

**MINUTES OF THE MEETING OF THE
HAILEY CITY COUNCIL
HELD MONDAY, FEBRUARY 09, 2009
IN THE HAILEY TOWN CENTER MEETING ROOM**

The meeting of the Hailey City Council was called to order at 5:30 P.M. by Mayor Rick Davis. Present were Council members Don Keirn, Carol Brown and Fritz Haemmerle. Staff present included City Attorney Ned Williamson, City Administrator Heather Dawson and City Clerk Mary Cone.

The council was given 5 documents just prior to tonight's meeting. One document was from Dana Hofstetter included letters dated February 9th, 2009, November 7, 2008 and November 10, 2008 regarding Old Cutters Rimrock Cottages. Another document was given by Mayor Davis to council; it was the Association of Idaho Cities bulletin from the City Officials' Day at the Capitol. Also council received the Wood River Resource Conservation & Development meeting minutes from December 4, 2008. Lastly, the City Engineer and Public Works Director Tom Hellen gave council two items, one was a preliminary engineering scope of work to review the Big Wood River TMDL and assist with dialogue with the EPA and DEQ during the City of Hailey NPDES permit renewal process. The second document was a bid request for statement of Qualifications for firms to help with the Permit renewal process expected to occur in late 2009.

AIRPORT ISSUES:

Susan McBryant reported to council regarding revenue streams at the airport. We are starting to see declined revenue by less passenger travel as there is a fee applied to every passenger going through the airport. Also we are seeing a decline in the airport parking fees. They are looking at ways to discount parking for example a package deal for holiday weekends, and local discounts. McBryant referenced the Horizon dissatisfied customer letter which is in tonight's council packet. The airport is not able to change anything on their side to better customer service for either Horizon Airlines or Skywest Airlines employees.

McBryant mentioned that the airport manager, Rick Baird brought to the Airport Authority a possible airspace feasibility study. This would look at the limitations with the mountains and this airport with regards to safe landing distances. This study would cost approximately \$20,000 to \$25,000 to have done. The Airport Authority is considering this as they want to explore all options of allowing planes to land. Another alternative is landing from the North; this would not increase the landing traffic by much.

Haemmerle asked McBryant if the purpose of the study is for alternative flights. It won't change the airplane type it is only to make the best of the current situation while the airport is at the existing site answered McBryant. The study is to help maximize the ability of the airport, clarified McBryant.

EXECUTIVE SESSION: Real Property Acquisition (IC 67-2345.c) and/or Pending & Imminently Likely Litigation (IC 67-2345.f/j)

Mayor Davis asked for a motion to go into Executive Session.

Haemmerle made a motion to go into Executive Session at 5:43 pm for Real Property Acquisition (IC 67-2345.c) and/or Pending & Imminently Likely Litigation (IC 67-2345.f/j), seconded by Brown, motion passed unanimously by role call vote. Brown, yes. Keirn, yes. Haemmerle, yes.

Council returned from Executive Session at 6:00 pm. Mayor Davis noted that he recused himself from the Executive Session as he had a potential conflict of interest.

CONSENT AGENDA:

CA 052 Motion to approve and authorize the Mayor to sign Resolution for Friedman Airport grant AIP-03 (continuation of phase two EIS study) 5

CA 053 Motion to approve Birdwood Subdivision security agreement with Idaho Capital and authorize Mayor to sign 9

CA 054 Motion to authorize Mayor to sign letter to Governor C. L. “Butch” Otter recommending that the Sawtooth National Recreation Area (SNRA) be selected to be depicted on the new “America’s Beautiful National Parks Quarter Dollar Coin” beginning in 2010..... 13

CA 055 Motion to ratify Mayor’s signature on letter to Congressman Mike Simpson RE: Idaho State Highway 75 Improvement project funding 15

CA 056 Motion to approve and authorize the Mayor to sign Resolution 2009-02AND State/Local Agreements from the Idaho Transportation Department on Safe Routes to School project (project key number 11869) for FY 2010 infrastructure funds of \$71,500 and for FY 2009 non-infrastructure funds of \$1,800 17

CA 057 Motion to approve lease for towed vehicles to Wastewater plant and to authorize Mayor to sign 61

CA 058 Motion to approve Findings of Fact and Conclusions of Law – vacation of a portion of Cedar Street between 3rd Ave and 4th Ave 67

CA 059 Motion to approve Findings of Fact and Conclusions of Law – final plat approval of the Wood River High School Campus PUD Subdivision..... 73

~~CA 060 Motion to approve Decision – Leargulf, LLC appeal of Planning and Zoning Commission requirement of sidewalks within the public right of way 85~~

~~CA 061 Motion to approve City Council meeting minutes of January 26, 2009 and to suspend reading of them 89~~

CA 062 Motion to approve claims for expenses incurred during the month of January 2009 including dispatch payment for having received no decline in service for the prior month..... 101

CA 063 Motion to approve treasurer’s cash report, including LOT report..... 123

Williamson pulled Consent Agenda item 060 to discuss.
Mayor Davis pulled Consent Agenda item 061.

Motion to approve all other items from the Consent Agenda minus CA 060 and CA 061 made by Keirn, seconded by Brown, motion passed unanimously.

CA 060 - Williamson pointed council to page 88 in their packet regarding the Leargulf appeal. Under category “Issues” approximately 2/3 of the way down, talking about Merlin Loop – right after “entrances to Merlin Loop” add the language to read “entrances to Merlin Loop and along the Eastern side of Merlin Loop,”

Motion to approve Consent Agenda item CA 060 as amended and authorize the Mayor to sign made by Brown, seconded by Haemmerle, motion passed unanimously.

CA 061 - Mayor Davis had amendments to the 1/26/09 minutes. On page 92, remove the last word on the page, "He" and on page 96, 3rd paragraph, 1st sentence, should read "hear" not "here".

Haemmerle makes a motion to approve the minutes as amended, Keirn seconded, motion passed unanimously.

MAYOR'S REMARKS:

In an effort to keep the council better informed, Mayor Davis is providing council with varied information in tonight's packet. Included in this information was County Sales Data compiled by Tom Bowman, Association of Idaho Cities, City Officials Day at the Capitol, and Community Housing policies from various cities across the country. Mayor Davis does not expect that Hailey can reduce or eliminate our Community Housing fees given the economy but he hopes that it can be considered at some point in the future.

PUBLIC HEARINGS:

PH 067 An application by Old Cutters, LLC for final plat approval of Rimrock Cottages, Old Cutters Subdivision (940 Myrtle Street East), a 7 unit townhouse subdivision (continued from 1/12/09)

Mayor Davis recused himself and handed over the discussion to Carol Brown in Martha Burke's absence.

Mariel Platt, Hailey Planner spoke for Beth Robrahn Hailey Planning Director in tonight's meeting. This area is considered Phase 1 of the development added Platt. Also, the application is contingent on the approval of a Phasing Agreement and most of the suggested conditions are in regards to language using plat notes. Platt added that applicant and council need to determine a timeline for the subdivision of Phase 2.

Bruce Smith Alpine Enterprises spoke to council on behalf of Old Cutters, LLC. Also present tonight is John Campbell developer and Jim Speck attorney for Old Cutters. Smith commented on some of the Conditions of Approval in the Staff Report dated February 9, 2009. Including, on page 328, item C, regarding plat notes - Smith believes he has this item straightened out. Smith added that there may possibly be an amendment to the community housing agreement. Smith indicated that two of the 7 townhouse units will apply for the Certificate of Occupancy soon and another two units in approximately one month.

Haemmerle asked if anyone was living in any units now. John Campbell affirmed yes there is and he just found out about it today. Campbell would be happy to have this person move out until the Certificate of Occupancy is obtained. Finally, on page 335, item A, regarding subplot 1 plat note, Smith would like to have this language changed. Smith feels that there is a better place to indicate whether or not a unit is earmarked for Community Housing.

Jim Speck attorney spoke on behalf of Old Cutters. Speck reiterated what Bruce Smith stated regarding the community housing identification on the final plat. Speck does not believe that the final plat should indicate anything other than that the unit is marked as community housing. Speck then discussed the Phasing Agreement. There are two provisions of the Hailey Subdivision ordinance which apply here section 3.3, one is to submit a final plat within one year of the Preliminary Plat or pursuant to a Phasing Agreement. The second provision is section 8.6 (page 234 of staff report), last sentence beginning with "Further, if construction on any townhouse development or phase of any development ceases or is not pursued for a period of three years...", Speck added that council has the ability to extend this three year period. Additionally, the Final Plat is for a period of ten years. Speck let council know that Phase 2 is a duplex, not community housing, and Campbell intends to sell this area and not develop it. Given this, Speck indicated that they would prefer not to water this Phase II area, but the client will keep the area weed free during the time that this is undeveloped property.

Williamson reviewed items in the Phasing Agreement; paragraph 4 will take some revision if the council chooses to extend the deadline to record Phase 2.

Kathy Grotto spoke on behalf of the Blaine County Housing Authority. The housing authority is in support of this development as 5 of the 7 sublots will be community housing units eventually. Grotto is also in support of the Phasing Agreement. Grotto commented that if not indicated on the final plat, another document would need to be adopted to identify the sublots containing the community housing units.

Brown brought the discussion back to council.

Haemmerle is not open to entertain any amendments as this applicant is in breach of his contract. Haemmerle would like to make a motion to table this conversation until the applicant has satisfied the Annexation Agreement.

Haemmerle makes a motion to table this item until the items in the annexation agreement are resolved, seconded by Keirn, motion passed unanimously. Keirn would like to proceed with discussions as soon as the Annexation Agreement is met.

Speck asked to make some comments to council. Speck indicated that he did not believe that his client is in breach of his contract since there was conversation ongoing with the city discussing a solution around the time of the deadline.

John Campbell, the developer of Old Cutters spoke to council. Campbell indicated that he feels that the council is standing in the way of the community housing units selling to future owners.

Williamson indicated that council could continue to a date certain instead of tabling this item if they prefer.

Motion to reconsider the last motion to table this item was made by Keirn, seconded by Haemmerle, motion passed unanimously.

Haemmerle makes a motion to continue both items PH 067 and PH 068 to February 23rd council meeting, seconded by Keirn, motion passed unanimously. Brown stated that the Annexation Agreement is over a year old and it is still not cleaned up, hence the frustration heard tonight from council. Haemmerle added, that there has been a lot of effort by municipalities to accommodate Community Housing development. But for the sake of Community Housing we cannot overlook the legal responsibilities of developers. Haemmerle closed by stating that he will not bend over backwards for the sake of the public policy purpose of Community Housing to accommodate a developer that is in breach of contract.

PH 068 Old Cutters, LLC Rimrock Cottages Phasing Agreement (continued from 1/12/09)

PH 069 Proposed draft Hailey/Blaine County Area of City Impact (ACI) Ordinance, establishing an area of city impact, providing for an application of plans and ordinances for the area, delineating four areas within the Area of City Impact, each with general requirements, and addressing annexation, governing plans, notified notification and meetings between the City and County; Hailey Planning and Zoning Commission recommended approval on December 17, 2007 (to be continued or tabled)

Mayor Davis rejoined the meeting.

Mayor Davis opened by stating that staff would like more time to negotiate with the County and asked to have council either table or continue this item. Mayor Davis suggests that council table this item.

Brown moved to table the ACI ordinance (PH 069) and ACI map (PH 070), seconded by Keirn, motion passed unanimously.

PH 070 Proposed draft ordinance adopting a map identifying the Area of City Impact within the unincorporated area of Blaine County delineating four areas within the Area of City Impact; Hailey Planning and Zoning Commission recommended approval on December 17, 2007 (to be continued or tabled)

OLD BUSINESS:

OB 071 Motion to conduct 2nd Reading of Ordinance 1026 - An application by the Idaho Army National Guard for the vacation (abandonment) of a portion of Cedar Street, located between Third Ave and Fourth Ave and between Blocks 125 and 136, Hailey Townsite

Mayor Davis conducted the 2nd reading of Ordinance 1026.

NEW BUSINESS:

NB 072 Discussion and consideration of proposed amendment to the Sweetwater Planned Unit Development agreement – Jack Magids attorney representing Sweetwater will be present for discussion

Haemmerle recused himself due to a conflict of interest.

Williamson opened the discussion and provided an overview of actions taken up until tonight's meeting. Williamson has had discussions with Sweetwater attorneys and in the past they wanted to abandon the agreement (page 387 in council packet) and a request for revisions in the PUD agreement. Williamson will not go into the details because of discussions late this afternoon, Sweetwater attorneys indicated they want to take a different approach than what outlined in the proposed first amendment.

Jim Laski attorney for Sweetwater introduced Jack Magids another attorney for the developer from Tennessee has been working with the banks on the financial issues Sweetwater has been facing. Laski handed over the discussion to Magids and indicated that he will discuss later the PUD agreement.

Last August Magids was asked to review the business and affairs of 474 Club, LLC who is the 100% owner of Sweetwater, LLC and agreed to accept an engagement on behalf of 474 Club, LLC and all of its subsidiaries. Magids work has been broader than just the Sweetwater development. Magids has been evaluating this project and has shared his findings to both bank lenders. One bank is funding Phase 1, the other bank is financing Phase 2, 3, and 4. The bank funding phase 2, 3, and 4 is not authorizing the development because some of this property is in the flood plain. In short, Magids stated simply, in order to sell these units, the price must be dramatically dropped. A discussion today gives Magids hope that there is a probable solution in the works. In order to make this work, they must resolve the flood plain issues with Phase 4. Magids hands over the discussion to Jim Laski.

Laski points council to an agreement dated May, 9th, 2008 in the council packet, instead of the proposed first amendment in council's packet; Laski has a list of 9 items to revise the Planned Unit Development in order to revive this development. Laski stated that Brockway Engineering did a flood plain study and there are number of items that need attention to address the flood plain issues. Sweetwater asked Brockway what would be needed to take all of the Sweetwater land out of the floodplain, added Laski. The City of Hailey has a conflict in its Ordinance with the suggested solution by Brockway Engineering of placing fill in the Sweetwater property. Laski states that Sweetwater has not recorded the final plat in the allotted timeframe so they are in breach of contract, but they would really like to work with the City to continue with the revival of this development. Laski knows that the council has the ability to extend contract timeframes and he hopes that the council will do so in this case.

Laski addresses a few issues with the PUD. Laski indicates that Sweetwater would like to pay the \$1000 in-lieu park fee as the units sell instead of at the time of platting so they don't have to come up with the money upfront. Secondly, Laski asked for the security for drought tolerant plants be waived. Instead add a condition to recording the plat that they will plant these drought resistant grasses and water to the extent necessary so that they are viable, the portions of the development that have not been built yet. With regards to the street paving, most of this has

been done and Laski is asking that this be waived since Sweetwater does not have the ability to get this money upfront. One condition that Sweetwater agreed to pay and has defaulted on is the payment of the Countryside traffic signal. Part of the agreement is that Sweetwater is seeking reimbursement from Idaho Transportation Department for the Countryside traffic signal (approximately \$165,000) since the City has already paid for this light. Laski asks to amend the PUD agreement to expand the commercial use in the west end of the development. The South side of Countryside is part residential part commercial, more specifically the South West side of the development, Sweetwater would like to expand the commercial area in this zone. Laski is asking that the River Street property be applied as their first \$2.2 million payment and the remaining in lieu fee be waived. One final request, Laski is asking for the plan check fee for third party review to be reduced when the review entails very similar buildings. Laski clarified his request, that the third party reviewer only review the differences between buildings and not start from the beginning, this would save them thousands of dollars.

Magids summarizes that he hopes that council will entertain these changes so that everyone wins.

Mayor Davis asked what Magids definition was of Community Housing. Magids reply was not able to say but that it is a considerable drop from the current asking price for the units.

Brown indicates that there are definitely some items that she can accept. But, Brown is hesitant to expand the commercial area as asked by Laski as that the site has already had litigation on it. Brown has a hard time giving up the \$2.2 million for in-lieu fees. Magids responded that this money was not going to be paid for a very long time and the City may never see this money.

Keirn will consider the items proposed today when he can review them in written form.

Mayor Davis asked if this would need to go back to Public Hearing. Williamson indicated, no. Brown would like to see it go through a Public Hearing as does Mayor Davis.

Williamson stated that documents will be submitted to council in the near future.

NB 073 Proposal from Stu Brown regarding proposed horseshoe pits at Keefer Park

Becki Keefer spoke on behalf of Stu Brown. Keefer gave some background from the Parks and Lands Board. The Parks and Lands board was not comfortable with making a decision before knowing what the council thought about this proposal.

Tom Hellen Hailey Public Works Director indicated that Pocatello hosted a World Horseshoe Tournament a few years ago which attracted many participants from many countries including Canada, Norway. Haemmerle asked if there is any liability with horseshoe pit stakes. Keefer answered that the pits are constructed in sand with breakaway stakes so that if you run up and hit it, it will pop out. And when the pits are not in use they are covered with orange cones.

Keirn asked if this would interfere with any other uses within the park. Keefer answered no it would not.

Mayor Davis would like to see this proceed.

Brown is in support of this idea and enthusiastic. Keirn and Haemmerle agree with Brown.

NB 074 Discussion of dispatch level of service

Brown visited Mountain Home and met with Sherriff Rick Layher and a dispatch manager Kayla to learn more about their dispatch service. Brown has provide reports from this visit in tonight's packet. Elmore County is 29,000 in population and has approximately the same volume of dispatch calls as Blaine County (population ~ 22,000). Brown pointed to page 418 in the packet, Elmore County runs their dispatch for approximately \$363,000 (excluding equipment) per year versus Blaine County's proposal of approximately \$900,000 per year. Two major differences continued Brown is they pay their dispatchers less money and they run 8 dispatchers and 1 manager that can personally dispatch if necessary. Between 2-6 am they run 1 dispatcher. Emergency medical dispatch (EMD) is when a dispatcher must do nothing else, where other calls (non-emergency) they can multi-task. Brown now understands the rational for having a second or third dispatcher on duty. Brown wonders why the cities are being asked to pay for the dispatchers, why is this not being paid for by the ambulance district since they are the ones that want additional dispatchers.

Haemmerle commends Brown for her research. Haemmerle asks why the county is asking for 13 dispatchers.

Mayor Davis asks what are the next steps.

Brown stated that that the last proposal reviewed by council was not welcomed by the neighbors to the South. In summary, there is no perfect solution.

Keirn asked if Elmore County pays for their dispatch service. Brown confirms that they pay for it 100%.

Brown wants to find a solution, but understands that it won't be quick and easy. Brown met with the Sun Valley mayor, he has questions that he has been asked to document and provide to the County – Angenie McCleary.

WORKSHOP:

Mayor Davis asked if anyone had comments regarding any staff report items. Davis commended staff on cutting back the Caselle support to save the city money. Davis indicated that the Library continues to see increased traffic.

Tom Hellen asked council if they had any comments or suggestions on the TMDL permit process and finding an engineer to assist in the process (the two documents Hellen gave council tonight). Hellen will move forward with this process and be ready for the EPA when they contact us this fall.

Williamson updated council that today he attended a motion for summary judgment hearing on the Marijuana Initiatives. Judge Elgee ruled on three sentences. One sentence clearly states that possession of 35 grams of Marijuana is legal. The two related sentences which Elgee found are preempted by state law either expressly or by implication. Elgee did not make a ruling on the remainder of the arguments relating to the three initiatives. Williamson will get Elgee's written decision soon and report back to council with more information as he receives it. Another case on Birdwood subdivision has been dismissed concluded Williamson.

Dawson reported to council that the City has reached an agreement with a contractor Becki Keefer to assist the planning department as needed in Beth Robrahn's maternity absence.

Chief Jeff Gunter reported a successful torch run last week for the Special Olympics.

Brown added that Gunter made a great speech during the torch run activities. Brown commended Gunter and all of Hailey on a well run activity ensuring that the athletes had an enjoyable time.

Mayor Davis posed a question to council regarding a current sign situation of a local business. One local business asked for a sandwich board sign, and if allowed, this would have exceeded the sign allowance for the business. Brown deferred to Mayor Davis to make his best judgment on a decision.

Mayor Davis adjourned the meeting at 7:36 pm.

Rick Davis, Mayor

Mary Cone, City Clerk