

**MINUTES OF THE REGULAR MEETING OF THE  
HAILEY CITY COUNCIL  
HELD TUESDAY, JANUARY 30, 2007  
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 Council President Rick Davis. Present were Council members Don Keirn and Carol Brown. Mayor McBryant and Martha Burke were absent. Staff present included City Attorney Ned Williamson, City Administrator Jim Spinelli, and City Clerk Heather Dawson.

**APPOINTMENTS**

Davis indicated the mayor had asked him to alert the council that the appointment of a KART/PEAK Board member will not be made tonight, but tabled.

**CONSENT AGENDA**

Consent Agenda items CA 26 were pulled to be discussed concurrently with NB 40 and CA 27 was pulled because of public interest.

Brown moved that the remainder of the consent agenda items be approved as presented. Keirn seconded; the motion carried unanimously.

- CA 26 Motion to approve Letter of Intent to apply for Idaho Safe Routes to School funds with Wood River Rideshare and Blaine County School District
- CA 27 Motion to conditionally approve Liquor License for Zou 75 Restaurant, and adopt Resolution waiving the restriction pertinent to selling liquor within 300 feet of a school or church; approval contingent upon completion of license application after state receives Resolution and issues it's license
- CA 28 Motion to approve 2007 Taxi License for A-1 taxi
- CA 29 Motion to approve Fireworks Agreement
- CA 30 Motion to approve findings of fact, conclusions of law, and decision for annexation of Tax Lot 7273
- CA 31 Motion to approve findings of fact, conclusions of law, and decision for Quigley View Condominiums Community Housing Plan
- CA 32 Motion to approve Lease Agreement with CAP 13 Inc, for use of Chris Pilaro's lot as city park
- CA 33 Motion to approve claims for expenses incurred during December, 2006

**CA 26 Liquor License requested by Zou 75 and Steve Clayton**

Davis opened the floor for discussion of a new liquor license application within Hailey Brad Gelskey said there were some concerns among residents around Zou 75; he had submitted a letter and a map. There are fire safety issues already with sale of beer and wine, and the increase of business and changed clientele frequenting a bar at that location would be incompatible with the residential area.

Lynn McDonald said Rob Cronin is planning to sell the business. She said her business is on First Avenue and she has only four clients at a time, and does not generate complaints. There been issues with the restaurant parking. With an added liquor license, there will be drug dealing on the front lawns of the surrounding residential property; it's not controllable, that's what happens in Hailey. Children live in proximity Zou 75.

Paul Bernstein of 417 First Ave North said he had a high regard for the restaurant owners. Parking is a problem, and he questioned what is next. Anyone could buy it and turn it into whatever they want. He asked the council to vote no to this business use which would be right behind his house.

Tom Bergin said he couldn't substitute his opinion for the neighbors, but their opinion has nothing to do with the question before the council tonight. He does not see how adding liquor will increase the traffic. County commissioners have to approve these applications annually, and they have never had any complaints about any restaurants in Hailey.

Leann Gelskey of 511 First Ave North said parking does go hand in hand with the restaurant. She asked the council where it wants to see the trend going in Hailey. If the council does allow this, she would like something in return. Her property value will go down.

Lynn McDonald said the other bars in town are in a real commercial area. Drugs come with alcohol. There will be dealing on our front lawns.

Rob Cronin appreciated the concerns of the neighbors. Zou 75 is not up for sale anymore, and it will be five to ten years before we try to sell again. Steve Clayton, the recipient of a new Hailey liquor license due to higher population, called looking for a place to park the license. The last thing Cronin wants is a bar, and the problems associated with one. Clayton has been on the list since 1976, and state rules require him to attach the license to a property and season it for 2 years before he can sell it. The restaurant only has room for six standard liquors. He doesn't want to stay open later than 11:00 p.m. We plan on marketing only to the same high-end clientele that we currently have, and to do so we can't pack in a bunch of knucklehead drinkers. Cronin said he turned the Red Elephant into a quality establishment. He offered to work with residents on no-parking issues. There are time issues relative to this application; the applicant has six months to park the license, and that six months will expire in early February. Clayton plans on donating a substantial amount of his proceeds back to local charities. Cronin said his business at Viva Taqueria generated no negative issues with the neighbors.

Dawson noted that Idaho Code reads slightly different as it addresses waiver of restrictions on alcohol within 300 feet of a church for different types of alcohol beverages. The beer and wine sections do not contain a phrase contained in the liquor section which speaks specifically to areas that are primary residential. Brown asked what the zoning is behind the business. Grotto said it is General Residential behind the alley and between the alley and Main Street it is zoned Business and is within the Commercial

Core Overlay. Brown asked if there can be conditions put on the license. Keirn asked if the restaurant changes hands, could the matter be reviewed again.

Ed Redman, representing Steve Clayton, said this is a black and white issue when comparing a full service bar to a restaurant which sells liquor. The more food sales you have, the easier the clientele is to deal with. All the neighbors have to do is complain in order to take the license off the table. Williamson said a license is renewable, and there are three levels of review, state, county and city. Brown said the city had received a letter from Steve Clayton, which talks about ½ of net proceeds being factored into Hailey charities – she felt that isn't appropriate and has set that comment aside from her deliberations.

Brown said there are problems when business property abuts residential. Viva has a full liquor license; Main Street is where liquor licenses belong. Keirn said this is a management issue, and Cronin has the management capability. Davis did not have problems with the waiver. Keirn moved to allow a waiver of state restrictions relative to the selling of liquor within **300 feet of a church, and to approve a liquor license at 416 North Main, contingent upon complete and satisfactory application.** Brown seconded, and entered into the record that the parking concerns will need to be addressed. The motion carried unanimously.

#### **NB 39 AIRPORT CONSTRUCTION NOISE WAIVERS**

Rick Baird asked for extended construction hours at Friedman Memorial Airport. He said the contractor would be asked to conduct work between 7 and 9 p.m. that is more conducive to being a good neighbor, and less intrusive than the earlier daytime work. Davis said received no letters opposed, but several letters in favor of Baird's request. If Hailey does not allow the waiver, neighbors will be subjected to 127 more hours of airport construction time. Keirn said his figures had been similar, and the return is that there will be no noise from airplanes for a couple of months. Brown said she would rather not drag out the project longer, to avoid further impact.

Clerk said Martha Burke had asked, despite her absence, that her approval of the application be entered into the record.

**Brown moved to allow the waiver of noise ordinance, as presented with one correction.** Keirn seconded; the motion carried unanimously.

#### **PH 34 PRELIMINARY PLAT – OLD CUTTERS SUBDIVISION**

Jim Speck said Cutters has met all the requirements asked by the city. Agreements are signed with ditch users, and a letter is in the file from Fackrell of the Blaine/Ketchum Housing Authority. A trail access has been provided at the north end at the back of the lot. He has not seen a thing relative to the north road entrance to the subdivision. Grotto's conditions are acceptable to Cutters.

Grotto said pursuant to the canal maintenance agreements; plat notes have been expanded to add more information in it. Williamson said easement agreement between Marathon Partners and Old Cutters have been signed. He wanted to make sure Hailey had some rights to the agreement, and was successful in making Hailey a party to that agreement. Speck referred to a community housing plan, drafted in accordance with Williamson's suggestions.

Davis opened the public hearing. Tom Bowman said Blaine County's concerns haven't been acknowledged, and introduced Stan McNutt, interim county administrator. McNutt said the issue needs to be addressed prior to final plat approval. The county road department has been concerned with the access plan. It is presumed that a right of way is automatically legally made a public roadway. The potential cost to the county of having to build Hiawatha Drive hasn't been addressed. He requested a delay to study this matter properly. Joint cooperation between city and county is paramount.

Becky Keefer said the applicant has agreed to build a trails system on the east side of the canal. The preliminary plat insures internal circulation for pedestrians. The BLM is partnering with Blaine County on a draft recreation plan. She said the Hailey Parks and Lands Board would prefer the trail plan be coordinated with the larger plan.

Lily Simpson of 7 Quigley Lane felt the process should be slowed down. Non-game habitat has not been considered in planning the trail on the east side. She preferred a west side trail. The applicant should be providing recreation on his property, not on the BLM land.

Jim Laski, representing the Johnson's and Wells, said it became clear through conversations following the last meeting that the Cutters did not have interest in helping resolve this situation. He has been unsuccessful in getting a conclusive answer from the property owner Mitchell and his representatives relative to a redesigned road through Mitchell's lot.

Evelyn Philips of 20 Quigley Road wanted more clarity about the trail and to explore the possibility of putting it on the west side of the ditch.

Lia Johnson said in talking to neighbors, a suggestion that a crosswalk be proposed at the intersection, and possibly signage, had been expressed.

Davis then closed the public hearing on the Old Cutters preliminary plat application, saying he would bring this back to the council and asked if anyone had questions of the staff or anyone else.

Keirn asked how long is the county going to take? This has been going on for 2 and a half years. With you guys jumping in now, it would have helped if the county would have done this a year and a half ago.

Tom Bowman said we don't know what information we have on this, and asked if the traffic study has been forwarded to the county. City staff said it had been. Bowman asked to what department it had been sent. Shay said it had been sent a long time ago. Brown added that the traffic study had been done over two years ago. Bowman said the county's letter of October brought that concern up. Now, if the city had responded to that letter, he is unaware of it. Grotto said she had responded in a memo that noted that she had spoken with Spencer Daws, the son-in-law of Mr. Mitchell, and that Mr. Mithchell is not interested in changing his property. Bowman asked what that does for the intersection. If the county does not open that right-of-way, which Mr. McNutt now informs us is an optional process, what happens to the north entry? Is it possible to make this a Hailey only issue, so it doesn't have to come out through a county road? Or is there a way to at least delay that northern section? Or is there a way to delay phases until the northern part can be dealt with so you don't have to use this until those road improvements can be made?

Brown said the road is in the county, and the county only has the authority for right of ways condemnation, so, to the extent that Hailey has been able, we sent everyone to try to figure this out at previous meetings and come back to us. Bowman said county representatives have stated to residents that the county is willing to do everything it can short of condemnation. With the shadow of Proposition 2 and the eminent domain, we are reluctant to condemn that for economic reasons. However, it still needs to be dealt with. Everyone will agree this is not the best situation for the amount of traffic that will occur there. Hellen said he would design the road the way it is designed, it is in the appropriate place. It's a three-way intersection, it ought to be safe. Bowman asked if Hellen had to do that all over again, if the Buttercup Subdivision wasn't here, it this how Hellen would design it if there were no houses here? Hellen said if there were no houses here, no, but then you would have free range to do something proper. They're dealing with something preexisting, which was actually platted by the county in the first place, which was actually three accesses into that property, and they're only using the northern and southern ends of it. Bowman said the disposition of these accesses were not dealt with the Area of City Impact Agreement that is in place. Of course we never anticipated this. Also, Buttercup Subdivision was platted before the county zoning ordinance was in place. Whenever this was platted it was not anticipated that this type of subdivision would be out in an alfalfa field.

Davis asked Keirn if there are any questions of staff, but Bowman asked McNutt to add, saying he may have missed something. McNutt said the road and bridge department maintains that this kind of traffic would require rebuilding the county road, Hiawatha Drive, at the county's expense. The purpose of local government is to examine the cost of development and mitigate the impact of that at the cost of the developer on a proportional basis. So he only was aware of this situation on the 15<sup>th</sup>, and he has been actively trying to get some communications going, but only learned today that this hearing would be held, so someone had to come and bring the current position of the county.

Jim Speck said he would like to ask Mr. McNutt a question. Davis said he didn't want to get into a debate here, and said he would bring this back to the council.

Davis said the city had held extended decision on this twice to allow the neighbors to work on the road issue. He has a hard time holding the project hostage waiting on a third party decision. He has yet to see the county participate in the rebuilding of the road and bridge on west Bullion as traffic has increased in the county west of Hailey.

Brown said she could approve this application with conditions A-T, and with modification to condition N, and she would like to subject condition N to a final BLM recreation plan. Grotto agreed that it would be helpful for BLM if the high ditch users look at the entire trails system. If there is an alternative that can be arrived at prior to installation of the infrastructure, we would be open to making those modifications. Currently the application meets the recommendations of the Hailey Parks and Lands Board.

Brown was not thrilled with the road configuration. She would be willing to give one more extension to allow the county and neighbors to find a solution.

Brown moved to approve the preliminary plat as presented, with conditions A-T, with N modified as noted previously regarding pathways, and pending the north entrance issue, to require one final delay to Hailey's next regularly scheduled council meeting. Keirn seconded. Williamson suggested no partial approval be made in the motion; just to continue the matter. **Brown withdrew her motion and moved to continue the preliminary plat application to February 12, 2007.** Keirn seconded. Davis felt embarrassed by this because the county has decided to jump in at the last moment with non-proven theories about how to make things better. The motion carried with Davis opposed.

### **PH 35            GEOFF MOORE TN ZONE CHANGE LOTS 13-22, BLOCK 15**

Geoff Moore said he felt he was in conformance with the comprehensive plan on several issues relative to his zone change request to Transitional Zoning. He described the types of businesses in the TN zone to exemplify how nicely the zone works adjacent to residential areas.

Grotto displayed a map showing the surrounding uses. The commission heard this on December 4, 2006, and recommended denial.

Davis opened the public hearing. Peter Lobb of 403 East Carbonate said this is a bad idea, as it creeps into residential neighborhoods. The parking is a concern relative to professional offices such as engineering firms. This will affect the people across the alley, and would continue the business creep into residential areas.

Rob Lonning of 415 Second Ave South was opposed. Grotto read into the record a letter in opposition from Elizabeth Jeffrey of 415 Second Ave South. There was no more public hearing.

Keirn was inclined to follow the commission's recommendation. Brown said TN serves as a buffer between residential and intense business use, and she would therefore uphold the commission's decision as this parcel does not border intense business use. Davis said TN zone will be moving northward more than east and west. Keirn said this property doesn't yet accomplish what the TN zone is meant to do. Moore wanted to know if the Purpose section prevents later re-application.

**Brown moved to uphold the Hailey Planning and Zoning Commission's decision to deny the rezone application based on their findings of fact.** Keirn seconded; the motion carried unanimously.

**PH 36 SWEETWATER LARGE BLOCK FINAL PLAT**

Garth McClure of Benchmark Associates said this application creates five large blocks within the property. It combines the existing Woodside Subdivision blocks into the subject 5 blocks, vacates and relocates the platted Maple Leaf Drive, which will be dedicated to the city as part of this plat. Laski added that condition B be modified so that infrastructure is in accordance with the PUD agreement. He was concerned that there is no confusion regarding the timed phasing. Davis opened the public hearing. There was none.

**Brown moved to approve the final plat for Sweetwater as shown in packet, with conditions A-J, modifying condition B to incorporate acknowledgement of the PUD agreement and phasing.** Keirn seconded; the motion carried unanimously.

**OB 37 ORDINANCE 981, EHRENBERG ANNEXATION**

Keirn moved that first reading of Ordinance 981 be read by title only. Brown seconded; the motion carried unanimously.

**OB 38 WATER DEPARTMENT LEAK POLICY**

Brown moved to continue this matter to February 12, 2007. Keirn seconded; the motion carried unanimously.

**NB 40 WOOD RIVER RIDESHARE and LOCAL OPTION TAX**

Williamson had a red-lined version of the proposed agreement for services with Wood River Rideshare. He wanted to call it a personal services contract, rather than a partnership agreement. Recital G is important, because a public service and public purpose is achieved. The grant will approve the public right of way, which is truly a public purpose. Reducing traffic is also truly a public purpose. Hailey has not given

money to other organizations freely, and he urged caution in making sure that a public purpose is at stake. This contract meets that test. Hellen noted that the grant is a non-matching grant. The clerk asked the council to designate whether Local Option Tax is appropriate for this contract for service as a portion of this discussion. **Brown moved to adopt the agreement for services with Wood River Rideshare, including insertion of a year-end date, and authorize its signature, and to fund the provisions of the agreement with Local Option Tax funds.** Keirn seconded; the motion carried unanimously.

**CA 26** Brown moved to authorize Hellen to sign letter of intent on behalf of the city for Wood River Rideshare grant. Keirn seconded; the motion carried unanimously.

### **WORKSHOP & REPORTS**

Davis commended Hellen on the transpiration study workshop.

Brown said she and city administrator Jim Spinelli had met with Company of Fools regarding a theater festival, ideally similar to Ashland's festival. She said our money should go to the Chamber for that type of marketing, and Hailey should not be approached individually with economy and tourism attraction requests for funding.

### **ATTORNEY REPORTS**

Williamson suggested that Hellen and Grotto speak with McNutt and the county road and bridge department, rather than Keirn working with McNutt.

### **COUNCIL REPORTS**

Brown said she had attended the Frank Church Institute on Global Warming, and one of the most engaging presentations was done by the developer of the Banner Bank Building, who gave a compelling on how to develop green and save money. She wished we could bottle him and get him talking to other developers. She suggested Hailey start its efforts for climate prevention by looking at ourselves first, and then the community.

Davis said the Hailey Historic Preservation Commission will forward names for mayor's consideration for additional commissioners. He spoke of the transportation workshop, and brought forward some ideas of a constituent, including eliminating parking in residential area right of ways.

Spinelli distributed information from Carol Waller regarding the Sun Valley Fly program.

Dawson reported that the Development Impact Fee Advisory Committee will meet on Thursday. She said staff members who had attended the Frank Church Wilderness Conference on Global Warming met to form a plan which will be reviewed by the mayor tomorrow, then brought to the council thereafter.

Material submitted by Sue Peterson on global warming was noted by Davis. There being no further business, Davis adjourned the meeting at 8:00 p.m.