

**MINUTES OF THE  
PLANNING & ZONING COMMISSION  
MEETING HELD ON APRIL 21, 2008**

The meeting was called to order at 6:30 p.m. by Commission Vice-Chair Owen Scanlon. Commissioners present were Geoff Moore, Mike Pogue, and Mark Spears. Commission Chair Stefanie Marvel was excused. Staff present was Planning Director Beth Robrahn, Planner Mariel Platt, and Administrative Assistant Becky Mead.

**Public Hearing:**

**City Text Amendment to Commission Bylaws**

Amendments include, but are not limited to; establishing ethical guidelines, prohibiting representation of projects by Commissioners, changing noticing requirements for special meetings, changes to the agenda categories and public hearing procedures. The Hailey City Council recently amended provisions of the Hailey Municipal Code relating to procedure.

Director Robrahn mentioned she had previously introduced the proposed amendments to the Commission. She told the Commission that the City Council had amended their Public Hearing Procedures. These amendments were drafted to be consistent with the changes made by the City Council. She said in reference to the Planning Ethics from the American Planning Association, they were added to the bylaws. She had a conversation with the City Attorney regarding Robert's Rules of Order; there is a blanket statement in the Bylaws. She stated Robert's Rules of Order are cumbersome and not everyone knows the bulk of the rules and the only portion that is used by the Commission is the portion that applies to making motions. She and the Attorney thought it would be easier to call out the portion of Robert's Rules in regards to motions as part of the Commission's procedures.

Director Robrahn explained the proposed additions are underlined (except for the titles) and what is proposed to be deleted is stricken through.

Commissioner Spears stated that the motions were a portion of what will be in their workshop.

Director Robrahn concurred and stated during the workshop they would be going over what has been added here.

Commissioner Pogue referenced to Section 3.4, Representation by a Commissioner and asked if the City Attorney had any comment in regards to perceiving conflict of interest, in respect to representation of an applicant by a Commissioner.

Director Robrahn stated she and the City Attorney did not specifically talk about that but he did review all of the changes and thought that this change was appropriate and reasonable. She stated they wanted to be careful so it was not written that a Commissioner could not be an applicant for their own project; if they were to do a remodel to their own house for example. She stated the Attorney did not have any issues or concerns with this section.

Commissioner Pogue commented on Section 5.10, Consent Agenda and suggested that it read, The Planning and Zoning Commission may use, instead of "shall use" the procedure of a "Consent

Agenda" at its meetings. He also commented on Section 6.1, Representation at Hearings and recommended that it read, Applicants shall appear personally or be represented by authorized agents. He said the way it read now could be interpreted as the applicants are required to be represented by authorized agents.

Commissioner Moore referred to Section 5.9, Agenda and asked if Public Hearings should be included in the list of items.

Director Robrahn explained that was addressed after item number 9; Public hearings that have been continued from a previous meeting shall be placed on the agenda as Unfinished Business. New public hearings shall be placed on the agenda as New Business. She stated public hearings are not a separate item but would be either under Unfinished Business or on the agenda as New Business.

Commissioner Scanlon referred to Section 5.4, Special Meetings; Special meetings for any purpose, other than application to be heard not head, to correct that spelling error. He also questioned Section 3.4 and asked if this was added to comply with the State Code.

Director Robrahn said after the meeting, when Commissioner Scanlon was a representative for his client, there were questions raised as to whether that was a perceived conflict. She stated there was nothing that prohibited a Commissioner being a representative, but the perception of the public may be that it is not appropriate. She thought the Commission was in general agreement in regards to this being something that they would want to consider and this is why she formalized it in the Bylaws.

Commissioner Scanlon felt it was short-sighted; in the case of a single practitioner who would serve on the Commission. He said Jay Cone came to mind if he were to get a chance to sit on the Commission, as a single practitioner he would be discriminated against. He also added, before he took this position, if he was told that he could not represent a client, he would not have taken a position on the Commission.

Commissioner Pogue had the same thoughts on this subject as Commissioner Scanlon. He mentioned that this did not seem to be a change that had to be made and it did not sound like a recommendation that the City Attorney would make. He thought that this could be something that could be addressed on a case by case basis. He mentioned, that he has, on occasion, spoken to the City Attorney regarding certain situations and in one case the Attorney told him that he should recuse himself and another instance he said not to represent.

Director Robrahn stated this presented a very interesting dilemma. She thought it was difficult for a Commissioner to present an application to the Commission. She suggested of the Commission could develop a policy to discourage Commissioners from being the representative. She thought in the case where a person who had a business of their own, and they wanted to be on the Commission, that person may not be a very good choice for the Commission if they would have to represent clients often; as opposed to someone who may have an application to present every now and then. She agreed it would be on a case by case basis or it would depend upon who the individual was and what the circumstances were.

Commissioner Pogue thought there was a degree of self regulation that anyone who would be in that position to represent a project would undertake. He thought there were some built in restraints as far

as representing certain projects and thought this did merit some discussion; he thought it should not be added to the Bylaws at this time.

Commissioner Scanlon stated, from a personal prospective, he recently presented a project and thought the Commission was as tough as any Planning and Zoning Commission he has ever presented to. He felt he did not get any leniency or special consideration in any shape or form.

Commissioner Moore stated they needed to be careful of public perception.

Commissioner Spears concurred.

Commissioner Scanlon stated he would like to hear from Tony Evans who was present the night he made his presentation. He also said that he thought that every person who sits on the Commission should make a presentation at one time; to see what it feels like to be on the other side.

### **Public Comment Opened**

**Jay Cone**, 651 El Dorado Lane thought the dialog that was just discussed covered a lot of the basis. He agreed with what was said by several of the Commissioners. Cone thought people perceived that a Commissioner gets favoritism when they are on the other side of the table. He agreed that there is a difference between an architect who works in a multi-person firm and an architect who owns his own business like he does. He added he could hire someone to present a project for him. It is again further narrowing the field to who is going to be willing to serve on the Commission. Cone stated how vital it is to have an architect on the Commission. He suggested to have an alternate and understood that anyone could have to recuse them self at one point or another, but it was most likely that it would be the architect.

**Tony Evans**, 12 Spruce St East mentioned that the Commission did give Commissioner Scanlon a hard time when he presented his application. Evans stated it seemed odd for someone to recuse himself to come to present a project and leave a position vacant. That vacancy seemed to alter the number of votes that could be cast from the Commission. Evans thought it was purely public perception and was a conflict of interest. Evans said that's why he wrote about it, because it seemed interesting. Evans added that people who are active in these professions should take into consideration that they are going to be in judgment and try to be objective about the rules and regulations; that it would be difficult to be professionally involved. He said he recently declined a position on the Hailey Arts Commission because his publisher said eventually he would have to write about something that has to do with the Hailey Arts Commission. Evans stated even just being a member of the newspaper staff would be a conflict of interest.

### **Public Comment Closed**

Commissioner Spears stated he concurred with Commissioner Pogue as far as speaking with the City Attorney and hearing his thoughts about this. Commissioner Spears said it was a little uncomfortable with Commissioner Scanlon being on the other side of the table but he didn't feel that they treated him different than any other application.

Commissioner Pogue thought the public perception was important and on significant projects the public perception would be that this isn't right, it is potentially bias. He mentioned the year and a half that he has been on the Commission he has presented one project that was pretty straight forward and not very significant. He stated he would tell his client that he would not recommend asking him to present their applications. He did not think there needed to be a hard and fast rule for this. He suggested leaving the bylaws silent and addressing this on a case by case basis.

Commissioner Moore mentioned this public perception was something for the City to work on. He is fine with setting this aside for now and gaining the trust of the public who attend these meetings. He also suggested discussing this with the City Attorney.

Commissioner Scanlon asked Director Robrahn if they were recommending these Bylaws to the City Council.

Director Robrahn stated the City Council has to approve any amendments by resolution. She explained the Planning and Zoning Commission recommends the amendments. This is strictly a question of whether the Commission wants to hold itself to higher standards; and the Attorney already looked at the proposed amendments.

Commissioner Spears stated his reason for suggesting speaking to the Attorney and wanted to know if anyone has ever heard of a Commission ever being sued. He said perception and potential litigation was a concern.

Director Robrahn said from a legal perspective, Section 3.1, Conflict of Interest and the Idaho Code covered these issues that have been discussed. Director Robrahn stated proposed section 3.4 was something that was separate, a standard that the Commission could hold themselves to in order to send a message to the public that they were serious about the perception of conflict. She reiterated to the Commission if they did not want to add this standard then they didn't have to.

**Pogue moved to recommended to the City Council approval of the Bylaw amendments with the following changes:**

- 1) Section 5.10 Consent Agenda, the Planning and Zoning Commission shall, shall be changed to read, The Planning and Zoning Commission may.**
- 2) Section 6.1, Applicants shall appear or be represented shall be changed to read, Applicants shall appear personally or be represented.**
- 3) Section 5.4 Special Meetings, a typographical error changing head to heard.**
- 4) The deletion of Section 3.4 Representation by a Commissioner.**

Commissioner Moore seconded, the motion passed unanimously.

### **City Text Amendment to Article 6A of the Hailey Zoning Ordinance**

To allow for and establish criteria and procedures for design review exemption of minor projects with the approval of the Commission on the Consent Agenda and establish procedure for review and approval of modifications to Design Review approval.

Director Robrahn mentioned to the Commission that she presented a preview of this a few meetings ago. She gave an over view of the proposed amendments. .

Commissioner Scanlon stated this has been done nicely and stated it was everything they asked for.

All the Commissioners concurred.

### **Public Comment Opened**

**Jay Cone**, 651 El Dorado Lane, stated, as an architect, he appreciated staff doing this type of housekeeping of cleaning up these procedures.

**Tony Evans**, 12 Spruce St East, asked if they would be establishing a criteria as to what is or isn't minor.

### **Public Comment Closed**

Commissioner Scanlon stated this procedure was for projects with minor modifications such as color change, change in the type of window size; that wouldn't involve structural changes to a building.

**Commissioner Moore moved to recommend to the City Council the approval of the Initiated Text Amendment to allow for and establish criteria and procedures for design review exemption of minor projects with the approval of the Commission on the Consent Agenda and establish procedure for review and approval of modifications to Design Review approval.**

Commissioner Pogue seconded, the motion passed unanimously.

### **Approval of Minutes:**

April 7, 2008

Commissioner Moore referred to his comments on page 4; he stated that he made a comment that was not included in the minutes that referred to the hybrid septic systems that are in Quigley Canyon.

Commissioner Pogue asked if that was related to monitoring the water usage.

Commissioner Moore replied no. It was directed specifically to the septic systems themselves; a general concern about them.

Commissioner Spears stated that he asked to see something in regards to an alternate route other than the two routes that they talked about for Quigley which was not included in his comments.

**Commissioner Pogue moved to approve the minutes as amended.** Commissioner Spears seconded, the motion passed unanimously.

### **Commission Reports:**

There were none.

**Staff Reports:**

Director Robrahn stated there would not be a meeting on May 5, 2008. She mentioned she did have Colorado Gulch Annexation scheduled for that meeting but the applicant requested to put their application on hold. She said the workshop meeting would be held on May 13, 2008 and a regular meeting again on May 19, 2008.

Director Robrahn stated Planner Platt would be attending the American Planning Association Conference all next week.

**Adjourn:**

**Commissioner Spears moved to adjourn at 7:20 p.m.** Commissioner Pogue seconded, the motion passed unanimously.