,000. She has made her allocation out to give that back to departments, and will work that through with staff. That will require reopening the budget to appropriate these funds back to the departments.

Davis proposed 3 new appointments to the historic commission, John Sieler, Anna Mathieu, and Taylor Walker, and asked that those appointments be set on the December 12 agenda.

There being no further business, the mayor adjourned the meeting at 9:10 p.m.