

**AGENDA ITEM SUMMARY**

DATE: 9/12/2011

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

**SUBJECT:**

Plastic Bag Initiative

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The City of Hailey recently received an initiative which complies with our ordinance. Under our ordinance, the Council is required to prepare a ballot. The ballot may contain the entire proposed ordinance which is the subject of an initiative, or it may contain a summary of the proposed ordinance. I have prepared two ballots, one with the entire proposed ordinance and one which is a summary. The City Clerk has investigated the costs associated with each ballot and hopes to be able to advise the council on Monday about the costs of either approach.

Ned

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS** Case # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments:

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	___ _____
___ Safety Committee	___ P & Z Commission	___ Police	___ _____
___ Streets	___ Public Works, Parks	___ Mayor	___ _____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to approve either ballot.

**FOLLOW-UP REMARKS:**

**OFFICIAL BALLOT**  
**CITY OF HAILEY, STATE OF IDAHO**  
**NOVEMBER 8, 2011**

**INSTRUCTIONS:** Vote on the following question by placing an X in the square according to the way you desire to vote on that question. If you, by mistake or accident, tear, deface, wrongly mark or otherwise mutilate this ballot, return it to the election judge and get another.

**The Plastic Bag Reduction Act**

Shall the City of Hailey adopt the Plastic Bag Reduction Act, as set forth below?

YES

NO

**BY THE VOTERS OF THE CITY OF HAILEY:**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, CREATING A NEW CHAPTER 5.40 OF THE HAILEY MUNICIPAL CODE TO REQUIRE CERTAIN CHECKOUT BAGS OFFERED BY RETAIL STORES TO BE REUSEABLE BAGS AND POST-CONSUMER RECYCLED PAPER BAGS AND TO PROVIDE AN INFRACTION PENALTY FOR A VIOLATION OF CHAPTER 5.40; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

**WHEREAS**, the citizens of Hailey desire to protect the environment, the economy and the health of its citizens and visitors;

**WHEREAS**, the citizens of Hailey recognize that the use of plastic bags has a significant impact on the local environment of the City of Hailey, by contributing to littered streets, sidewalks and waterways, by clogging drainage systems and by endangering wildlife;

**WHEREAS**, Americans currently consume 100 billion of the 500 billion-1 trillion bags used per year in which only 1-3% of plastic bags are recycled leaving 97-99% to become litter or end up in a landfill;

**WHEREAS**, the use of post-consumer recycled paper bags lessens the impact on our local environment. 40% post-consumer recycled paper bags are used by local merchants, are readily purchased, and are comparable in cost to other paper bags;

**WHEREAS**, it is in the best interest of the citizens of Hailey and our surrounding environment to ban the use of certain plastic bags and require 40% post-consumer recycled content for paper bags;

**WHEREAS**, by banning certain plastic bags, the use of reuseable bags will be encouraged which will provide a sustainable convenience to shoppers and in addition can be used to educate residents, businesses and tourists about the impact of trash on our local and regional environmental health;

**WHEREAS**, it is in the best interest of the citizens and visitors of Hailey to reduce the cost of solid waste disposal and transportation, and to protect our environment and our natural resources by finding ways to reduce the use of disposable plastic shopping bags and to require certain standards; and

WHEREAS, the citizens of Hailey find that an ordinance banning plastic bags and requiring 40% post-consumer recycled content for paper bags should be adopted by initiative of the citizens of Hailey to promote the health, safety and general welfare of the citizens of Hailey.

WE, THE CITIZENS AND QUALIFIED ELECTORS OF THE CITY OF HAILEY, AMEND THE HAILEY MUNICIPAL CODE BY ADDING A NEW CHAPTER 5.40 AS FOLLOWS:

**Section 1.** Title 5 of the Hailey Municipal Code is hereby amended by the addition of a new Chapter 5.40, as follows:

#### Chapter 5.40

#### PLASTIC BAG REDUCTION

5.40.010 Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare of the citizens of Hailey by reducing the impact on the environment, by reducing litter, and by saving costs associated with solid waste disposal. The purpose of this chapter is accomplished by banning the use of certain plastic bags for retail use, by requiring the use of post-consumer recycled paper bags, and by encouraging the use of reusable bags.

5.40.020 Definitions.

“Checkout Bags” shall, except as otherwise exempted herein, mean bags provided by a Retail Store to a customer at the point of sale for the purpose of transporting goods or merchandise out of the Retail Store. The following bags are exempted from the definition of “Checkout Bag”:

1. Bags used by consumers inside stores, including but not limited to restaurants, delis and bakeries, to:
  - a. Package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;
  - b. Contain or wrap frozen foods, meats, or fish, whether prepackaged or not;
  - c. Contain or wrap flowers, potted plants, or other items which require dampness or cold conditions; or
  - d. Contain unwrapped prepared foods or bakery goods.
2. Bags provided by pharmacists to hold prescriptions drugs;
3. Newspaper bags, door-hanger bags, laundry dry cleaning bags, or bags sold in packages containing multiple bags intended for use as a garbage, pet waste, or yard waste bags;
4. Bags provided by the customer and not provided by the Retail Store.

“Post-Consumer Recycled Paper Bags” shall mean bags consisting of paper products which have been used and recycled for reuse and containing a minimum of 40% post-consumer recycled content.

“Retail Store” shall mean any commercial business facility engaged in the sale of goods to consumers for ultimate consumption, including convenience stores but excluding restaurants.

“Retail Store Owner” shall mean any individual, firm, partnership, limited liability company, corporation, joint venture, trust, association or other business entity who owns an interest in a Retail Store.

“Reusable Bags” shall mean those bags that are specifically designed and manufactured for multiple reuse and are either (1) made of cloth or other machine-washable fabric, and/or (2) made of durable recycled plastic that is at least 2.25 mils thick and is suitable for reuse.

5.40.030 Permitted Checkout Bags at Retail Stores. All Retail Stores within the City of Hailey shall only provide the following as Checkout Bags to customers: Reusable Bags or Post-Consumer Recycled Paper Bags.

5.40.040. Penalty. Every Retail Store Owner who violates Section 5.40.030 of this chapter shall be deemed guilty of an infraction and shall be subject to a penalty of fifty dollars (\$50.00) per violation, per day.

Section 2. Severability Clause. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 3. Repealer Clause. All ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law and starting at 12:01 a.m. on January 1, 2012.

**OFFICIAL BALLOT**  
**CITY OF HAILEY, STATE OF IDAHO**  
**NOVEMBER 8, 2011**

**INSTRUCTIONS:** Vote on the following question by placing an X in the square according to the way you desire to vote on that question. If you, by mistake or accident, tear, deface, wrongly mark or otherwise mutilate this ballot, return it to the election judge and get another.

**The Plastic Bag Reduction Act**

Shall the City of Hailey adopt the Plastic Bag Reduction Act, as summarized below?

YES

NO

**BY THE VOTERS OF THE CITY OF HAILEY:**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, CREATING A NEW CHAPTER 5.40 OF THE HAILEY MUNICIPAL CODE TO REQUIRE CERTAIN CHECKOUT BAGS OFFERED BY RETAIL STORES TO BE REUSEABLE BAGS AND POST-CONSUMER RECYCLED PAPER BAGS AND TO PROVIDE AN INFRACTION PENALTY FOR A VIOLATION OF CHAPTER 5.40; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

**BE IT ORDAINED BY THE VOTERS OF THE CITY OF HAILEY:**

Title 5 of the Hailey Municipal Code is hereby amended by the addition of a new Chapter 5.40, to provide the following sections:

- 1) Purpose. This section recognizes that Chapter 5.40 promotes the public health, safety and general welfare by banning certain plastic bags, requiring the use of post-consumer recycled paper bags and encouraging reusable bags.
- 2) Definitions. This section contains the following definitions:

“Checkout Bags” shall mean bags provided by a Retail Store to a customer at the point of sale for the purpose of transporting goods or merchandise out of the Retail Store. Bags exempted from the definition of Checkout Bag, include a) bags used by consumers inside stores, restaurants, delis and bakeries to package bulk, food and hardware items, b) bags provided by pharmacists to hold prescriptions drugs, c) newspaper bags, door-hanger bags, laundry dry cleaning bags, or bags sold in packages containing multiple bags intended for use as a garbage, pet waste, or yard waste bags, and d) bags provided by the customer and not provided by the Retail Store.

“Post-Consumer Recycled Paper Bags” shall mean bags consisting of paper products which have been used and recycled for reuse and containing a minimum of 40% post-consumer recycled content.

“Retail Store” shall mean any commercial business facility engaged in the sale of goods to consumers for ultimate consumption, including convenience stores but excluding restaurants.

"Retail Store Owner" shall mean any individual, firm, partnership, limited liability company, corporation, joint venture, trust, association or other business entity who owns an interest in a Retail Store.

"Reusable Bags" shall mean those bags that are specifically designed and manufactured for multiple reuse and are either (1) made of cloth or other machine-washable fabric, and/or (2) made of durable recycled plastic that is at least 2.25 mils thick and is suitable for reuse.

- 3) Permitted Checkout Bags at Retail Stores. This section provides that all Retail Stores within the City of Hailey shall only provide the following as Checkout Bags to customers: Reusable Bags or Post-Consumer Recycled Paper Bags.
- 4) Penalty. This section provides that every Retail Store Owner who violates Chapter 5.40 shall be deemed guilty of an infraction and shall be subject to a penalty of fifty dollars (\$50.00) per violation, per day.
- 5) Severability. This section provides that if any provision of Chapter 5.40 is invalid, then the remainder of Chapter 5.40 will continue in full force and effect.
- 6) Repealer. This section provides that any conflicting ordinance is repealed.
- 7) Effective Date. This section provides that Chapter 5.40 shall be in full force and effect after its passage, approval and publication according to law and starting at 12:01 a.m. on January 1, 2012.

**AGENDA ITEM SUMMARY**

**DATE:** 09/12/11 **DEPARTMENT:** Legislative **DEPT. HEAD SIGNATURE:** HD

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**SUBJECT:**

Recommendation from Hailey Arts Commission for Council approval of a direct commission to Ralph Harris for Fox Building Mural

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**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

See the attached correspondence between Hailey Arts Commission Chair and Hailey City Administrator.

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**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_ 6 \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments:

In 2009 the Hailey Arts Commission sought funding from the Hailey City Council and other sources for a \$20,000 mural to be hung within the Fox Building. The City Council appropriated \$10,000 for FY 2010. The Arts Commission succeeded in securing an additional \$2,000 from grants and donations. The City Council appropriated the remaining \$8,000 with the FY 2011 budget.

The Arts Commission had planned to begin the project in late FY 2011. Early budget drafts showed the \$20,000 expense in both FY 2011 and FY 2012, because at budget writing time the expense had not been incurred and was expected to carry-over into 2012.

During the budget adoption process, \$18,000 appropriated by the city in previous year(s) was NOT appropriated in 2012. Should the council wish to proceed with this recommended direct commission, two financial courses of action could be implemented:

1. an \$18,000 retainer could be paid entirely up-front in FY 2011, with the remaining \$2,000 to be paid at the end of the project, or
2. the \$20,000 could be paid at key benchmark moments throughout the project in 2012.

Either way, the fund balance within the City Capital Fund would be reduced by \$20,000, and the council's previous decision to not budget (not fund) this project would be reversed.

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**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	_____
___ Safety Committee	___ P & Z Commission	___ Police	_____
___ Streets	___ Public Works, Parks	___ Mayor	_____

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**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Discuss Arts Commission Recommendation, and give direction to staff regarding the drafting of a contract for services with Ralph Harris.

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**FOLLOW-UP REMARKS:\***

To:

[heather.dawson@haileycityhall.org](mailto:heather.dawson@haileycityhall.org)

Heather Dawson, City Administrator

City of Hailey

115 S. Main Street South, Suite H

Hailey, ID 83333

Dear Heather,

At the regular meeting of the Arts Commission on Thursday, September 1, the Arts Commission voted to award a direct public art commission to Ralph Harris for the amount of \$20,000 for the design and completion of the Fox Building mural, intended for City Council Chambers and any new City Hall building that might take place in the future.

The commission would like to get this contract executed by September 30.

Please forward this agenda item to the City Council and Mayor, who need to approve any city expenditures.

Sincerely,

Mark Johnstone

Chair, Arts Commission



**Heather Dawson**

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**From:** Mark Johnstone [markjohnstone@cox-internet.com]  
**Sent:** Tuesday, September 06, 2011 1:46 PM  
**To:** Heather Dawson  
**Cc:** Robin Crotty  
**Subject:** Re: Fox Building mural  
**Attachments:** Mural.docx

Hello Heather,

Thank you for your response.

I believe that the way our public art ordinance is set-up, allows for a direct commission.

Ned can clarify this point.

Thank you very much for all your attention to this matter.

best,

Mark

On 9/6/2011 1:15 PM, Heather Dawson wrote:

Hello Mark -

I am in receipt of the attached correspondence. The Mayor and City Council generally approve this type of expense in two steps: 1) approval of the budget; and 2) approval of a contract for service.

Since this expense is budgeted in the 2011 fiscal year, but not budgeted to carry over into 2012, I would recommend handling this conversation in two steps:

- 1) September 12 Council discussion of the Arts Commission's recommendation;
- and
- 2) September 26 potential Council discussion, review and approval of a contract for services with Ralph Harris.

Will that schedule suit your needs? Also, how do artist commissions fit in with the bidding/RFP requirements of Idaho Code?

Heather Dawson  
Hailey City Administrator

115 South Main Street  
Hailey, ID 83333  
208-788-4221 ext 18

