

**MINUTES OF THE REGULAR MEETING OF THE
HAILEY CITY COUNCIL
HELD MONDAY, APRIL 23, 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 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.

OPEN SESSION

Eric Alberdi asked the council to consider setting a different rate structure in place for water accounts with services larger than the standard ¾ inch service. The cost of these larger services set in the base rate affects sewer base rates as well. He had submitted a series of letters about this subject, showing history from his account that the Pine Street Station's water usage is not substantially different than a ¾ inch service water user. Mayor McBryant said she had conversed with Eric Alberdi, and she concurred with his thinking. Assigning more value than one person's water over another seemed inequitable and the Mayor asked the council for their sense. Brown wanted to discuss this in new business. Keirn and Davis concurred, saying they felt that water should be charged by the gallon. Alberdi said back charges based on an erroneous calculation was unfair, and was asking the council to consider a refund as well. Mayor McBryant said that would be a separate issue.

Geoff Moore of 406 South First said he has 2 water services at his address, and asked why he must pay for 2 rubbish services as well. He also said he gives the council an "F" on effort relative to controlling encroachments into the city right of ways. Does the city give the property to these encroachers at all the other taxpayers' expense? These encroachments present a health and safety concern for all the citizens of Hailey. He demanded that the council take back what belongs to the City of Hailey.

CONSENT AGENDA

Consent Agenda items 141, 141-a, 142, 143, 144, 145, 146, and 150 were pulled for further discussion, and Keirn moved, Brown seconded that the remaining items CA1141-A, 147, 148, 149 and 151 be approved as presented. The motion carried unanimously.

~~CA 141 a Motion to approve STH 75/Countryside Traffic Signal Agreement with Sweetwater Developers~~

~~CA 141 Motion to approve standards for park signs, trail signs and public furniture as recommended by the Parks and Lands Board~~

~~CA 142 Motion to approve agreement with Animal Shelter of the Wood River Valley~~

~~CA 143 Motion to approve Special Events Permit for a graduation party involving a student band~~

~~CA 144 Motion to approve Special Events Permit for Sun Valley Center summer concert~~

~~CA 145 Motion to approve Special Events Permit for the Artists & Farmers Market~~

- ~~CA 146 Motion to approve 2nd informational sign for Rotary and other community events along North Main Street, on Albertson's property (the 1st sign is in McKercher Park)~~
- ~~CA 147 Motion to approve Pay Request #11 to RSCI for \$29,307.65~~
- CA 148 Motion to approve DEQ Reimbursement Request for Water Storage Tank Project
- CA 149 Motion to approve purchase of new Motive Pumps for the Wastewater Treatment Plant Equalization Basin
- ~~CA 150 Motion to approve minutes of April 9, 2007, and to suspend reading of them~~
- CA 151 Motion to approve claims for expenses from March and early April, 2007

CA141 Grotto said Sweetwater representatives want to discuss the proposed signs.

Jim Laski said Parks & Lands Board was asking to have their parks signs approved with this item. The Sweetwater development agreement, based on the Parks & Lands recommendation, states that the parks requirement is satisfied by a cash contribution. He did not feel it is appropriate to have a Parks & Lands sign on the Sweetwater Park. Janet Fugate said there was discussion that this is a privately owned park, but it is nevertheless part of Hailey's parks and trails and should be subject to some uniformity. The public should feel welcome, and the system would be standardized.

Mayor suggested continuing this matter until the parks board and Sweetwater can work together on this. **Keirn moved to continue to May 14, 2007.** Brown seconded; the motion carried with Davis abstaining, due to a business interest between his employer and Sweetwater.

CA 141-a. Agreement with Sweetwater for Countryside/Hwy 75 Traffic Signal

This matter had been pulled by Davis so that he could abstain from the vote.

Brown moved to approve Consent Agenda Item 141-a as presented; Keirn seconded. The motion carried with Davis abstaining due to a business interest between his employer and Sweetwater.

CA 142 Animal Shelter Agreement

Brown had some concerns about the clarity of the contract in terms of veterinarian services, and asked the clerk if they had ever been billed to Hailey by the Animal Shelter in the past. Williamson said the language in the proposed contract is taken verbatim from the former contract. Dawson noted that veterinarian services had not been billed; the Animal Shelter was conservative with that and its intention was to cover veterinarian services if an animal is brought to the shelter with life-threatening injuries. **Brown then moved to approve the agreement with the Animal Shelter of the Wood River Valley as presented.** Burke seconded; the motion carried unanimously.

CA 143 **Special Events – Graduation Party**

CA 144 **Special Events – Sun Valley Center Summer Concert**

CA 145 **Special Events – Farmers and Artists Market**

Brown had pulled these items to evaluate their locations. Dawson distributed a document which showed all the special events approved this year, with their respective locations. **Burke moved to approve all three special events as presented in CA 143, CA 144, and CA 145.** Davis seconded; the motion carried with all in favor, except that Brown recused herself from 143, as she was a neighbor to the property.

CA146 Request for Rotary Sign on North Main Street

Brown had no objection to a second Rotary sign, but wanted designated locations for those types of signs. Mayor suggested we continue this for consideration by the Parks & Lands Board as it considered sign standards. **Brown moved to continue to the May 14, 2007.** Burke seconded, the motion carried unanimously.

CA 147 RSCI reimbursement – Williamson said that there is a \$500 liquidated damage cost accruing against the contract with RSCI. He didn't agree with the engineer's figures, saying that \$5000 less is the appropriate figure after factoring the liquidated damages. **Brown moved to approve payment to RSCI of \$24,307.65 as recommended by the city attorney.** Keirn seconded; the motion carried unanimously.

CA 150 Brown amended the minutes of April 9, 2007 to insert "BLM" prior to the term Recreation Management Program so there would be no confusion that this a Hailey parks program. **Davis moved to approve the minutes of April 9, 2007 as amended;** Keirn seconded; the motion carried unanimously.

MAYOR'S REMARKS

Mayor McBryant noted that Earth Day was yesterday, and urged citizens to consider not running irrigation systems too early in the year for the purpose of conserving water.

APPOINTMENTS

Mayor McBryant appointed Becki Keefer to the Hailey Arts Commission. **Burke moved to approve the appointment; Keirn seconded.** The motion carried unanimously.

Mayor McBryant appointed Laura Hall as a tenth member to the Hailey Historic Preservation Commission. **Burke moved to approve the appointment; Brown seconded.** The motion carried unanimously.

PH 152

SGA REQUEST FOR ZONING MAP AMENDMENT OF WOODSIDE LOTS 1-7, BLOCK 86, PLAT 25, AND LOTS 1A AND 2A, BLOCK 61, AMENDED PLAT 15.

Davis asked if letters were sent out to neighbors. Grotto said they were. Davis said he had received some comments that neighbors were not notified. Mary Roberson of 1580 Baldyview said she was not noticed. Grotto and Shay said Roberson and Haupt are on the list.

The applicant Sprenger, Grubb Associates, was represented by Mike Pogue, who said that the property is surrounded by single family residents, and discussed how the proposal

is in conformance with the Hailey Comprehensive Plan. Three parcels are subject to a January 2005 development agreement requiring contribution of some acreage toward a park contribution. The applicant has requested to shift one of the park requirements from one lot to another. The development agreement will be required to be amended.

Mayor McBryant opened the public hearing. Geoff Moore said the applicant has listened to the public, and commended all on a wonderful job and urged approval of this application. Davis felt this was a good solution to getting the business zones out of these areas of Woodside. He had heard no neighbor's objection. McBryant, Brown and Burke appreciated the developer listening to the public and finding a good solution. Brown suggested the parks board be involved in the park. Williamson wanted to clarify the amounts of the acreage, and added that exhibits A and B should be switched. He said the council will review the revised development agreement with findings of fact at the next meeting. **Brown moved to approve the proposed zoning map amendment, along with the development agreement amendment and finalization of that.** Burke seconded; the motion carried unanimously.

Mayor read the first reading of Ordinance 984 by title only.

Life Church Annexation

Diane Shay said the applicant had asked to be continued to May 14. **Burke moved and Brown seconded to continue the Life Church Annexation application to May 14, 2007;** the motion carried unanimously.

Bullotti

Brown, who lives across the street from the Bullotti property, and Davis, who has business dealings with the applicant, recused themselves.

Gary Slette represented Bullotti, and presented the council with two photographs of the Bullotti property. Gary Slette formerly appealed to the District Court, remanded back to the city council for a solution. Slette explained Bullotti's position, saying plat note 11 is an attempt to preserve the ability to appear before the council again if certain flood plain determinations are made. Sidewalk location and building envelope were both issues as well, and the applicant proposed to extend a dashed lot line and the building envelope would exist to the west of that line. Williamson said the plat note 11 issue has various solutions, note restricting development or if not addressed, they could always come in to seek a plat amendment. Chapman said we would need at least 1 if not 2 fire hydrants for further subdivision.

Shay said lot 16 will be accessed through a flag lot across proposed lot 15a. Board recommended building envelope be on East portion rather than West portion of lot.

Chuck Brockway, engaged by the applicant, discussed the flood plain study saying FEMA elevations are typically higher than the 100 year flood elevations. The Spring of May 2006 was an extreme flooding event, and the peak flow was 7800 cfs at Bullion Road, about a 160 year event. Although water was upon the property, it did not move

across the property and did not leave the property, and the entire property was not inundated. Mayor noted that it was within the past 3 years that Brockway was asked to conduct the study, and asked when it was contemplated to be completed. Brockway said in about 3 month's time. Shay said she had requested hydrologist study to be done with this recent application this year.

Mayor opened the public hearing and noted letters received from Coulter, Northern, Louche, Frenchand, Browning.

Elly Ellis of 411 Della Vista showed her house located at the western end of Bullotti's property. Brockway did not do much analysis and was not on the property at the time of the flood. She displayed pictures that show flowing water as well as groundwater that inundated most of the property. Right after the flood there was a meeting with area home owners and among some of the things that were discussed were map revisions, showing flood impacts going all the way up to Queen of the Hills. It's not accurate to say the impact won't be felt by everyone in the Bullotti property vicinity. It was continually said during that meeting that had the city known the impacts of development 25 years ago, development such as it is wouldn't have been allowed. So why would we allow further development knowing there would be those environmental problems and health and safety issues. The city can't approve this in good conscience if it weighs these negative impacts against the monetary gain of one individual. Pat Cooley said the applicant knew what he was buying into when he purchased this. There are count less hours of staff, commission and council time in this, and urged support of the previous decisions.

Jamie Coulter of 320 West Cedar presented a letter dated April 23, 2007 summarizing his objections, saying his property is delineated by Army Corps of Engineers as wetlands. No further review of this application should be allowed until Army Corps of Engineers evaluates the property by the same wetland's standards.

Tom Drougas of 821 Silver Star said as a realtor he advised potential buyers to stay away from this property. Subdivision is a privilege, not a right. He said Earth Day needs to be extended to Earth Decade or Earth Century, as we are at a critical time. We are experiencing radical fluctuations in climactic conditions. He witnessed what happened on his son's Snow Fly Drive property when the city tried to protect properties with sand bags, the removal of which resulted in a 45 minute flow of water that inundated his house. He witnessed the flood waters flowing east of Coulter's property.

Jeremy Bullotti said there was never any water sheet flooding on this property during May 2006.

Ken Ward of 10965 Hwy 75. developer of the Cedar Bend Subdivision, said he had asked neighbors about areas of concern, and had received letters of support and had gone through all public agencies for approval. If the city made him do certain requirements, they should make Bullotti do them as well. This property borders 14 individual lots, and the private driveway would have no speed limits and creates a safety concern. New foundations in floodways displace sheet flooding waters. Plat note 11 should be stricken.

The council required CC & R's on Cedar Bend, and the new CC & R's will create an entirely new legal situation. The council should have the backbone to defend individual CC & R's.

John Seiler, representing the Birdwood homeowners association, said we wouldn't be in this situation today if the city hadn't accepted a plat that wasn't signed by the fee simple title holders. He suggested that the city make sure that subdivisions are filed by rightful owners of the property. A flood hazard permit is required to be able to develop in this area. If this is a new application it needs to comply with the new flood hazard overlay district. Is this the initial 2003 application or a new one? He said if new, the application is not being handled procedurally. This is just being heard by council, and the commission and/or hearing examiner. The city is creating another procedural dilemma that will lead to more litigation. It is not appropriate for a hearing examiner because it is too controversial. No criteria for evaluation have been discussed. One of the criteria is that there shall be no danger to life and property. Nothing has been said to explain the drainage issues.

Gary Slette offered rebuttal arguments relative to the public comments. Brockway said his job was to respond to the letter from Grotto in an objective manner. We are in the process of delineating areas which should be outside or above the FEMA elevations, and there is a substantial amount of properties that will meet that criterion. To the extent there are swales, they ought to be kept open with appropriate culverts. Even if the FEMA floodplain is correct, with an on-grade roadway and appropriate culverts, hydraulically there will be no impact on the floodwaters, which is ultimately the goal of this. Slette trusted that the legal debate with regard to the covenants is not an issue. The court has already ruled in this case. He asked for an even-handed application of the zoning ordinance.

Mayor McBryant then closed the public hearing. She said Davis has recused himself because his work interacts with the applicant, and Brown is an immediate neighbor. The city has been sued, and the matter was sent to mediation. Williamson said the mediation was not successful, and the applicant asked to submit a 2 lot proposal instead of the previous application. He said this is a revised application as part of the original application. Grotto said this has not been treated as a new application. Additional fees other than noticing fees were not collected. Williamson said the commission initially made a recommendation to deny, council heard it on appeal, upheld that decision and then the district court appeal was filed. The council can hear this as a de novo appeal, and can hear it now, or can remand it back to the commission.

McBryant said this application is within an established neighborhood, and part of the planning of a subdivision is the road placement and drainage. She questioned the effectiveness of catch basins. She was uncomfortable with the ground waters, and she sensed the neighbors wouldn't allow the easements. We have an obligation to the residents. This is a 35 year old subdivision, and those spaces were planned and designed for a reason. This long, thin lot is problematic with extending the different types of infrastructure normally extended in an un-platted area. Lots had been platted along the

river with building envelopes, and we were forced by that to consider and allow these further impacts. In an annexation application, we made it clear we were unwilling to extend these problems further.

Burke said in the light of this being taken as a stand-alone application, she viewed this as one flag lot, and was prepared to approve with conditions of the addition of the lot that has been described. One of her conditions would be that it would not be further subdivided, and that a building lot would be called out. She wanted to honestly define no further subdivision as a condition. Slette said he would go with those conditions. Burke went on to say it strikes here that the CC & R's refer to these 2 lots. Williamson said the applicant's suggestion was that the 2 lots be responsible for the road maintenance, further CC & R's would not be established. A HOA does not need to be created, nor do CC & R's. Burke said some kind of maintenance agreement for the 2 lots would need to be a condition. Williamson said we could do that, and Slette was willing to agree to that. Burke said the property is more valuable in one hunk with only one house sitting on it; it is a parkland in the middle of a City. It is astonishing to hear that the island is still there and someone would like it in that state.

Keirn said the water issue is his largest concern. A building envelope above the BFE is paramount. There was quite a bit of water on the back end of this property, but he hadn't seen much water on the east side. He said we may need to continue to look at this.

Burke said our deliberation doesn't mean there is a guarantee that the flood plain permit is available. Keirn said another flood plain development permit would need to be sought and obtained. Mayor said we would want to know these details before we approve a 2-lot subdivision and then tell the owner we can't access it. Keirn said there isn't a full development plan here. Shay said the application is not incomplete, but the suggested conditions talk about needing to see some further issues. She said cross sections of driveways should be viewed by staff and seeing where the hammerhead turnarounds will be. Keirn said some of the details of what are stipulated need to be seen so that his and neighbors concerns are mitigated. Burke said we are dealing with a sensitive area that requires not only a driveway, but a hammerhead as well. Keirn said the requirement of drainage swales and a drainage plan also calls for more detail. Burke didn't want any more public hearing, wanted to know if a building envelope can be identified, how the hammerhead would lie juxtaposed to the floodplain, and wanted to prohibit any further re-subdivision. Mayor said the public hearing would have to be limited to new information, but nevertheless heard. Williamson said there may be further safety issues with the western building envelope than with the eastern one. Shay said the city may want to bring in a hydrologist. Keirn said need new information, because that information would move him either in favor or against.

Burke moved to table the application, requesting further information from a hydrologist, and about the building envelope, and drainage. **Keirn seconded; the motion carried with Burke and Keirn in favor.**

Mayor McBryant asked Bulotti to respond to the concerns about the neighbors regarding weeds and construction equipment and debris on the property. She then called a 5 minute recess.

DEVELOPMENT IMPACT FEE ORDINANCE

Williamson introduced the development impact fee (DIF) ordinance, saying he did not draft a fee exemption from affordable housing. The schedule outlines the funds per square footage for different types of uses, and when there are mixed uses, the administrator will have to make that interpretation. There are a whole host of commercial uses that could be requested, and he identified objective criteria. Every year the DIF committee will have to review the ordinance, and every 5 years will have to review the Capital Improvement Plan. He felt the ordinance is defensible, and he had reviewed several other city's ordinances, and liked Nampa's the best.

Davis said the ordinance requires the capital improvement plan account would be tracked by department. What's the interaction between the facilities and the plan? Dawson said the departmental figures must be tracked and accounted for, and paid back to the payers if not utilized within the department. Davis asked if the alleys could be part of the transportation component. Dawson explained that would be part of a revised capital improvement plan if a city-wide nexus could be established in future revisions of the CIP.

Mayor McBryant opened the public hearing. Geoff Moore asked if reconstruction is exempted. Williamson said it is. There being no further public comment, McBryant closed the public hearing.

Keirn moved to adopt ordinance 985 and read the first reading by title only. Brown seconded; the motion carried unanimously. Mayor read first reading by title only.

NB 157 CHAMBER OF COMMERCE REQUESTS MORE L.O.T. FUNDS

Mayor McBryant said she had understood the local option tax dollars can only be used for marketing. She said the chamber members don't seem to understand the base issues. Many of the details of their letter show no direct relation to marketing. She asked that a letter be addressed to the LOT business owners, and ask them how they would like to see the LOT dollars spent. The restaurants have been good players, would like to hear from them. What may be important to those businesses that may not be planning another event. Keirn said if they live here or just have a business makes a difference in their concerns.

NB 158 DOWNTOWN BANNER PROGRAM

The Mayor said an employee of the Finance & Information department, Tracy Anderson, has been attending the arts commission and south valley merchant's association meetings. Anderson had put together a downtown banner program, the cost of which is fairly minimal, with a plan for applying some assistance from city staff and some actual dollars spent to create that downtown vibrancy.

WORKSHOP

Dawson distributed an article from the Idaho Statesman which described how the Boise Arts Commission is becoming a city department. Mayor said expand city snow removal services to sidewalks as well as streets.

McBryant addressed the issue of encroachments into the alleys. She said the council, recently asked, had declined to take action on encroachments. Peter Lobb suggested handling it by complaints.

The council turned its attention to Eric Alberdi's comments. Brown was in favor of water charges by use, but wanted to know if capacity issues are addressed. Hellen said everyone already pays by use, but across the country capacity is charged for as well. He said the multiplier could be played with to some degree, but he didn't want to go away from charging in the base rate for the larger capacity. Sewer rate is charging to the water size as well, and that could be alleviated. Winter use of water would apply to what is charged for sewer. Burke suggested if there is some way to monitor when the larger capacity is used, then charge higher fees. Hellen said the higher usage rate would kick in. Brown said if no fire concerns because of the larger connection, what are they triggering that causes additional cost. Hellen said triggering potential demand on the system. Mayor said she is having trouble charging them for water. Hyde said base rate pays for the infrastructure to get the water to the property. It takes more infrastructures to get the water to the larger service. Mayor said she doesn't want to go back and penalize people for years and years. Brown asked how many connections there are like this in the city. Mayor said a residential condominium would have one. Clerk suggested the difference not be in the base rate, but in the usage rates. Higher usage rates for larger services. Mayor said staff is instructed to look at this holistically. Geoff Moore said the ad hoc committee agreed they would not have any tolerance for these anomalies as well as leaks, etc. He said the potential is 50 or 60 times more in the difference between the ¾ and 2 inch meter. Mayor instructed to hit it when the potential is used – switch the fee to the other side of the equation.

Dawson said she had received liquor license from Zoe's, who had received state approval, and she was going to have the mayor sign the license based on a previous decision of the council.

Williamson said he had had the Mayor sign the VBA agreement without his suggested indemnification language, because the company's attorney was unwilling to adopt that language outside of a board meeting.

Brown said the regionalization group had said there are some issues in common between the cities and the county, but the conversation made city officials wonder why they were elected in light of the regional desire for authority over a lot of issues. She said McBryant had continually brought up the idea that respect for all the authorities involved is paramount, and Brown suggested starting at the lowest level possible in terms of regional councils of government

Burke said the FAA is in town for the Environmental Impact Study. Their flight was diverted, and there was no bus to take them in, so their travel was severely hampered due to the weather.

Keirn said the BC3 had been dissolved.

Davis said he had nothing new to report on the Fly Sun Valley Alliance negotiations with Frontier Airlines, but has continued working with that group.

Mayor McBryant noted that Hailey's city administrator had not been included in drafting a power point presentation that had been presented to the intergovernmental council, by a group which represented itself as all the administrators. Many entities will be directly opposed on common issues, and she wondered if the mission statement, if comprised, could only say – we intend to do good things. She said she would continue to attend and report back.

There being no further business, the Mayor adjourned the meeting at 9:15 p.m.