

**MINUTES OF THE MEETING OF THE  
HAILEY CITY COUNCIL  
HELD MAY 18, 2015  
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 Fritz Haemmerle. Present were Council members Carol Brown, Don Keirn, Pat Cooley, and Martha Burke. Staff present included City Attorney Ned Williamson, City Administrator Heather Dawson, and City Clerk Mary Cone.

[5:30:47 PM](#) call to order by Mayor Haemmerle

Open Session for Public Comments:

Bob Macleod [5:31:25 PM](#) representing the Blaine County Historical Museum announces that the Museum will be opening this Friday for 53<sup>rd</sup> year. And Heritage Court will be held at the Liberty Theatre on June 14<sup>th</sup> at 3:00 pm.

[5:32:10 PM](#) Jim Laski asks a question of the Mayor about when the circus application will be discussed. Mayor Haemmerle responded that he will move the discussion to later in the meeting as Council member Brown mentions that she plans on pulling the item for discussion.

**CONSENT AGENDA:**

- [CA 187](#) Motion to approve 2015 EMS Grant through Idaho EMS Bureau. Application is due June 1, 2015.....
- [CA 188](#) Motion to approve grant application to Idaho Department of Lands Volunteer Fire Assistance for Wildland PPE gear.....
- ~~[CA 189](#) Motion to approve Resolution 2015-40, to authorize and sign the Blaine County Multi-Jurisdictional All Hazard Mitigation Plan.....~~
- [CA 190](#) Motion to approve Resolution 2015-41, authorizing the 2015 Annual Operating Plan and Cooperative Fire Protection Agreement between Hailey, USDI, BLM, and USDA and Forest Service.....
- [CA 191](#) Motion to approve Resolution 2015-42, to sign an agreement with Uhrig Fencing in the amount of \$6,340.00 to replace the damaged fence at Lions Park that was burned by the fire .....
- [CA 192](#) Motion to approve Resolution 2015-43, to sign a Letter of Agreement with Clearwater Landscaping for various irrigation repairs totaling \$20,594.00 on the estimates provided .....
- [CA 193](#) Motion to approve Resolution 2015-44, to authorize service agreement with AmeriPride Services for cleaning of the Wastewater department clothes at prices we are currently paying.....
- [CA 194](#) Motion to approve Resolution 2015-45, to authorize agreement with Fisher’s Technology to buy 2 small copiers, rent a larger color copier and service 2 existing copiers for \$129.52 per month .....
- [CA 195](#) Motion to approve Resolution 2015-46, to amend and restate Resolution 2011-17, to add Girls on the Run to the list of events exempt from park use fees under HMC 12.14.070(1)(a).....
- ~~[CA 196](#) Motion to approve Resolution 2015-47, authorizing Arena Use Agreement in conjunction with Special Events Permit for Jordan World Circus for June 6, 2015 afternoon and evening events .....~~
- [CA 197](#) Motion to approve special event being 5 Alarm Chili Cookoff & Sun Valley Firefighter’s Bash to be held on East Carbonate Street from Main Street to the Alley on Saturday, June 6<sup>th</sup> from 3:00 pm to 7:00 pm .....
- [CA 198](#) Motion to approve minutes of May 4, 2015 and to suspend reading of them .....
- [CA 199](#) Motion to approve claims for expenses incurred during the month of April 20, 2015, and claims for expenses due by contract in May, 2015 .....
- [CA 200](#) Motion to approve Treasurer’s reports for April 2015 .....

Heather Dawson pulls CA189  
Brown CA 196 for discussion

**5:33:08 PM Burke moved to approve all consent agenda items minus CA 189 and CA 196, seconded by Keirn, motion passed unanimously.**

CA 189 5:33:29 PM Dawson announced resolution number for this item is 2015-48 and not 2015-40 as shown in packet.

**Burke moves to approve CA 189 as discussed, motion seconded by Cooley, motion passed unanimously.**

CA 196 5:34:29 PM Brown pulled this item for council discussion as she is inclined to deny this request based on the information she has gathered online regarding traveling circuses and the treatment of large animals. Mayor will move this discussion to later in the meeting.

### **MAYOR'S REMARKS:**

5:35:20 PM Mayor Haemmerle recognizes Nancy Gurney. Gurney is retiring after almost 30 years of involvement in several capacities with the Hailey Public Library.

Standing round of applause for Gurney.

5:37:08 PM Gurney announces that she has enjoyed going to work every day and proclaims that she will miss it.

### **PUBLIC HEARINGS:**

*PH 201 Discussion of Hailey's policy on nuclear waste shipments to Idaho and storage within Idaho  
Attorney General Lawrence Wasden*

5:38:03 PM Attorney General's office is here to discuss the nuclear waste topic in Idaho.

Mayor Haemmerle gave an update of the discussions that have occurred at past council meetings.

5:39:06 PM Lawrence Wasden, Idaho Attorney General, introduced why he is present today. Wasden first learned of this discussion from the local paper covering a nuclear waste story. Wasden points to several documents he handed out to the Mayor and Council. Wasden then gave a history of this topic. Cecil Andrus (before 1995) heard of a shipment of nuclear waste going through Idaho, the Governor asked the Idaho State Patrol to stop any shipments attempting to go through our state. Governor Batt, continued the primary objective from Andrus. In the 1995 agreement, there is a timeline transuranic radioactive waste referred to as TRU, is contained on clothing and things buried in the desert, barrels break-down over time and contaminate the ground around it. Wasden recounted the lawsuits, deadline is dec. 31<sup>st</sup> 2018 – all TRU waste needs to be shipped out. Another part of the timeline, commits waste to go to the

Waste Isolation Pilot Plant (WIPP), WIPP is closed now because of unrelated incidents beginning December 2012.

[5:47:15 PM](#) Haemmerle asks a question about the initial concerns before the 1995 agreement. Wasden answers his question.

[5:48:54 PM](#) Wasden explains that under the 1995 agreement, the penalties are outlined and have been imposed as punishment since Dec. 2012. Wasden talks about the 900,000 gallons of liquid waste held in 3 stainless steel tanks. There is a 4<sup>th</sup> empty tank in case one of the 3 tanks, leaks, the waste can be placed in the empty tank. Wasden's larger concern is the sodium barium high level liquid waste, which at some point will leak. Problem is they don't have to get rid of this waste under the 1995 agreement only thing we can do is stop additional waste from coming into the state.

[5:52:06 PM](#) Wasden points to one of his handouts provided to council, paragraph j number 1, last sentence at the bottom of page, "Idaho shall have the ability, in its sole discretion, to waive performance by the federal parties of any terms, conditions and obligations contained in this Agreement." Wasden explains why they agreed to allow commercial fuel to be tested and brought in with the 2011 agreement.

In 2004 DOE came to AG's office, want to conduct testing. AG's office said okay at the time, because they were in compliance with the 1995 agreement. DOE wanted to put an agreement in place so that they would not have to ask for permission each time they wanted to bring in nuclear fuel to conduct testing. So, the 2011 agreement was a formal agreement that the AG's office and DOE agreed to. Condition of testing, "...you can bring in testing materials if you get the waste out in compliance with the 1995 agreement. On, Dec. 18, 2014 AG's office received a letter from Secretary Ernest Moniz with DOE, asking to bring in 2 shipments, and wishing to take ownership of the nuclear fuel material in Jan. 2015 and ship it in by Jan 2016. [5:58:39 PM](#) Wasden recounts a meeting in Jan 2015. Wasden sent a letter on Jan. 8, 2015 to Secretary Moniz at DOE.

[6:03:39 PM](#) Haemmerle asks another question. Wasden clarified.

Wasden refers to conversations regarding the Waste Treatment Unit being up and running by sept. 2015. The DOE said they would not have the machine up and running until 2018 or 2019. Then Wasden wrote another letter on Feb. 27, 2015 [6:07:23 PM](#). Wasden reads from this letter. Both Wasden letters Jan 8 and Feb. 27<sup>th</sup> were handed out to council in tonight's meeting.

No additional fuel will come into the state until they comply, added Wasden. They must be processing liquid nuclear waste before allowing more fuel (i.e. commercial spent fuel) to come into the state.

[6:09:01 PM](#) The Integrated Waste Treatment plant is not running. Liquid is higher risk than a solid waste believes Wasden.

[6:11:30 PM](#) Wasden reports that the liquid nuclear (TRU) waste has been in these tanks for 50 years. Wasden wants to see that this conversion from liquid waste to solid waste gets done. We don't want to be a nuclear waste dump. The 2011 agreement gave them a path to bring in commercial nuclear waste if they become compliant with the 1995 conditions of getting waste out of the state.

[6:13:55 PM](#) Haemmerle asked if this machine has ever been up and running between 1995 and 2011? Wasden answered no it has not.

[6:16:43 PM](#) no other such machines exist and other people have liquid waste.

[6:18:24 PM](#) not allowing more waste, but changing the types of material still not exceeding the total nuclear waste amount allowed in the 1995 agreement. [6:19:48 PM](#) 1995 agreement states we will measure the waste by the heavy metals. Originally communicated as 200 lbs of heavy metals, but when it is shipped in the casks it is much heavier.

[6:22:28 PM](#) Brown thanked Wasden for this information he presented and asked a question. Will you include any public process going forward? Wasden is presenting now.

[6:23:50 PM](#) Haemmerle asks if the former governors are okay with this agreement? Wasden is not sure cannot speak for them. He has had conversations with Batt.

[6:25:21 PM](#) Wasden clarifies that liquid waste must be processed before Wasden will allow more fuel to come into the state.

Burke feels better hearing Wasden's information.

[6:27:12 PM](#) Brown asks a question about NEPA. Wasden, it is not relevant to his job, he has been making suggestions on the topic.

[6:28:51 PM](#) Lisa Carton with the Idaho Mountain Express asked Wasden a question. Wasden answered and visited INL last week. Until it (INL) is processing waste, no additional waste will come in to the state.

[6:30:17 PM](#) Keirn asked when Waste Treatment Unit will be up and running. Wasden answered, not sure they have a date. And Yucca Mountain is closed right now, no one knows where that will go.

Public comments:

[6:32:05 PM](#) Bob Macleod Hailey resident, as a laymen, as we keep making agreements, no place for this to go, we might end up with more waste here. MacLeod thanked Wasden for his information. [6:32:59 PM](#) Wasden by 2035, this waste should be removed. After that, we might not have as much control.

[6:33:47 PM](#) Maya Burrell Ketchum resident asked a question of Wasden. Wasden has 2 areas of leverage, when there is failure to meet the timeline, then they cannot bring fuel into the state. This has been in effect since Dec. 2012. And 2, we have an opportunity to leverage the request of bringing more waste in and conditionally requiring that the liquid waste is cleaned-up before bringing in additional waste.

[6:36:27 PM](#) Haemmerle has closing thoughts on this topic. Applauds the AG's efforts to process and remove waste.

[6:37:01 PM](#) Wasden responds. There used to be an attorney in the AG's office which purpose was monitoring the 1995 agreement and it became a political situation and her position was removed.

*PH 202 Consideration of Resolution 2015-30, authorizing Second Addendum to Annexation Agreement and Third Modification to Deed Restriction for the North Hailey Business Center (continued from April 20th council meeting)*

[6:38:21 PM](#) Mayor Haemmerle introduced this item and handed it over to City Attorney.

[6:38:40 PM](#) Williamson gave a history of this item. Annexed by Bart Rinker in 1991. The site is where McDonald's restaurant is now. Excluded grocery stores and restaurants. 1<sup>st</sup> amendment. And 2<sup>nd</sup> amendment to annexation agreement in 1993 also removed from the deed restriction. Later, Albertsons grocery store annexed and opened.

Williamson has been contacted by the current owner of the lot south of McDonald's. Sale is pending the removal of this restriction of not allowing for grocery stores on the lot. Williamson has spoken with Lisa Horowitz the Community Development Director and both feel given the situation it is appropriate to remove this restriction.

[6:43:06 PM](#) Ed Lawson attorney representing owner of lot 1. Neumann is representing the grocer.

Lawson represented Bart Rinker at the 1991 annexation. Lawson remembers that Rinker had no interest in the restrictions. Lawson feels that with the growth and circumstances warrant a removal of the restriction. Lawson urged the council to remove the restriction.

[6:45:49 PM](#) Jim Phillips attorney representing Atkinson's family grocery store. Phillips announced that the removal of the restriction is not as simple as it seems. Phillips reads an excerpt from Pg. 27 of the Hailey Comprehensive Plan, stating that the downtown core is the proper place for this type of development. In 1991, Hailey with the Atkinson family focused to develop the downtown core. That same year Bart Rinker annexed his property and agreed that certain uses would not be permitted on his property. 1991 annexation of the Wood River Motors property – know as the North West Hailey annexation. Phillips refers to Comprehensive Plan again regarding statements on new business and development. The Comprehensive Plan and the downtown plan have not changed. This proposal is counterproductive to both of these. Hailey

has invested a lot of time in the plans they have, Phillips urges council to follow them. The opposition to this business, but to not hurt the downtown core. Phillips requests to reject this or compare it to the Comprehensive Plan before deciding on this proposal.

[6:56:14 PM](#) John Gaeddert spoke to council on behalf of the Atkinson family. Gaeddert spoke to the history of Hailey and the changes over the years. Gaeddert reads from the Comprehensive Plan on page 27 and the encouragement of walkability. Gaeddert's concern of the future, what are the unintended consequences to this removal of the restriction brings to our city. Gaeddert thinks there may be other spots for this store.

[7:00:52 PM](#) Janine Bear local realtor speaks on behalf of her client, the buyer of the property. There is not another parcel that works for this client. There is really not another option, she has been working on this for about 1 year and has looked at all available properties in Hailey.

[7:02:54 PM](#) Ed Lawson, we are not asking for Hailey to change the Comprehensive Plan. Lawson asks council to focus on the deed restriction. Lawson is asking for the grocery store restriction to be removed, if the city wants to remove all of the restrictions, Lawson is okay with that. Lawson feels that this is infill piece. Lawson feels that justification in development since 1991, makes sense to remove these restrictions.

[7:06:29 PM](#) Jim Phillips speaks to council again. This proposal is not consistent with Comprehensive Plan, it is the unforeseen consequences that are a caution. Phillips asks council not to rush on this proposal.

[7:08:07 PM](#) Brown asks a question about mixed building use.

[7:08:39 PM](#) Horowitz when asked the question about potentially removing the restrictions; Horowitz took a pragmatic approach to this situation and explains her thought process and steps for analyzing this request. In response to the guiding principle that Gaeddert read. There have been three (3) important decisions that Hailey made that allowed linear development to occur in the City, allowing the post office to move to the South part of town, annexing property and allowing Albertsons at the North end and then allowing St. Luke's to build a clinic at the very South end of town. Horowitz explained her rationale around her research.

[7:10:33 PM](#) Williamson reminds council that council does not have to deny based on the Comprehensive Plan.

[7:10:56 PM](#) Burke remembers actions taken by Planning and Zoning Commission and remembers when we did not have a downtown core. Burke feels that our downtown core is developed now. Burke reminds council that we must protect residential areas in Hailey too. Balance must be maintained, put business where business is zoned. Our job is to follow the design that was put in place years ago. It made sense then, but not today. Burke, it doesn't work now.

[7:14:36 PM](#) Cooley was surprised to hear about the restrictions on this property. Cooley agrees with Burke.

[7:15:04 PM](#) Keirn comments that if this proposal was from any other retail store, we would not be having this discussion. Keirn agrees with Burke.

[7:15:43 PM](#) Brown reviewed the zoning for this with the restrictions. This has the look and feel of Limited Business with the restrictions. Brown reached the same conclusion as the rest of the council.

[7:17:45 PM](#) Haemmerle agrees with council. Haemmerle doesn't feel that the restrictions should be associated with the property anymore. We've succeeded in establishing a downtown in Hailey. Haemmerle agrees with Burke that residential areas need to be protected.

[7:19:34 PM](#) **Keirn moves to approve the Second Addendum to the Annexation Agreement and Third Modification to Deed Restriction with Resolution 2015-30, seconded by Burke, motion passed with roll call vote. Burke, yes. Cooley, yes. Keirn, yes. Brown, yes.**

*PH 203 Consideration of ordinance amendments to Hailey's building codes and energy codes (continued from April 20th council meeting)*

[7:20:49 PM](#) Mayor Haemmerle introduced this item and turned over discussion to Kristine Hilt.

[7:21:03 PM](#) Kristine Hilt presents to council a proposed ordinance. Hilt gave some history of the state code which was adopted Jan 2015. We have 2 different codes to build to – some of 2009 code some of 2012 code. In some cases, our build better code is difficult to meet 10% better when using the 2012 code.

Hilt asks for council comments.

[7:25:14 PM](#) Haemmerle refers to concerns, wanting to preserve older buildings. If you are adding on to your existing home. If 500 square feet or larger, hire a HERS rater and get more information on how to make the home more energy efficient. But you are not required to implement the suggestions.

[7:27:12 PM](#) Cooley asks a question about window replacements. Hilt answers.

Public Comments:

[7:29:15 PM](#) Jerry Long with Division of Building and Safety spoke with council. Long is on the 2108 building review team. Long explains the general confusion he sees from his perspective.

[7:30:59 PM](#) Sharon Grant, Ketchum resident and is a energy and green building consultant. Grant supports this proposal. It is important to be consistent among the communities. We are not being too far reaching in her opinion.

[7:33:01 PM](#) **Motion to approve Ordinance No. 1176, seconded by Keirn, motion approved unanimously.**

[7:34:22 PM](#) Mayor Haemmerle conducts reading of Ordinance No. 1176 by title only.

Mayor Haemmerle announce that CA 196 will be discussed next – circus application:

**CONSENT AGENDA continued:**

*CA 196 - Motion to approve Resolution 2015-47, authorizing Arena Use Agreement in conjunction with Special Events Permit for Jordan World Circus for June 6, 2015 afternoon and evening events*

[7:36:29 PM](#) Brown has evaluated the discussion and claims discussed in the last meeting. A lot of the stories last year were years and decades old so Brown could not put a lot of credence in them. But now listening to how large animals are required to be moved and held in cages at all times. And the elephant that escaped within the last 3 years is a safety concern. 3<sup>rd</sup>, Brown wants Hailey Ice to be built, if she has to choose, she would pick Hailey Ice.

[7:39:12 PM](#) Burke would like to see humane treatment including the transporting of exotic animals. Burke is comfortable in denying this application now.

[7:40:47 PM](#) Cooley asks a question of Chief Gunter. Dawson points the council to the document in the packet, exhibit A, pg. 106, which is the map of the Wertheimer Park layout showing available area to the Circus during the event with consideration of construction of the Hailey Ice rink building. Dawson describes the map to council. There will not be spectator parking this year.

[7:43:34 PM](#) Jim Laski states that they will unload in the open lane.

[7:44:18 PM](#) Kristine Hilt comments.

[7:45:29 PM](#) Pearson Blaimares, a student, comments. Gabe Delgado speaks regarding the Student Elephant Project. Delgado states that the Jordan World Circus has had 28 federal violations. Delgado states the mission of his group. Delgado asks council to deny the request and amend the law to not allow exotic animal circuses. Delgado asks council to propose outlawing circuses in the next meeting.

[7:49:16 PM](#) Haemmerle asked a question of Hilt about the past violations. Hilt answered.

[7:50:04 PM](#) Maya Burrell comments and asks if certain agencies were contacted. Hilt responded.

[7:50:58 PM](#) Jim Laski with Hailey Ice. Hailey Ice's contractor has not heard from the Circus yet.

[7:52:08 PM](#) Burke asks a question for discussion. Haemmerle responds.

[7:53:47 PM](#) Williamson reads 2 standards regarding special events, which could apply to her question. Brown reads from chapter 6.04.090, regarding humane treatment of animals.

[7:56:11 PM](#) **Motion to deny circus made by Brown citing 12.14.050 e & c and 6.04.090, and we have a major construction project in close proximity to the arena. Seconded by Burke. Haemmerle feels there is a problem with the construction site. Haemmerle is not willing to say no more circuses in our nation. Haemmerle is not willing to pass that type of Ordinance. Cooley is not against this application. Keirn is not going to deny the application. Council votes: Brown, yes, Keirn, nay. Cooley, nay. Burke, yes. Haemmerle, nay. Motion failed 3-2 votes.**

[8:02:22 PM](#) **Cooley makes a motion to approve the Jordan World Circus and authorize Resolution 2015-47 which approves the use agreement and special event, seconded by Keirn. Burke, nay. Brown, Nay. Keirn, yes. Cooley, yes. Haemmerle, yes. Motion passed 3-2 votes.**

*PH 204 Proposed Ordinance Title 13 cross-connection ordinance amendment to consider allowing alternative backflow protection devices for irrigation and Title 18 to adopt amended and new Standard Drawings relating to cross-connection and new sewer service connection.*

[8:05:01 PM](#) Platt gives a summary wants to separate title 13 and title 18 ordinance changes. Title 13 discussion tonight, 18 in a month ½.

No public comments.

[8:06:22 PM](#) **Keirn moves to approve Ordinance No. 1177 and read by title only, seconded by Burke, motion passed unanimously.**

[8:06:49 PM](#) **Haemmerle reads Ordinance No. 1177 by title only.**

*PH 205 Biosolids project – Notice of Award to Contractors Northwest Inc. for \$4,023,000*

[8:07:14 PM](#) Platt announced that we pre-qualified bidders last winter – there were 7 approved bidders, and of those approved, 4 submitted bids. Request to award contract to Contractors Northwest Inc. (CNI) for the Biosolids Project.

No public comments.

[8:08:56 PM](#) Williamson comments, bid came in below.

[8:09:30 PM](#) **Motion to award contract to CNI, for \$4,023,000. Seconded by Keirn, motion passed. Brown, yes. Keirn, yes. Cooley, yes. Burke, yes.**

### **NEW BUSINESS:**

*NB 206 Discussion of City water projects and priorities*

[8:10:52 PM](#) – Mayor Haemmerle comments that one item is not on the list presented tonight, the Big Wood and Little Wood water call. Hailey is represented for this call by Michael Creamer and there has been good discussion at the lawyer level addressing this problem of water sharing.

[8:11:50 PM](#) Platt gave an overview of this item. The main element to this is the water call and making sure we stay informed on all of the water topics.

[8:14:03 PM](#) Cooley asks a question, about the wall at Indian Springs. Platt answered, there is no wall there yet, but we need one. Working on getting one.

Cooley asks about a school district well? Discussion ensued about watering in general.

### **OLD BUSINESS:**

*OB 207 3rd Reading of Ordinance No. 1173 - vacating portions of 6th Avenue and Carbonate Street property*

[8:17:00 PM](#) Williamson asked to pull this 3<sup>rd</sup> reading as he has not heard from the Mizer's and has not received the signed easement.. Williamson suggests to move this item to a future meeting June 15<sup>th</sup>.

[8:17:55 PM](#) **Brown moved to continue this item to June 15, 2015, seconded by Burke Motion passed unanimously.**

*OB 208 3rd Reading of Ordinance No. 1174 - Non-Discrimination Ordinance, which establishes protections against discrimination based on gender identity or sexual orientation within the City of Hailey (Summary of Ordinance*

[8:18:19 PM](#) **Brown moves to approve Ordinance No. 1174, approve summary, authorize the mayor to sign, motion unanimously approved.**

**Mayor Haemmerle conducts the 3<sup>rd</sup> Reading of Ordinance No. 1174, by title only.**

*OB 209 3rd Reading of Ordinance No. 1175 – Floodplain Ordinance Amendments Summary of Ordinance*

[8:20:19 PM](#) **Burke moves to approve 3<sup>rd</sup> reading, approve summary, and authorize Mayor to sign, seconded by Cooley, motion passed unanimously.**

[8:21:05 PM](#) **Mayor Haemmerle conducts the 3<sup>rd</sup> Reading of Ordinance No. 1175, by title only.**

### **STAFF REPORTS:**

[8:22:50 PM](#) Chief Aberbach we had our 1<sup>st</sup> do the right thing ceremony, May 11<sup>th</sup>, candidates and their families were present. And also we had our 1<sup>st</sup> bingo night last Thursday and the

Senior Connection. And lastly, we will have 5 more firefighters soon, they passed their course and testing. Great communications with WRFR asst. fire chief.

[8:24:12 PM](#) Cooley out June 1<sup>st</sup>, he will email Haemmerle his comments regarding the next FMAA meeting.

[8:24:35 PM](#) **Motion to adjourn meeting made by Brown, seconded by Keirn, motion passed unanimously.**