

**MINUTES OF THE REGULAR MEETING OF THE
HAILEY CITY COUNCIL
HELD MONDAY, JANUARY 28, 2008
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 Rick Davis. Present were Council members Martha Burke, Carol Brown, Don Keirn and Fritz Haemmerle. Staff present included City Attorney Ned Williamson and Clerk Heather Dawson.

Davis invited the public to express general concerns, but there were none.

CONSENT AGENDA

- CA 14 Motion to authorize the mayor to sign a letter supporting a Mountain Rides grant to procure additional buses.
- CA 15 Motion to approve Brownfield Site Application to Idaho DEQ
- CA 16 Motion to approve Memorandum of Agreement & Assurances for a 2008 Certified Local Government Grant of \$2000 through the Idaho State Historical Society
- CA 17 Motion to approve fireworks contract with Elite Pyrotechnics, LLC
- CA 18 Motion to approve Summary of Ord. 999 – Hailey Arts Commission Percent for Public Art
- ~~CA 19 Motion to approve minutes of January 14, 2007~~
- CA 20 Motion to approve claims for expenses incurred during the previous month
- CA 21 Motion to approve special events applications for 2008 Northern Rockies Folk Festival, 2008 Trailing of the Sheep Festival, 2008 Hailey Antique Markets (July 4 and Labor Day)

Davis pulled CA 19 for correction. Burke moved to approve the consent agenda minus CA 19. Keirn seconded; motion carried unanimously.

CA 19 – Pg. 38 – Last meeting minutes read “Davis moved to go into executive session to discuss personnel issues (IC 67-2345.a/b/d) pending litigation and personnel issues.” Davis cannot move to approve. This is incorrect. Burke said that she moved and Brown seconded. **Brown moved to approve the minutes of January 14, 2008 as amended. Burke seconded; motion carried unanimously.**

MAYORS REMARKS

Mayor Davis commented that the different setup in the conference room is due to better communication efforts among staff and the public. Davis pointed out that decisions are made by those who show up. He was glad to see people here and encouraged people to attend and participate.

FLOOD PRESENTATION

There was an incident in way of an avalanche this morning. City staff was able to take care of people the best we could. Shay and Hellen presented a slide show. There is 1 ft

to 18 inches of water in some spots. The water is moving it is not standing water. There is 5 inches of ice. Trying to walk or drive is extremely dangerous. Staff is currently concerned about other parts of Della sliding. We are anticipating freezing temperatures tonight so we don't know what will happen with that. Davis advised that we are using extreme caution and will continue to monitor the situation. We are not expecting any problems with water or sewer lines. Dawson advised that our biggest concern is for pedestrians. We have posted signs to advise of the dangers. Haemmerle asked if there was any outstanding agency that could help. Shay spoke with FEMA in the last flood and they just told us to try to keep the water out of the streets. There is nobody else we need to answer to. Shay will try to get in contact with Hydrologist Chuck Brockway.

APPOINTMENTS & AWARDS

Library Board Appointment

Brown moved to nominate Bege Reynolds to the Library Board. Keirn seconded; Motion carried unanimously.

Historic Preservation Commission Appointments and Resolution

Brown moved to appoint, Janice Gillette, Ted Angel and Ben Schepps to the Haley Historic Preservation Commission. Burke seconded; Motion carried unanimously

Industrial Development Corporation Board of Directors Re-Appointment

Brown moved to re-appoint Susan McBryant. Burke seconded; Motion carried unanimously.

PUBLIC HEARINGS

Proposed Text Amendment to the Hailey Zoning Ordinance 532. The Amendments would revise several sections of the ordinance including, but not limited to: Article 2 – Definitions and Article 6A – Design Review., “Public Street” and amending definition of “street”, clarifying sidewalk and landscape requirements. Recommended by Hailey Planning & Zoning Commission.

Beth Robrahn, Planning Director presented and explained that the staff report covered both Zoning Ordinance 532 and Subdivision Ordinance 821. The amendments are city initiated and are mainly a reorganization or consolidation of existing standards in order to clarify their applicability. The majority of the amendments relate to sidewalk and landscaping requirements. The proposed amendments were recommended for approval by the Planning & Zoning Commission on December 17, 2007. The zoning amendments seem to repeat themselves but standards are the same. On pg. 104 the biggest change is in a lower contribution for in lieu from a minimum of 150% to a minimum of 110% of the estimated costs. Haemmerle had question on context of amendments. Robrahn explained that the changes originated from within. She's trying to clean up interpretation for staff as well as the applicants. Haemmerle questioned the applicability of non residential zones. Robrahn explained that the Zones that are applicable are listed on Page 103 of the packet. Ned Williamson, City Attorney helped to reiterate that the changes are to help clean up the language. Airport West and the discussion that was had about sidewalks is what prompted this change.

Mayor Davis opened the meeting up to public. There were no comments.
Burke moved to approve Ordinance 1001, amendments to the Hailey Zoning Ordinance, and read the first reading by title only. Keirn seconded; Motion carried unanimously.

Proposed Amendments to the Hailey Subdivision Ordinance 821. The amendments would revise sections of the ordinance, including but not limited to: Section 1 – Definitions and Section 4 – Development Standards. Revisions include, but are not limited to: adding a definition of “public street,” amending definition of “right-of-way”, “Private Street” and “street” and clarifying sidewalk requirements and requirements for short plats. Recommended by Hailey Planning and Zoning Commission.

Presentation is the same as above.

Keirn motioned to approve amendment Ordinance 1002, amendments to the Hailey Subdivision Ordinance, and read the first reading by title only. Brown seconded; Motion carried unanimously.

Discussion of Resolution adopting Sewer Service Extension Policy, with public hearing on the Proposed policy.

Ned Williamson, City Attorney presented the changes to the Sewer Service Extension Policy. He also enclosed in the council packet a resolution which would adopt the policy. Williamson pointed out that pg. 113 paragraph 11 states that before a new extension is permitted, a written contract shall be entered into between the City and the new user(s). With provisions addressing payment of all fees, costs and expenses. The provisions of the contract or agreement shall run with the land to be served by the municipal sewer system. Williamson also pointed out that the extension of the municipal sewer system shall only occur if part or all of the property to be served is within Hailey’s Area of City Impact. The public hearing is on Policy first. Council had no questions. Mayor Davis opened up the meeting for public comment.

Jo Lowe - 110 Mia Kiln Lane in the County. Ms. Lowe is curious as to the far sightedness of the proposal. She wanted to know impacts and how the proposed project could be seen in long term sustainability. Her main concern is a water quality issue. Lowe thinks it would be an unsightly aspect and would like to hear more public comments from Hydrologists.

Peterson - 730 Star Dr. reported that she agrees with Jo Lowe. Ms. Peterson has been reading about constructed wet lands and believes that there may be a better way to treat sewage. The wet lands are supposedly a more efficient way to handle this. It’s not a new technology and has been around a long time. He suggested that we bring someone in to present some other alternatives.

Judy Harrison - 20 Rodeo Dr. Harrison asked, “If you go to the expense of expanding the sewer line, what guarantees do you have that a retirement home or school will be built?”

Steve Crosser - 431 Aspen Dr. Crosser is trying to catch up. He said that he missed the notice. He asked if this is passed, will there be 512 lines. Tom Hellen, City Engineer corrected him. There will 120 lines. Crosser does not feel enough people have seen this notice.

Peter Lobb - 413 E. Carbonate Dr. Lobb suggested that there should be a rule that the person getting the extension has to be contiguous to the City or annexed. Lobb feels that if this gets passed tonight and council is serious then maybe we want to only build a pipe to handle the 120. Lobb said the annex should also be contiguous.

Wendy Pabich, Hydrologist – 613 4th Ave. N. Pabich has worked with the County and believes that this is something that needs to be evaluated further. There are water quantity questions and water budget question and this should be considered.

Davis closed the public hearing. Carol Brown said that she appreciates the changes staff made. Speaking as a policy in general, she is comfortable with what she sees written.

Burke commented that she gets a strong feeling that there is a concern in the community that we will grow beyond our means to provide water. Burke is hoping when the city gets that request that there is some way to evaluate. Without a policy she does not think the council could be comfortable approving. Burke is comfortable with this policy. Mayor Davis advised it's good to have policy but he thinks like annexations is a little vague and that's good.

Don Keirn feels safeguards are what were looking for.

Fritz Haemmerle feels that the perfect policy would be that we shouldn't do it. He thinks this particular policy is deficient in many respects. Haemmerle went over the policy and pointed out that he does not agree with number 8 in the packet. He believes that on number 12, all of the project should be in the area of city impact. He pointed out that no voting rights were discussed.

He said the policy doesn't address the requirements Idaho Code 50-1030, the bond revenue act. Haemmerle thinks If were going to do this it can only be done with annexation. Haemmerle disagrees with the policy.

Ned Williamson, City Attorney talked about the provision in the revenue bond act. Hailey's sewer treatment plant is in part funded by a revenue bond. The city has typical standard powers. The policy does not talk about debt or giving credit to lessee. We are saying you need to pay for expansion up front. This is not saying it has to be term. This power is not the sole exclusive power. There are many. Section 50-1030 is not the only method by which to extend services. Section 50-1035 talks about extending sewer services outside the city limits.

Haemmerle asked about voting. Williamson said it is not addressed and does not think we can let people vote if there not in the city limits. Council does not have the power to allow them to vote.

Brown moved to accept the policy and add the comment that anybody who has service outside the city does not have voting rights. **Brown moved to approve Resolution 2008-01 and to authorize Mayor Davis to read by title only and sign, adding a Section 13 regarding voting rights for those outside the city limits. Burke seconded; motion carried with Brown, Burke and Keirn in favor, and Haemmerle opposed.**

OLD BUSINESS

Discussion of a Sewer Service Extension Agreement for sewer hookup with Spring Canyon Ranch (continued from January 14, 2008)

Davis recused himself from this discussion due to a potential conflict of interest.

Martha Burke, Council President chaired this portion of the meeting, saying this was tabled at the last meeting so public could comment on the policy which has a bearing on the subject tonight. We have a contract that Ned Williamson, City Attorney discussed with Barry Lubovisky, Attorney for Spring Canyon Ranch.

Williamson said the agreement provides that if the county allows platting of the 115 lot subdivision, the developer could connect to Hailey's sewer system and pay for it. The bridge over Quigley would be expanded; there would be additional community housing, donation of property, and donation of \$1 million to the Croy Canyon Ranch Foundation. Hailey would be paid \$750,000 on a per lot basis over time after an initial \$250,000. The Developer would pay connection fees and title expansion costs. \$3,500 per lot would be collected from the user plus 10%. Those are the main points on where the contract stands right now.

Brown questioned the number, 115 units. Is this limited and they cannot increase the number of units? Haemmerle asked what happens to the 1 million dollar contribution if that doesn't happen. Williamson said the developer can talk about this. He feels it is outside this agreement.

Haemmerle requested a full public hearing because of the policy.

Bob Erickson, 1850 Northridge Dr. spoke as a representative of South Central Health District as well as a concerned citizen. Erickson said that he found out about this agreement through the grapevine. Heather Dawson, City Clerk got him a copy. He said he could not find it on the website and feels it needs to more widely noticed. Burke explained that the policy was already discussed and a motion has been made. Erickson arrived to the meeting late and did not know that. Fritz thought this should raise some concern since the public did not see the policy. He thinks that we should reconsider the policy because he does not think the public was noticed properly. Burke asked the City Clerk how the material is made available to the public. Dawson showed the council packet and advised that the information could be received by email, copy or fax. Council packet information has not been put on the web but may in the future. Keirn asked if we followed procedure. Vicky Abrams, Croy Canyon Ranch Foundation spoke and said that she received the information that she requested within 15 minutes of requesting it.

Haemmerle thinks for things of this magnitude and importance that it deserves more heightened awareness. Burke asked Haemmerle if he thinks we should review our policies. We obviously have a website that people view if they care. Haemmerle feels if we have done everything possible to make the public aware then we should go forward. Don Keirn is concerned about all policies if we were going to go back. Dawson advised that because of the importance of this topic she did have a press release last Friday. It was decided that the Public Hearing should continue for extension of sewer.

Bob Erickson 1850 Northridge asked council what types of comments they were looking for. Burke explained again that the resolution had been adopted. As a citizen of Hailey Erickson would have liked to see the extension without the development agreement. He is curious about future extensions. This is not something we intend to go into without great consideration. Burke explained that we approved the policy. She asked Erickson to put his concerns in writing and it can be reviewed at a later date. It is a resolution and can be changed.

Morgan Brown – 360 S. Hullen Way talked about the process. County received a grant from EPA for \$120,000. They brought in technical experts, had 10 public meetings that were all noticed. Brown had extensive involvement and Bob Erickson commented and had great input. He feels that a 9 month process all happened tonight.

Peter Lobb, E. Carbonate. This is about Croy Canyon Ranch and the services to get to the Ranch and the fact that the city doesn't have to pay for it. Lobb thinks the best solution would be to NOT expand the sewer system out there. If we do this the citizens of Hailey will have to pay for it. Just can this whole thing.

Barry Lubovisky, Spring Canyon Attorney said that they've had a lot of opposition. He was amazed that Morgan Brown presented along with Smart Growth his personal company at the last meeting. Lubovisky said that the comment was made "We didn't come to the city." Roughly a year and a half ago he spoke to Mayor McBryant. She advised that we were going to get a grant for \$500,000 to run the sewer out there. McBryant asked if they would be interested in running the sewer system out there. People came to them to build and run. If the foundation has got to come up with the money to run the sewer out there, it won't be built. The plan was for the city to run out there. It's time we remember why we're here.

Mary Ann Mix 517 East Pine read a letter that the council had in the packet. Mix went on to say that the cost was in the \$700,000 range. \$500,000 was the max you could receive. He asked if the city would be interested in coming up with the matching funds. You all agreed. We have had many meetings on this. Trying to raise 12 million dollars is not easy.

Vanessa Cosgrove Frye, S. River St. and Citizens for Smart Growth spoke regarding the comments made about Morgan Brown. She explained that they try to have experts on their board and are proud of that. Smart Growth is trying to ask the tough questions to be

sure everybody's questions are answered and make sure were doing it the right way. Is this the best solution for Croy Canyon?

Mike Chatterton, Blaine County School District, voiced support on behalf of the School District. If this doesn't pass they will be here in the future to ask for the same thing. The time frame for the new school is approx. 2013 / 2014.

Sue Peterson, 630 Northstar asked, "Is it not possible to get the grant money and use it for an onsite waste water treatment plant"?

Mark Meyer, Spring Canyon Developer spoke. He said they came to the community two years ago to find out what was important to them. In their negotiations with city of Hailey, they went much further down the road than they thought they would financially.

Jeanne Caselle President of the Croy Canyon Ranch Foundation said, "We don't intend to fail. In the election last spring 91% voted for it. We need the funds to be able to go ahead. They are in need of a contribution to kick start fund raising. We are counting on City of Hailey to back us".

Evelyn Phillips, 20 Quigley Road brought up the letter to the editor in the January 9, 2008 paper. She asked if the City of Hailey can take some of the hot water for the citizen's use.

Morgan Brown, Citizens for Smart Growth spoke in regards to Barry Lubovisky's comments. He said that there is lots of technology available. Sewer lines are environmentally correct, however, the current environmental trend is to develop onsite sewer services.

Martha Burke closed the Public Hearing and brought the deliberation back to council.

Fritz Haemmerle explained that he cannot think of a better cause if we decide to extend. This would be the first time we extended outside the city limits. He feels there is benevolent blackmail. Extending two miles beyond the city limit to undeveloped property is not a good idea. As property is developed in the future those people in between are going to ask if they can connect and then what are we going to do. Schools, Firehouses, Police Station etc... are all good reasons to extend. He does not think it is the best policy possible. He urges council to consider these things. Hot water would be great for us. We lost all Hot Springs. It would be more beneficial than the bridge.

Don Keirn advised that he said his peace in the past. The driving force on this all along has been the Croy Canyon Ranch. It is a badly needed facility. Maybe Croy Ranch won't go. If we don't do this project it definitely won't go. He referred to Mary Ann Mix's letter and the positives of this.

Carol Brown explained that the irony is that she is behind getting Croy Canyon out there. She is pleased with the Sewer Policy. Benefits she is seeing are part of the

Comprehensive Plan, getting sewer to Lyon's Park, bike path etc. Brown would like to set two conditions to go forth. The first condition is that the Blaine County Housing Plan be approved by county first then us. Brown expressed that she does not want this to fail but if it does her second condition is that she would like the developer to develop a public hot water facility out there.

Martha Burke thanked the public for their comments Burke feels the honorable thing to do is to move forward. If the public needs us to change the public hearing noticing system they will need to put that in writing. Burke feels we are honor bound to move forward.

Brown made a motion to conditionally approve the Sewer Services Agreement between Spring Canyon Ranch contingent on Blaine County approving the housing issue and should Croy Canyon Ranch not be successful that some public hot water amenity be put in place. Keirn seconded the motion.

Burke asked Haemmerle for comments. He thinks the public hot springs amenity needs to be clarified.

Brown amended the motion to clarify the conditions. Brown made a motion to conditionally approve the Sewer Services Agreement between Spring Canyon Ranch contingent on Blaine County approving the housing issue and should Croy Canyon Ranch not be successful that a Hot water pool, in comparison to either Bald Mountain or Hiawatha Pool be put in place. Keirn seconded the motion.

Keirn asked if there is sufficient hot water and if it's practical

Williamson advised that regardless of what we decide here the language needs to be worked on.

Mark Myers with Spring Canyon Ranch Foundation spoke. He said that this issue was discussed at length. We have done extensive planning and studies and still don't know everything. The big reason they bought this land was the hot springs. They plan on heating homes in the community with the hot water. They've started the permitting process. To put contingent stuff in the deal is making it impossible to make this deal. Myers said that what were doing is making it so they can't do the deal anymore. They've got to know if there getting a sewer or not.

Haemmerle said that Brown's position has a lot of merit. If this does not benefit the community - then why? There is good reason's for it. Williamson said that right now we can't agree because there is no agreement in front of us. Williamson said he will discuss this with Lubovisky.

Mary Ann Mix said that the drop dead date for fund raising is May 15, 2008.

Brown made one more amendment to her motion on the condition regarding hot water, moving that staff be directed to speak with Croy Canyon and assure that the city will have the security to have the public amenity. Keirn seconded the motion. The amendments were voted upon and unanimously approved. The main motion, as amended, was then approved with Burke, Keirn, and Brown in favor, and Haemmerle opposed.

NEW BUSINESS

Review and approval of alternative deed restriction for Sweetwater Subdivision

Davis – recused himself due to a conflict of interest.

Martha Burke, Council President ran this portion of the meeting. Ned Williamson, City Attorney explained the difference in the 2 different deed restrictions provided. Sweetwater has been approved. In the packet the PUD agreement has simple language about the deed. There will be 40 onsite units acceptable to the city. They will be fulltime residents and do not own other real property at all. The ordinance states it will be reviewed and adopted by council. There are 5 Major differences between Cutters & Sweetwater.

1. Parties
2. Residency requirement Sweetwater more stringent
3. Flip clause provided in cutters
4. Lease Agreements. Cutters are conditionally permitted. Sweetwater has no leases permitted.
5. The buyer's qualification is different.

Williamson explained that Jim Laski, Attorney for Sweetwater is here on their behalf. This is not a public hearing but Williamson would like to allow Jim Laski to speak. Laski said that the 1st phase of Sweetwater was a lot of construction. The large lot block has been recorded and they are at a stage with final sales. The PUD agreement for the community housing plan had a lot of parts. Laski reported that Sweetwater has gone thru deed restriction at length. Two things have changed and Laski's clients would have preferred they not be changed. The first one is the residency requirement (preclude to residency, not sole proprietor) the second issue is adding a provision to allow a short time frame to sell. He feels this could be worked out with Williamson. Final issue is workforce housing paragraph 8, indemnity language. This language may be too broad and unenforceable. His clients would like to go forward with this. This deed has been designed so that it is simple so there is not a lot of administration. They do not want Anti-Flip Clause. He hopes the council will consider his comments.

Haemmerle questioned why we have a different definition about qualified buyer than the one we had with Cutters? Laski said that Cutters agreed to a workforce agreement. Cutters anticipated it to apply to people who work here. In this agreement they bargained for a whole different type of deed restriction. Williamson does not concur with Laski on his points. He feels if we change we would be in conflict. Williamson would like to try to please everyone and go forward. Burke asked for council comments. Carol Brown said that she is fine with the residency requirement with both. She wants a flip clause.

As far as the lease goes she is fine if they don't want it. Brown said that it's not the real property, it's the net worth issue that is important). Keirn agrees with Brown on the flip clause. He likes that no lease is permitted. (Not rental property). He feels we need a cap of some kind for the net worth. He is comfortable with the rest of the agreement. Haemmerle agreed with fellow council. He questioned "Qualified Buyers". What is the reason for community housing? He thought it was to say we need a place for our workers, not for somebody to come and hang out. If we were calling it community housing there should be an element of people working here. If there is not a need then maybe we can make that provision. If we want people to work here and live here than let's do that. Haemmerle agrees with Laski to exclude commercial.

Jim Fackeral, Executive Director Housing Authority spoke. They have not been asked to review this deed restriction however; it was distributed to the board today. Laski said in the past the board has been against this type of deed restriction. There are 3 deed restricted units provided by the Croy Canyon Ranch in the city of Hailey. They are the Winterhaven Condominiums in Woodside. The pricing on the units are very close to market value. A \$270,000 is priced on income based deed restrictions at \$224,000.

Burke asked Williamson for direction. Laski reported that 1 unit just came on line in Ketchum and it sold in 1 day. Sweetwater is on the verge of not going further than the 1st phase. He feels we talked about the residency requirement. By adding more and more in it is making it harder to make this project successful.

Continued Discussion by Council on options for marijuana issue

Brown recused herself due to a conflict of interest.

Ned Williamson, City Attorney explained that council is well aware that there are 3 different actions they can take. Adopt, amend or litigate. In the last meeting we decided to amend. He is suggesting litigate and to go into executive session.

Mayor Davis opened up the meeting to public comment.

John Cassia – 1350 Heroic Road spoke. He explained that the Industrial Hemp issue is an altogether different issue than the marijuana issue. Marijuana is like bourbon, Hemp is like herbal tea.

WORKSHOP

Staff Reports

Heather Dawson, City Clerk reported that she and her staff spent 15 to 20 hours trying to develop an electronic packet to be put on the website. This came up earlier tonight. The idea is consent agenda would have a subset of contractual items, resolutions, and grants which would be posted on the website. Housekeeping consent agenda items would not get posted. Nor would appointment information, as she was uncomfortable posting résumés' on the website. All public hearing items, new business, and old business items would be posted. Hard copy would not be eliminated until we are told by council that they no longer need it.

Beth Robrahn, Planning Director attended the housing authority meeting last Saturday morning.

Tom Hellen, City Engineer advised that street crews were out plowing from yesterday at 1:00 pm until 1:00 pm today. The crews will be back in tonight to finish up roads. The fuel budget is just about gone for the street department for the year.

Council Reports

Carol Brown reminded every one that January 31, 2008 is Focus the Nation. HELP is taking a lead in the presentation taking place from 6pm to 9pm in the Liberty Theater.

Brown attended water meeting last week and it was well worth her time.

Mayor's Reports

Davis reported that he received a letter from the Housing Authority. They are asking for ½ of the \$12,000 they originally asked for and for us to pay \$1,000 a month for rest of fiscal year. Presentations can go on next meeting agenda. Davis supports the terms of the letter.

EXECUTIVE SESSION

Burke moved to go into executive session to discuss Personnel Issues (IC 67-2345 a/b/d) and Pending Litigation (IC 67-2345 f/j), Brown seconded; a roll call vote showed the motion was unanimous. Mayor, Council, Ned Williamson and Jeff Gunter went into executive session at 8:50pm.

Following a motion and roll call vote to exit executive session, the council came out of executive session at 9:00pm. Mayor Davis stated that he and Chief Gunter were going to sue the City of Hailey for the Marijuana Initiatives. After judicial review we will ask the court to determine how to proceed. Ned Williamson, City Attorney will represent the City and another attorney will be hired by the City to represent Mayor Davis and Chief Gunter. Williamson explained that a declaratory judgment action will be filed. All 5 elected officials, Chief of Police and Attorney have standing to question the legality of the ordinance.

There being no further business, the meeting was adjourned at 9:05pm.

Rick Davis, Mayor

Mary Cone, City Clerk