

**MINUTES OF THE REGULAR MEETING OF THE  
HAILEY CITY COUNCIL  
HELD MONDAY, MAY 22, 2006  
IN THE HAILEY TOWN CENTER MEETING ROOM**

The regular meeting of the Hailey City Council was called to order at 5:35 p.m. by Mayor Susan McBryant. Present were Council members Rick Davis, Don Keirn, Martha Burke and Carol Brown. Staff present included City Attorney Ned Williamson and City Clerk Heather Dawson.

**OPEN SESSION FOR PUBLIC CONCERNS –**

Stefanie Marvel of 316 East Bullion Street said that during the preceding weekend, 5 old spruce trees in front of Hailey's old Forest Service property were taken down. They were on private property, and there was nothing we could do to prevent the trees from being cut down. She wanted to express concern about preserving Hailey's trees in a desert environment.

Becki Keefer of 1221 Green Valley Drive said she has been scrambling all day to find means of preventing this type of action. How far does the city want to regulate private trees on private property? She would like to expedite an inventory of trees that we deem heritage or community assets. She expected that the trees cut down were approximately 75 years old, and had not reached the end of their life-span.

Mayor noted letters from Joel Zellers and Chris Kastner, both of which urged adoption of a tree protection ordinance. She had received a number of phone calls. She suggested tying this discussion in with the demolition ordinance discussion later on the agenda.

**CONSENT AGENDA**

Mayor McBryant pulled CA 151 and Williamson pulled CA 157 from the consent agenda. Davis asked what is the date of sale for the surplus property listed in CA 152. Hellen said a date had not yet been set. Burke moved to approve the remaining consent agenda items. Keirn seconded; the motion carried unanimously.

- CA 150        Motion to approve Special Events Permit for Holy Tomato! Plant Sale to conduct an organic Plant sale from Zaney's Coffee Shop yard May 27-29<sup>th</sup>, Memorial Day Weekend
- ~~CA 151        Motion to approve construction noise and lighting waiver for Idaho Transportation Department's mill and overlay project period of 15 days during the month of August~~
- CA 152        Motion to approve surplus property (confiscated bicycles) to be sold at auction
- CA 153        Motion to approve Findings of Fact, Conclusions of Law and Decision for Old Town Mercantile Condominiums Final Plat

- CA 154 Motion to approve Development Agreement for Old Town Mercantile Condominiums
- CA 155 Motion to approve claims for expenses incurred during April, 2006
- CA 156 Motion to approve Treasurer's Cash Report for the month of April, 2006
- ~~CA 157 Motion to approve Excavation Agreement – Sweetwater Project.~~
- CA 158 Motion to approve Security Agreement for Rocky Mountain Hardware

CA 15 Mayor McBryant said CA 151 requires some public highlighting – she had been alarmed when she saw that coming forward for consideration. Hellen said the 15 days covers the entire span of the project, and that portion in the city limits will be only 3 to 4 days. Davis moved; Keirn seconded to approve the construction lighting and noise waiver for ITD's project. The motion carried unanimously.

CA 157 Williamson said the Friedman Memorial Airport runway extension is in need of soil, and airport officials have been in conversation with Sweetwater developers for the soil strata underneath the topsoil, for Sweetwater Phases 1 and 2. Topsoil would be scraped, stored, and the soil beneath would be used for the airport. A concern that there were no approvals yet are allayed because the agreement calls out that if approvals aren't obtained, the topsoil would be returned to the site and weed problems mitigated. Nor would the agreement constitute a waiver of Hailey's police powers relative to Sweetwater. A trigger date needs to be discussed. Jim Laski, attorney for the Sweetwater project, said a November 1, 2006 trigger date seemed reasonable to him. Williamson added that the developer is proposing underground parking, and the excavation is not in those areas, just the areas of the streets to an approximate three foot depth. Laski added that the number of trips of dirt being hauled through the city would be hugely reduced by approximately 1600 trips, and the airport is directly across the highway. Davis liked the idea of recycling the dirt and saving the airport money, and reducing fuel consumption. He moved to approve the agreement with November 1 2006 as a trigger date. Keirn seconded; the motion carried unanimously.

**OB 159 2<sup>nd</sup> READING ORDINANCE 944 – Inclusionary Community Housing**  
 Mayor McBryant read the second reading by title only.

**OB 160 2<sup>nd</sup> READING ORDINANCE 945 – Car Rental Shuttles Taxi Exemption**  
 Mayor McBryant read the second reading by title only.

**PROCLAMATION – FOSTER CARE MONTH**

Mayor McBryant adopted a Proclamation declaring May as Foster Care Month in the City of Hailey, urging all citizens to change a lifetime of another person by opening their homes to foster children. She said she has had some limited exposure to Foster Care Services in Idaho. A representative from Magic Valley Foster Care said he works in an eight county region for foster care. There is a tremendous need for foster caregivers right now. He mentioned the McKuen family in Twin Falls that has opened its home to over 400 foster children over a period of three decades. Provision of a dance, music, or martial arts class opens up hope for these children. Donations of suitcases are needed.

## **MAYOR'S REMARKS**

McBryant said on Thursday afternoon she declared an emergency for the City of Hailey relative to natural hazard flooding. City staff has given the time they had scheduled and the time they did not have scheduled to flood control activities. Street department and public works department employees have been onsite all weekend. Residents have been under unbelievable stress, and may seem hostile as a result of that stress. She expressed empathy for the stress of the workers. Power Engineers donated condominiums to emergency workers. Arrow Auto Storage would like to make free storage for the month of June available to residents of flood inundated areas of Hailey.

McBryant asked the curious to understand that the flood waters aren't clean. She asked people to respect speeds on these streets with heavy pedestrian use at this time. She said we are only able to make decisions as situations and conditions present themselves. She is proud of the work city staff had done in advance of this flood. The staff made every effort to provide safe access to a majority of people. There never was an effort made to try to prevent any one property from being protected. Conditions change so situations change. She had hoped to be able to remove the emergency condition tonight, but has learned from staff that we can't. We are going to continue in the state of emergency; a resolution has been prepared to declare the emergency to exceed 7 days initially proclaimed by the mayor, and extend the emergency to 30 days.

## **ROCKY MOUNTAIN HARDWARE REQUESTS PUD TEXT AMENDMENT**

Nick Latham, representing Rocky Mountain Hardware, said the parcel is a little over an acre, and has proposed a text amendment to allow more parking for employees of this type of industrial use, by reducing the required parking space size. City Planner Diane Shay said language has been drafted that would give the city the ability to modify the number of parking spaces through the PUD process, or to alter the dimensions of the parking spaces. Hellen felt that the 9x19 space would be fitting, based on a review of other city ordinances. Brown asked if there is no equivalent of a safety standard in parking lots. She clarified that we are not responsible for fender benders in these types of parking areas. Shay added that this type of modification could only occur during a PUD process.

Mayor McBryant opened the public hearing; there was none Davis noted that the showroom will remain in Ketchum, and the parking area will be largely used for employee parking. **Brown moved to adopt the text amendment to the PUD section of Hailey Zoning Ordinance 532, finding that the application is in conformance with the comprehensive plan and in the best interests of the public.** Davis seconded; the motion carried unanimously.

## **PUD APPLICATION FOR ROCKY MOUNTAIN HARDWARE**

Nick Latham said the PUD application has been filed for a manufacturing building. The project will be the first recertified building in town. A development agreement has been

prepared. Shay said the commission heard the application for design review, text amendment, and PUD on April 17 and made recommendations to the city council. Underground parking is the amenity requested by the PUD.

Mayor McBryant opened the public hearing; there was none. **Brown moved to approve the PUD, contingent upon approval of the text amendment, and that the lighting shall comply with Hailey outdoor lighting ordinance.** Davis seconded; the motion carried unanimously.

## **DEMOLITION ORDINANCE**

Grotto said the historic preservation commission held a special meeting to complete drafting this ordinance since the city council last met.

Denise Jackson Ford of 421 Eureka Drive said has been working actively for 4 months on this ordinance. The key points most important to the commission included maintaining aesthetics of the environment. We have not been able to completely collaborate with Becki Keefer and the Parks and Lands Board regarding the tree ordinance. The draft introduces concepts of landmark buildings and trees to preserve local landmarks in perpetuity. Landmark buildings have specific definitions, including qualification for the historical register and community identity. The concept can be applied to large trees. 53% of the historic commissions have tree landmark protection provisions.

The process outlined in the draft ordinance requires a professional surveyor to conduct analyses of a site prior to demolition. The Hailey Historic Preservation Commission would aid in review of applications. A Notice of Intent would be posted on the historic preservation page of Hailey's website and would be mailed to properties within 300 feet, and interested agencies such as the Wood River Land Trust. 180 days is the maximum notice period required by state code. The 180 days should run concurrently with design review process. Item 4 is the core of this ordinance, requiring a re-development plan to be approved through design review process before demolition can occur, which prevents speculating and "flipping the site" for economic gain. It also prevents demolition by neglect. She recommended putting a moratorium on tree removal, or expand the existing moratorium on structures to trees as well.

Burke asked how to prevent purposeful neglect of trees. Ford said legacy trees will not die for lack of water. Brown asked if the 180 days is a firm and fast date. Ford said it is, even if the work has been done, and she doubted the coordination of design review could be obtained faster than 180 days. Brown asked about the process of recommendation.

Williamson suggested meeting with the commission to answer his numerous questions. McBryant said some landowners may currently have plans to demolish a building and are faced with our moratorium. What leverage does the council have to define terms of the moratorium? Williamson said we can do an emergency moratorium under the local land use planning act, and those permits are covered under that act. He did not see how we could do a moratorium on trees. Brown said we can define a class of trees that affects

everyone equally. McBryant asked if the general ordinance can restrict cutting down trees. Williamson asked if the city has authority under its police powers to prevent the cutting of trees on private property. He did not think so. How can we fashion an ordinance that will control and regulate trees on private property? McBryant said people are passionate about the things that make the town their town, and part of that is trees. It's incumbent upon the council to aggressively pursue action that prohibits that type of action. The issue has been creeping up over the last 2 years. The decision is to aggressively try to have that control or walk away from this issue.

Brown said we must be select on what we are preserving, and can't abuse that. She saw Main Street as the top priority, because absence of Main Street trees is noted. We can't abuse that authority, but she wanted to move forward. She said those trees may have been cut because there is an awareness that Hailey is working on restrictions. She favored adopting an ordinance to prevent removal, then having community dialogue about what is important.

Mayor McBryant opened the public hearing. Anna Mathieu asked if we could protect the trees under a scenic corridor approach. Rob Lonning said the commission had used the Ketchum demolition ordinance as a starting point, and saw that other western communities had done things more comprehensively. Hopefully we will have some muscle in our ordinance. Teddi Daley said Hailey is too grand of a city to have what happened Sunday happen. The ordinance has to go forward. Ford said it is important for these ordinances to go to the professional community that is the liaison between city and client. She said she has information on quantification and qualification of trees.

Keirn was concerned about the process for demolition of non-historic buildings. He was concerned about the level of staff work, and the involved process may create a takings. The non-historic part may be superfluous here.

Davis said the historic overlay should mirror the townsite overlay. Brown wanted to make the commission a recommending body to the planning or building department. Davis said landscape features are part of a historic site. Keirn said reference needs to be made to International Building Code on demolition processes.

Burke asked the council if they would support placing a moratorium on the removal of healthy trees taller than 40 feet. Davis said he was concerned with enforcement. Burke said the townsite discussion is related to the view corridor along Main Street. Brown suggested we ask Ketchum to lend us their community forester for a brief period of time. McBryant said she has been sworn to uphold the law, and we have been given a legal opinion that a moratorium may not be lawful. She said if the motion proposed is adopted, she will veto that. Brown said the law is silent, which is different than opposed. Since we have this second meeting coming in a few days, she suggested we not take the action for another 2-3 days. Keirn agreed about dangers from liability of trees falling. Williamson said the notice that would be required to even consider a moratorium hasn't occurred for tonight. Keirn suggested requiring permits for tree removal. Brown said that

is where the tree ordinance is headed. Burke withdrew the motion, citing pressure from the city attorney as her reason.

**Brown moved to continue the demolition ordinance to the June 12 meeting of the city council.** Keirn seconded; the motion carried unanimously.

### **FIRE CODE REVISIONS**

A certain set of restrictions raised from the 30 foot to the 40 foot level. It's probably not an undo hardship, doesn't require three accesses, only 2, because of the required fire suppression sprinkler system. One editorial change on the permit fees, when originally adopted, site inspection based off of building plan review fee.

Beginning of 2<sup>nd</sup> tape – somebody moved and seconded to adopt the new ordinance.

### **APPOINTMENT OF HAILEY LIBRARY BOARD MEMBER**

Vicki Shapiro was nominated by the mayor for appointment to the Hailey Library Board. **Brown moved and Keirn seconded to approve that appointment.** The motion carried unanimously.

### **APPOINTMENT OF HAILEY ARTS COMMISSION MEMBERS**

Mayor McBryant deferred this matter to a future meeting.

### **FUNDING REQUESTS – WOOD RIVER LAND TRUST BROCHURE**

Mayor said the city had received a funding request outside of the budget planning that we are about to do, from a not-for-profit which we have not contributed to previously. There are some discretionary funds in the council's budget, but she cautioned the council against creating a perception that Hailey is getting involved in a political position. Some of the actions of a conservation group are not always supported by the public at large. Shay was concerned not so much with spending the money but ensuring that what the brochure says does not conflict with flood ordinance. City staff would want to have editorial oversight. Brown said she looks at these requests to see if the group objective ties to Hailey's comprehensive plan. We have flood plain information that we give out. Keirn felt it may be redundant. Brown suggested offering what we've done to the land trust. Burke suggested we don't give the money unless the brochure has been approved. If it meets our needs, it would be great. Shay was asked to prepare a memo for the next city council meeting.

### **FUNDING REQUESTS – COUNCIL YOUTH CIRCLE**

Davis said he respects what the council circle does for the young community. Taxpayer money needs to be spent on what affects the whole community, not the few. Keirn said it is almost a school district function, and he wasn't willing to spend taxpayer money on it.

**Davis moved that the council youth circle's request for funding be denied.** Keirn seconded. The motion carried unanimously. Betsy Castle of 300 West Croy said her group is starting to offer elder circles, family circles trying to include all the taxpayers in the valley. Mayor McBryant asked that these requests be submitted in June for the next year budget.

## **RESOLUTION DECLARING EMERGENCY**

Keirn moved to adopt Resolution 2006-06, and authorize the mayor to sign this resolution declaring an emergency due to flooding for a period of 30 days. Brown seconded; the motion carried unanimously.

## **SPECIAL MEETING**

The mayor then set a special meeting at 7:30 a.m. on Thursday, May 25, 2006 for the canvass of the May 23, 2006 election, review of the tree cutting moratorium, and ordinance readings.

## **WORKSHOP**

Brown noted that the Peak Bus has requested to increase the route on Woodside. Mayor had no quarrel with donating the labor. Keirn moved to accept the changes. Burke seconded. The motion carried unanimously.

## **COUNCIL REPORTS**

Brown said the Environmental Resource Center's clean up day was a huge success. Two years ago the group took 2 dump trucks of refuse out of Lion's park, this year we took out five bags.

Brown said she had attended the Thursday Blaine County 2025 meeting, a workshop meeting meant for the staff to highlight recommended changes for the board. They view PUD's differently than we do. Don't see PUD's in large open areas, just around cities. A map needs to be established identifying receiving zones for TDR's. One use of TDR's is to accommodate house sizes over 5500 square.

Keirn planned on attending a housing authority meeting tomorrow and an E911 meeting on Wednesday.

Davis encouraged all to vote tomorrow.

McBryant said there was a time when we were talking about annexations and trying to define why we would annex, and discussed why we wouldn't annex. Her lot was annexed years before she came on P&Z and the house was built before she bought it. She went into her purchase with open eyes. It is scandalous for a community to knowingly plat property upon which damage will occur. People who live in the Justus property

wetlands area came and spoke with passion about what they knew. She watched this council struggle, and it said no. She hoped this gets recorded in people's memories because you hurt your town when you knowingly allow people to live where they will be endangered. She hoped we never entertain annexations south of or current boundary. There is no reason to bring that financial burden and the burden for those peoples' welfare into our town.

Hellen asked for a couple of elected officials to be present tomorrow at 4:30 to meet with ITD officials.

There being no further business Mayor McBryant adjourned the meeting at 8:05 p.m.

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Susan McBryant, Mayor

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Heather Dawson, City Clerk