

**MINUTES OF THE MEETING OF THE
HAILEY CITY COUNCIL
HELD MONDAY, FEBRUARY 23, 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, Martha Burke and Fritz Haemmerle. Staff present included City Attorney Ned Williamson, City Administrator Heather Dawson and City Clerk Mary Cone.

CONSENT AGENDA:

CA 079	Motion to approve 2 special events both are Hailey Antique shows, one on Main Street and the 2 nd at McKercher Park – <u>July 3-5, 2009</u> , Main Street time 9am – 7pm, McKercher Park time from 9am – 6pm.....	1
CA 080	Motion to approve 2 special events both are Hailey Antique shows, one on Main Street the 2 nd at McKercher Park – <u>September 4-6, 2009</u> , Main Street time 9am – 6pm, McKercher Park time from 9am – 7pm	13
CA 081	Motion to approve special event Kiwanis Car Show scheduled for August 8, 2009 at McKercher Park from 9am to 4 pm.....	25
CA 082	Motion to approve HHPC recommendation of hiring consultant Madeline Buckendorf to Rialto Hotel nomination and survey of the Rodeo Grounds, grant amount up to \$4,000 and 50% matching from city	31
CA 083	Motion to ratify Mayor’s signature application by Hailey Public Library for Idaho State Historical Records Advisory Board grant (from \$2,500 to \$5,000) to pay for a consultant to assist with Mallory Collection.....	37
CA 084	Motion to approve Library Board recommendation of eliminating the computer use fee by non-residents and authorizing collection of fees to make photo copies at \$.10 per sheet	69
CA 085	Motion to approve COBRA Administrative Agreement with A.W. Rehn and Associates and authorize the Mayor to sign.....	71
CA 086	Motion to authorize Mayor to sign letter of support to EPA CARE Grant Application Review Committee and approve of the HELP committee involvement in the grant	77
CA 087	Motion to approve temporary contract for planning department support for two months with Becki Keefer	79
CA 088	Motion to approve and authorize the Mayor to sign the Sewer Utility easement agreement with Silver Spur Development Corp	83
CA 089	Motion to approve City Council meeting minutes of February 9, 2009 and to suspend reading of them.....	91
CA 090	Motion to approve claims for expenses incurred during the months of January & February 2009.....	101

Williamson pulled Consent Agenda items 85 & 87 to discuss.

Burke pulled Consent Agenda item 89 to abstain.

Haemmerle pulled Consent Agenda item 82 to discuss.

Motion to approve all other items from the Consent Agenda minus CA 082, CA 085, CA 087 and CA 089 made by Keirn, seconded by Brown, motion passed unanimously.

CA 082 – Haemmerle pulled this item and wanted to hear council’s thoughts on whether this was a good expenditure at this time. Mayor Davis believes this is an important use of funds and it preserves the history of our city. Burke and Brown are in support of this project. Haemmerle wonders about the scope of work with this project, what happens with this site once it has been

documented as an historical site? Williamson had the same concerns as Haemmerle and clarified that this project will document the history of the Rodeo Grounds with the survey and the Hailey Hotel (aka Rialto Hotel) nomination. This is the process to document and nominate, this does not dedicate that ground for any particular purpose added Williamson.

Motion to approve Consent Agenda item CA 082 by Haemmerle, seconded by Keirn, motion passed unanimously.

CA 85 – Williamson asked to pull this item to give him time to review this document and make revisions if necessary.

CA 87 – Williamson noticed that one page of the contract was missing from his packet; he presumes that council's packet is missing the same page. Williamson stated that he is okay with this contract.

Brown makes a motion to approve CA 087 as supported by Williamson, seconded by Keirn, motion passed unanimously.

CA 89 – Burke pulls this as she was not at this meeting.

Brown makes a motion to approve the minutes from February 9th, 2009, Keirn seconded, motion passed unanimously with Burke abstaining.

MAYOR'S REMARKS:

PROCLAMATIONS & PRESENTATIONS:

Update from Hailey Sustainable Building and Planning Advisory Committee (approx. 5-10 minutes)

Jolyon Sawrey of 30 Wyatt Drive in Bellevue and chairperson of the Hailey Sustainable Building and Planning Advisory Committee spoke on behalf of the Committee. The Committee was formed in December 2008 is comprised of area professionals including Contractors, Architects. The Committee is in the process of evaluating other areas Building Standards and programs with the premise of recommending higher standards to the Hailey Council by summer 2009. Sawrey let the council know what groups the Committee is targeting for reaching out once they are at a position to give presentations. The list includes the AIA, Wood River Contractors Association, and Sustain Blaine. Sawrey complimented staff, Mariel Platt for the leadership she has provided to the committee.

APPOINTMENTS & AWARDS

Tree Committee appointment replacing Sallie Hanson (resigned in December 2008)

Mayor Davis would like to nominate Tom Ward to the Tree committee.

Motion made by Brown to nominate Tom Ward to the Tree Committee, seconded by Keirn, motion passed unanimously.

PUBLIC HEARINGS:

PH 093 Discussion of request to amend Old Cutters Annexation Agreement

Mayor Davis recused himself from this discussion and handed over the lead to Martha Burke, council president.

Burke asked Williamson for an update. Williamson asked to continue this discussion to March 9th, 2009. Williamson has been in discussions with Jim Speck and his client John Campbell.

Haemmerle has been in some of these meetings and hopes that they can continue discussions over the next two weeks and come up with a global resolution related to the annexation issues.

Motion made by Brown to continue both PH 094 & PH 095 to March 9, 2009, seconded by Keirn, motion passed unanimously.

Williamson noted that Jim Speck and John Campbell are in the room tonight and feels that they would agree with what has been stated. Speck agreed.

PH 094 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 2/09/09)

PH 095 Old Cutters, LLC Rimrock Cottages Phasing Agreement (continued from 2/09/09)

Motion made by Brown to continue both PH 094 & PH 095 to March 9, 2009, seconded by Keirn, motion passed unanimously.

PH 096 Discussion and consideration of proposed amendment to the Sweetwater Planned Unit Development agreement

Haemmerle recused himself of this discussion.

Williamson pointed council to page 148 - 149 in packet. Last meeting there was a request from Tennessee attorney Magids representing Sweetwater asked for numerous modifications to the PUD agreement. Later Williamson spoke with attorney Laski. Williamson suggested that Laski put the request in a letter format which has been done as indicated in tonight's packet.

Williamson sees these requests in 4 categories. The first category being items 1 & 9; extension of time of recording the plats, Williamson needs time to research this request. Category 2 items 2,3,4, and 5, these are items the council can amend. Category 3, involves items 6, and 7 regarding removing the flood plain designation from the property. The last item and the most notable according to Williamson, which they ask all Community Housing fees, are waived. Williamson offers to research plats if council requests.

Jim Laski on behalf of Sweetwater Development spoke to council. Laski asks council to think outside the box when considering this request given the economy and the goal to sell units and finish this project. Laski believes section 2,3 and 5 allow council to amend the plat time. Laski clarified that the request is asking for revisions to the PUD Agreement which will allow investors to finance the project and where the banks will compromise with a reduced loan.

Burke asked if another Public Hearing would be required to change the use of the property. Williamson commented that this property has been a topic of many lawsuits over the years.

Keirn asked Williamson if they are asking for a brand new Development Agreement. Williamson replied that to do what Sweetwater is asking would take drastic changes to the existing agreement.

Brown asked Williamson to explain what the foreclosure process would look like. If the bank pursued foreclosure, the bank would have to decide whether or not the PUD agreement would be foreclosed. If foreclosed, the existing houses would be considered apartments since the land is not subdivided yet. Williamson stated that any rights identified by community housing units would not be transferred to the purchaser; the city would lose this income.

Kathy Grotto spoke on behalf of the Blaine County Housing Authority. Grotto is confident that if the City Council were to make any decisions, that they would include BCHA.

Andy Harding, 460 Mother Lode Loop spoke to council. Harding does not think foreclosure and having more apartments would be bad for the city.

Peter Lobb 403 E. Carbonate, spoke to council. Lobb suggests that council let this go as the banks could pull the financing on this no matter what decision is made by council.

Williamson asked Laski about Income Based community housing option. Laski believes that the units will be marketed for substantially less than originally offered. Laski thinks it would be difficult to get any agreements to sell the units as income based.

Brown disclosed that Vicki Shapiro suggested that the city take ownership of some units in place of payments not made. Another email received by Mayor and council from Jerry and Kathy Kavka is in the packet, page 249.

Brown can be flexible on timeframes. Brown is not for outright waivers. Brown sees things in the proposal that she would accept.

Burke asked who would be “moving the dirt” to fix the flood plain issue? Laski explained that process to Burke and council. It would be about 6 inches of fill in approximately 5 acres, added Laski. Hailey’s ordinance restricts this action from taking place, Laski suspects this language is to protect around area Rivers.

Mayor Davis agrees with Brown’s comments.

Keirn is concerned that we've already paid for the traffic signal and that we won't potentially get reimbursed. Regarding section 8, Keirn would like to see deferred payments in years to come.

Brown suggested that she would need more details on item #7 on commercial use in additional areas. Brown is okay with expanded phasing. Items regarding the flood plain, community housing and commercial use are the big items to Brown. Which lots are what they have in mind, Laski showed council a map of the items, Brown is struggling with the lots in question. Brown would like to have an independent third party explain what the flood plain fill would do. Sweetwater would still have to pursue the FEMA acceptance. Burke wonders what this fill would do to other properties.

Mayor Davis is concerned that council would be opening the door to precedence to other developers. Davis wonders what completed projects would do if we make amendments to our previous agreements.

Burke summarized Brown's opening statements regarding time extensions. The extension does not relinquish the developer from the agreed financial responsibility which Brown likes.

Brown summarized her three stumbling blocks. Philosophically, she could not move forward with these discussions ended Brown.

Mayor Davis summarized the three issues that council is struggling with, waiver of fees, flood plain, and a commercial rezone of the property which has been subject to litigation for many years past. Council would like Brockway Engineering to explain to council what would happen upstream and downstream of the culverts.

Brown is concerned with changing the ordinance that is not flawed but is needed to fix a developers problem.

Laski understands where council stands on community housing.

Mayor Davis states that if we agree to these suggestions by the developer, we are setting precedence for other developers.

Brown is not willing to change the PUD based on tonight's discussion.

Keirn makes a motion to deny the nine PUD revisions as proposed by Jim Laski, seconded by Brown, Brown added that she would be willing to consider time frame changes if presented separately, motion passed unanimously.

Laski thanked the council for their deliberation.

Haemmerle rejoined the meeting.

OLD BUSINESS:

OB 097 Motion to conduct 3rd Reading of Ordinance 1026 –AND authorize the Mayor to sign: 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

Motion to authorize the Mayor to sign made by Keirn, seconded by Burke, motion passed unanimously.

Mayor Davis conducted the 3rd reading of Ordinance 1026.

OB 098 Motion to authorize the Mayor to sign 1) Quitclaim Deed, 2) Access, Utility and Parking Easement Agreement, and 3) Water Line Easement Agreement for the abandoned portion of Cedar Street, located between Third Ave and Fourth Ave and between Blocks 125 and 136, Hailey Townsite

Williamson pointed out that there are actually two quitclaim deeds one for the north part and one for the south part. The State did agree to grant an access utility parking easement over Cedar Street. There will also be a water line easement. The alley behind the Armory has not been properly vacated, it will be asked to be vacated to the State. In the meantime, the sewer line easement will be put on hold. Williamson asked council to condition the motion upon receipt of the signed easements from the State.

Motion made by Haemmerle for the Mayor to sign the two Quitclaim deed conditioned upon the city first receiving signed Access, Utility and Parking Easement Agreement, and Water Line Easement Agreement, seconded by Brown, motion passed unanimously.

NEW BUSINESS:

NB 099 Discussion of Blaine County Housing Authority contract for services

Williamson gave council an overview. Consideration of this agreement is based on a 3% fee retained at closing of the sale of Community Housing Units.

Kathy Grotto with BCHA spoke to council. Grotto has two small revisions, page 192 of packet, item h, should read “all deed restricted units” remove “income based”. The 2nd item page 195 of packet, paragraph 3, “...2% of the gross sales price in the event a realtor or realtors are utilize by sellers” add this to the end of that sentence: “with a valid listing agreement in effect”. New sentence states: “...2% of the gross sales price in the event a realtor or realtors are utilize by sellers with a valid listing agreement in effect”.

Motion to approve made by Brown with two noted changes made by Kathy Grotto and make the contract retroactive to October 2008, seconded by Burke, motion passed unanimously.

NB 100 Auditor's financial statements fiscal year end September 30, 2008

Scott Hunsaker, auditor spoke to council and handed out a report prior to his presentation. Hunsaker pointed council to the Management analysis part of the report and other subsequent sections of the financial statements.

Brown asked Hunsaker if the City has sufficient controls in place with regards to the accounts payable process. Hunsaker confirmed yes.

Dawson explained the controls process within the city to council. Gasby 34 required cities to do these Management analysis a few years ago.

Brown is very supportive of the separating of our Capital Improvements fund from the General Fund.

Motion made by Brown to accept the 2008 audit statement, seconded by Keirn, motion passed unanimously.

NB 101 Proposed revisions to the Parking Municipal Code

Tom Hellen Public Works Director gave an overview to council. Hellen explained the addition of a snow removal policy and ability to give a citation to violators.

Haemmerle does not agree with the 12 foot requirement. Hellen explained that this is meant to be a standard which can be applied to situations commonly encountered during winter months.

Council would like to see staff revise this and would like to see the Chamber on board with this prior to moving forward.

WORKSHOP:

Tom Hellen advised council that the person responsible for getting signatures on the Woodside agreement sold his business, so no one is in charge of gathering signatures. Hellen sees that a fence in this area to keep vehicles and such off the city right of way is a high probability this spring.

Jeff Gunter spoke to council about the economic stimulus money.

Brown attended the Library Board meeting. The board realized the inconsistency in fees charged, therefore, they did away with the computer use fee as indicated in tonight's consent agenda item.

Burke attended the Blue Ribbon Commission meeting in Ketchum. The next meeting is here March 4, Wednesday from 1 – 4 pm. Burke went to Washington to keep them apprised of our projects.

Mayor Davis updated council Wood River Rural Fire is attempting to change the ladder truck mutual aid agreement without our consent. Davis has a meeting with Commissioner Jay Bailet Wednesday morning to discuss this situation.

Mayor Davis leaving town next Wednesday and will be back the 16th of March.

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

Motion made by Keirn to go into Executive Session at 7:58 pm for Real Property Acquisition (IC 67-2345.c) and/or Pending & Imminently Likely Litigation (IC 67-2345.f/j), seconded by Haemmerle, motion passed by roll call vote, Burke, yes. Haemmerle, yes. Keirn, yes. Brown, yes.

Mayor Davis adjourned the meeting at 8:45 pm.

Martha Burke, Council President

Mary Cone, City Clerk