JONATHAN
H
MARVEL
ARCHITECT

16 WEST CROY ST. ▪ P.O. BOX 1602 HAILEY, ID 83333

April 20, 2011

Hailey City Council
Hailey, Idaho 83333

To Hailey City Council members Burke, Keirn, Brown and Haemmerle and Mayor Davis:

I am writing to request that the Hailey City Council reconsider its vote to alter the annexation agreement with the developer of the Old Cutters Subdivision.

The recent decision by the Council and the Mayor shortchanges the citizens of Hailey and sets a bad precedent for future annexation agreements.

By altering a signed agreement based on unsupported entreaties by the developer and by reducing the amount agreed to be paid to the City by accepting eight lots in the subdivision as in lieu payment, the City Council and the Mayor have let down the citizens of Hailey.

The secrecy surrounding the current financial situation with the Cutters development is also a problem. The City and its citizens do not know what arrangement the developer has made with the Bank, and the City and citizens have no access to the current appraisal for the development.

It is understandable that the City Council is concerned about losses that impact both citizens and developers because of the recession and the slide in real estate values, but that concern does not mean the City needs to abrogate and reverse a signed agreement benefiting the City. The potential loss of over two million dollars is a very substantial loss to Hailey. Changing the annexation agreement amounts to a special dispensation for one developer at the expense of all Hailey citizens.

I request that the Council reconsider this decision and reinstate the annexation agreement payment that was negotiated with the Cutters project.

I would also appreciate a written response to this letter.

Sincerely,

Jon Marvel

Jon Marvel
316 East Bullion Street
Hailey, Idaho 83333

TELEPHONE 208-788-2290 ▪ FAX 208-788-2298
E-MAIL: jhm_337@cox.net

Blaine County Housing Authority
PO Box 550
Hailey, ID 83333

5 Galena Street East
208.788.6102 ~ 208.788.6136 Fax

April 14, 2011

Hailey Mayor and City Council

Via e-mail

Dear Mayor Davis and Council Members,

The Blaine County Housing Authority is deeply disappointed that all community housing obligations have been eliminated for Old Cutters. This represents both the loss of 25 community homes in Hailey and the loss of a significant source of ongoing funding to BCHA through administrative fees from the sales and re-sales of those homes.

While the Old Cutters team presented a "contribution" of some $642K "already" made by the construction of the five community homes built, I want to remind you that those homes were never sold nor deed restricted. They remain assets that Mr. Campbell will now be able to sell at market value, as he will all of the 25 units that earned him a 50% increase in density.

There seems to be a misconception among many that the community homes built by developers are "donated", when in fact savvy developers should be able to break even or make a small profit on each community home that they sell to qualified buyers. Had Mr. Campbell sold those five cottages as deed restricted community homes for an average of $128,400, he would have broken even on their construction. (Mr. Campbell had set asking prices of $189,500 to $259,500 in 2010 for the Workforce Market cottages, "reduced" from $208,000 to $274,000 in 2009.)

ARCH Community Housing Trust and BCHA will diligently attempt to work with Mr. Campbell and with the City to create some community housing in Old Cutters through creative public/private partnership options. We hope that we will be able to count on the City to help us make this happen.

Sincerely,

Kathy Grotto
Executive Administrator

cc: Michelle Griffith, ARCH Community Housing Trust
Ned Williamson, Heather Dawson, Beth Robrahn, City of Hailey

The Blaine County Housing Authority's mission is to advocate, promote, plan and preserve the long-term supply of desirable and affordable housing choices in all areas of Blaine County in order to maintain an economically diverse, vibrant, and sustainable community.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Lawson Laski Clark & Pogue, PLLC
Attention: Edward A. Lawson
Post Office Box 3310
Ketchum, ID 83340

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

THIRD AMENDMENT TO ANNEXATION, SERVICES AND DEVELOPMENT AGREEMENT

THIS THIRD AMENDMENT TO ANNEXATION, SERVICES AND DEVELOPMENT AGREEMENT ("Third Amendment") is dated this ____ day of April 2011 by and between the CITY OF HAILEY, IDAHO, a municipal corporation (the "City") and OLD CUTTERS, INC., an Idaho corporation ("OCI," and together with the City, the "Parties").

RECITALS

A. The City and OCI entered into that certain Annexation, Services and Development Agreement Old Cutters Planned Unit Development (the "Original Agreement") dated April 10, 2006 and recorded April 27, 2006 as Instrument No. 534733, records of Blaine County, Idaho.

B. The City and OCI entered into a First Amendment to Annexation, Services and Development Agreement Old Cutters Planned Unit Development (the "First Amendment") dated June 11, 2007 and recorded May 1, 2008 as Instrument No. 557818, records of Blaine County, Idaho. The First Amendment only amended Paragraph 7 of the Original Agreement.

C. The City and OCI entered into a Second Amendment to Annexation, Services and Development Agreement Old Cutters Planned Unit Development (the "Second Amendment", and together with the Original Agreement and the First Amendment the "Agreement") dated March 9, 2009 and recorded May 13, 2009 as Instrument No. 567326, records of Blaine County, Idaho. The Second Amendment (1) amended Paragraph 8 of the Agreement, (2) acknowledged the satisfaction of OCI's obligations under Paragraphs 4.a and 4.b of the Original Agreement, (3) amended Paragraphs 4.c, 4.d and 4.e of the Original Agreement, and (4) added a new Paragraph 4.g to the Original Agreement.

D. Paragraph 3.b of the Agreement provides that OCI must provide twenty-five (25) community housing units constructed in the Subdivision pursuant to the requirements of the City's Subdivision Ordinance. The City and OCI have agreed that, in recognition of the City's repeal of Section 4.11 of the Hailey Subdivision Ordinance, OCI need not comply with Paragraph 3.b of the Agreement.

E. The City acknowledges that OCI has paid $100,000 in cash towards its obligation under Paragraph 4.c of the Agreement, as amended by the Second Amendment. The City and OCI further agree that OCI may satisfy its remaining obligations under Paragraphs 4.c, 4.d and 4.e by conveying title to certain lots within the Subdivision to the City.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, agreements, terms and conditions set forth herein, the parties covenant and agree as follows:

1. The Recitals set forth above are an integral part of this Third Amendment and are fully incorporated herein by this reference.

2. Paragraph 3.b of the Agreement shall be deleted in its entirety. The City agrees, within thirty (30) days of executing this Third Amendment, to record a release of all deed restrictions that have already been recorded, if any, against any units constructed to date or parcels of land located within the subdivision. The City and OCI further acknowledge that all requirements for community housing described in the Original Agreement, and any Plats or other recorded documents associated with the Old Cutters Planned Unit Development, including but not limited to, note 22 on the Plat for Old Cutters Subdivision, recorded as Instrument No. 553634, records of Blaine County, note 6 on the Plat for Rimrock Cottages Phase 1, recorded as Instrument No. 567903, records of Blaine County, the Community Housing Agreement, recorded as Instrument No. 559842, and the Amendment to the Community Housing Agreement, recorded as Instrument No. 567329, are hereby rescinded and that all restrictions on the sale of units in the subdivision shall be void. The City and OCI further agree to cooperate to remove any cloud on the title of any encumbered unit or parcel of land.

3. Paragraphs 4.c, 4.d and 4.e of the Agreement shall be amended by the deletion of Paragraphs 4.c, 4.d, 4.e., 4.f and 4.g in their entirety and by the addition of the following language as Paragraphs 4.c, 4.d, and 4.e:

c. The sum of Two Million Four Hundred Seventy-nine Thousand Three Hundred Thirty-seven dollars ($2,479,337) shall be due within thirty days of the execution of this Third Amendment. OCI may elect to make this payment through the conveyance of marketable title to unsold lots within the subdivision available for conveyance as described in Exhibit 1 attached hereto ("Available Lots"). Within twenty (20) days of the execution of this Third Amendment, the City shall select that number of Available Lots, which have an aggregate value based solely upon the valuations set forth in Exhibit 1 attached hereto, equal to the amount due from OCI to the City. Exhibit 1 attached hereto also sets forth the number of lots that may be chosen, and the number of lots that must be chosen, by the City from each block in the subdivision. The City shall make its best effort to select lots whose aggregate value most nearly totals the sum due. If the City opts to choose lots whose aggregate value is less than sum due, OCI's obligation under this paragraph shall be deemed satisfied. If the aggregate value of the lots chosen by the City exceed the sum due by an amount of less than one percent (1%) of the sum

due, OCI agrees that the difference will be considered *de minimus* and no equalization payment from the City shall be required.

d. Within ten (10) days of the City's selection from the Available Lots, OCI shall convey by appropriate warranty deed title to the real property selected by the City (the "City Property"), free and clear of all liens, encumbrances, and restrictions, exclusive of (i) property taxes for the current year that are not due and payable on or before the date of conveyance, and (ii) all easements, restrictions, notes and other mattes as may be shown on the official plat of the subdivision. Also within eight (8) days of the City's selection from the Available Lots, OCI shall obtain at OCI's cost and deliver to the City a commitment for an owner's title insurance policy issued by a title insurance company selected by the City describing the City Property, showing all matters pertaining to the City Property, and listing the City as the prospective named insured (the "Title Commitment") free of exceptions to title other than the title insurance company's standard exceptions for an owner's title insurance policy and those exceptions described above in this sub-paragraph.

e. Upon compliance with Paragraph 4.d, the OCI's obligations under Paragraph 4 of the Original Agreement shall be deemed satisfied and the City shall execute and deliver to OCI a release of the lien for annexation fees from the lots owned by OCI within the Old Cutters Subdivision, as set forth on the official plat thereof recorded on November 29, 2007 as Instrument No. 553634, Records of Blaine County.

4. Each of the persons executing this Third Amendment represents and warrants that he or she has the lawful authority and authorization to execute this Third Amendment, as well as all deeds, easements, liens and other documents required hereunder, for and on behalf of the entity executing this Third Amendment.

5. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Third Amendment the day and year written herein.

DATED this ____ day of April 2011.

CITY OF HAILEY

By: _____
Richard L. Davis, Mayor

ATTEST:

_____
Mary Cone, Hailey City Clerk

OLD CUTTERS, INC.

By: _____
John Campbell, President

STATE OF IDAHO)
) ss.
County of Blaine)

On this _____ day of _____, 2011, before me the undersigned Notary Public in and for said State, personally appeared RICHARD L. DAVIS, known or identified to me to be the Mayor of Hailey and the person whose name is subscribed to the within instrument, and acknowledges that he executed the same on behalf of the city of Hailey.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

_____
Notary Public for Idaho
Residing at _____
My commission expires _____

CONSENT

As a the holder of the Mortgage dated December 4, 2006 and recorded on December 4, 2006 as Instrument No. 542505, records of Blaine County, Idaho, the undersigned hereby consents to the First Amendment, Second Amendment and this Third Amendment and agrees that the Mortgage is subordinate and junior to the Agreement, as defined above, and this Third Amendment.

Dated this ____day of April 2011.

Mountain West Bank, an Idaho corporation

By: _____

?

Keirn moved to approve the consent Agenda with item (c) being removed. Burke seconded. The motion carried unanimously.

The November 10 minutes were then addressed with Davis advising the word "to" should be added to page 2, line 2 of the 1st paragraph following the consent agenda line-up. **Keirn moved to approve the November 10 minutes with the changes as indicated, Burke seconded.** The motion carried unanimously.

PUBLIC HEARINGS

GENERAL OBLIGATION BOND REFUNDING

Eric Herringer, of Seattle Northwest Securities, explained the Bond procedure. He shared that Hailey has a good name for credit strength and there was no problem getting investment commitments for the bonds. Herringer added that the refunding of the bonds would be at an interest rate of 2.55%, saving the City $35,500 over the next five years.

McBryant opened the public hearing. As there were no comments, McBryant closed the public hearing.

Mike Moore, Bond Counsel for the City, explained that Ordinance 860 was for refunding of previous bonds, provides for sale of refunding bonds and sets a maturity for the new bonds. US Bank is the escrow and paying agent. There was discussion about waiving the three readings.

Davis moved to authorize the Mayor to sign the bond purchase agreemen. Keirn seconded and the motion carried unanimously. **Davis then moved to adopt Ordinance #860, declare an emergency to waive the three readings and authorize the Mayor to sign, and to read Ordinance 860 by title only.** Keirn seconded and the motion carried unanimously. Resolution #2003-18 for Agreement for Bond Counsel Service will be addressed at a later meeting.

OLD CUTTERS RANCH

John Campbell and Steve Brown presented the application. They advised that the current zoning of the property, in the county, was R-.4, which equates to a minimum lot size of .4 acres. The applicants advised they had spoken with various representatives of the City in regards to presenting a most desirable, most sensible way to develop the land. Campbell also stated they had spoken with Citizens for Smart Growth and the Wood River Land Trust. Campbell believed the smart way to develop the property was to annex to the City. He shared that, should the property be developed in Blaine County, septic tanks would be used and the Council expressed concerns with the aquifer and City wellheads.

Campbell referenced the maps he brought showing the property in questions. He advised that the grade on the slopes of the property was at least 25% and not developable. He shared that he plans to develop the property in a manner to imitate old Hailey with a mix of lot sizes ranging from ¼ acre to ½ acre, providing for a social and economic mix. Campbell advised plans will call for alleys, with garages entering and exiting to the alley where available, providing for a pedestrian friendly environment. He stated the planned park was larger in size than what was recommended, and positioned so people will pass by it. He advised that the Parks and Lands Board planned for connectivity to other parks, and the location of the proposed park would facilitate that connectivity. Campbell added that there was a trail planned which follows the canal to also facilitate connectivity to other trails in Hailey.

Campbell added that Old Cutters comes with a senior water right for 200 miner's inches, which currently irrigates the fields in the area, which equates to approximately 4 cubic feet per second. The applicant plans to use surface water rights for pressurized irrigation of landscaping to minimize the impact on the water source of the City of Hailey. He advised there was no impact to wetlands or the river. Conceptual plans show most lots aligned east/west. No building is planned for the red avalanche areas. He did state that

the conceptual potential subdivision was just that, and that they were only seeking annexation at tonight's meeting.

Campbell went on to list what the City will get from the annexation as: annexation fees, building permit fees, utility hookup fees (with no excessive overuse due planned irrigation with current water rights), property taxes, squaring off of City boundaries and control (if the property develops in the county, the City does not call the shots), additional land (the applicant is proposing to dedicate approximately 55 acres of the mountain side to the City), and City wellhead protection.

Sherry McKibben, Director of Idaho Urban Design Research Center at the University of Idaho, gave a presentation on growth and design of neighborhoods. She stated that most people surveyed wish to live in a small town of 15,000 or less. She said that most of the area was settled after the 1860 gold and silver rush. Lots were all within walk-able distance. An alley typically played a large part in the set up of the lots. Schools were usually in the middle of town and often were the only gathering place for a community. McKibben advised that most of the parks were usually privately owned.

McKibben defined a neighborhood as having a sense of identity to something public, and contained a mix of people and buildings. Streets were slow by design, houses contained porches and front windows with common area presented to the street. A neighborhood contains: gathering places, recreation, open space, reflects the history and culture of the area, supports pedestrians and bikes over cars, and respects land forms and environments. A great neighborhood is a variety, with grid-like short blocks for pedestrian support and connectivity, elder and day care, and accessory dwelling units.

Steve Brown stated additional reasons the City should annex. He reiterated previous comments about the opportunity for the City to control the process. He believed additional traffic would bring vitality to the downtown core. He stated the location was low impact, brought water resources, provided park and trail systems, and offered reasonable housing opportunities.

McBryant reiterated that the application presented was for annexation only, and explained to the audience the reason for the presentation by the applicants was to give a fair and honest rendering of plans for the property should it be annexed. She asked the audience to address the annexation portion only.

McBryant opened the public hearing and asked to hear from residents of Hailey first.

Mike Gilman, 127 W. Bullion, expressed favor with the application, stating a good sense of community, a mix of lots and low impact to the surrounding areas.

Clark Shafer, 401 Second Avenue South, hoped the City was open to annexation. He believed old Hailey addressed community gathering places, as does the north end neighborhood in Boise, and thought the proposed application would accomplish the same. He expressed favor with the application.

Molly Hunter, 830 Quigley Road, stated the lack of affordable housing in the Hailey area and believed the annexation would bring opportunities to build. She was in favor of the application.

Greg Peterson, 711 Myrtle, asked about annexation of neighboring properties to the west of this application. He stated water pressure problems and traffic concerns.

Andrew Harding, 460 Mother Lode Loop, was against the application. He asked if the projected cash flow figured into the Tischler study. He advised that if the property remained in the county and septic systems were installed, the maximum density would be one acre lots. He asked who would plow the proposed alleys. He asked what percentage of water would be pulled from Indian Creek to supply the subdivision.

John Henning, 112 S. Hiawatha, asked how the application "squared up" City boundaries and what would happen to the neighboring properties in the county.

Christopher Simms, 410 Second Avenue S, expressed water concerns. He suggested the annexation would give the City more control over what happens on the property.

Mike Connelly, 131 West Pine, believed the annexation would be good for business owners and expressed favor with the application.

Chris Grathwohl, 717 S. River, expressed favor with the application, believing it addressed the septic system problem. He stated it was inevitable that Hailey would grow.

Ron Buhl, 1730 Heroic Drive, was undecided but expressed major concerns with water because of low water pressure in Northridge now.

Wynn Bird, 631 E. Myrtle, expressed concern that Myrtle would become a main thoroughfare and stated that Myrtle as configured could not handle the additional traffic. She expressed concern over bad water pressure now.

Ken Lagergren, 215 E. Myrtle, was concerned about density of traffic on Myrtle. He said the Comprehensive Plan directs to keep old Hailey a quiet neighborhood and that the application violated that concept. He suggested keeping the density down and funneling traffic elsewhere than Myrtle Street. He advised of large livestock trucks using Myrtle Street now, and his concern of the danger they pose.

Ginna Lagergren, 215 E. Myrtle, asked questions regarding the problems associated with those large trucks and the animal defecation they leave behind. Mayor McBryant suggested they meet after the holidays to discuss the problem.

At this point, McBryant opened the public hearing to all in the room.

Loma Hazelton, 34 Horseshoe Circle, asked that the Council address water issues and the impact to the City sewer system. She asked if infrastructure could accommodate the plans. She stated that the proposed subdivision was not within walking distance to Hailey and that the additional traffic was a concern. She suggested tabling until a plan for smart growth could be addressed.

Jed Sidwell, 109 S. Hiawatha, asked if the upgrade to the wastewater treatment plant was inclusive of annexation. He added that the arterial streets were not designed for the load.

Don Haisley, 145 S. Hiawatha, was opposed to the annexation, stating density, traffic, and water pressure concerns; along with the pressure that will come to annex his subdivision to truly "square off" the boundaries of the City.

Kathryn Rixon, 231 East Fork Road, believed the parcel would impact the surrounding areas the least of any annexation that has been proposed. She was in favor of the application.

Lisa Lintner, 8 Buttercup Road, suggested keeping the access to the foothills and developing at a low density to maintain resources and quality of life.

Lili Simpson, 7 Quigley Lane, expressed her desire to keep her quality of life. She asked how the annexation would impact the surrounding horse property, and suggested keeping access for horse traffic.

Lia Johnson, 157 S. Hiawatha, had concerns relating to density, traffic, the narrowness of Hiawatha and keeping the proposed subdivision to a minimum of one-half acre lots with large setbacks.

James Jeff Jones, 118 S. Hiawatha, was opposed. He suggested a minimum of one acre lots and believed an additional well might be needed.

Abby Christenson, 134 S. Hiawatha, expressed she was torn in her opinion. She shared quality of life experiences she had while growing up and believed all should have the same quality of life. Who loses?

Ted Higgenbotham, 103 S. Hiawatha, was opposed to the application. He referenced that the Comprehensive Plan built out Woodside, Fox Acres and Deerfield. He suggested a minimum of one acre to allow for horse property. He advised those in the audience who believed this annexation would allow for affordable housing that this annexation will not make the property cheaper for those who choose to move in.

Teri Johnson, 103 S. Hiawatha, was opposed, stating concerns of traffic, that it was not friendly to existing neighborhoods, and that sidewalk/curb/gutter would be needed to accommodate pedestrians due to increased traffic. She also had concerns about water and sewer.

Don Board, 122 S. Hiawatha, was opposed. He said he liked to view the wildlife on Red Devil Mountain and that each person that comes into the area scares the animals away.

Steve Poklemba, 130 S. Hiawatha, was opposed. He suggested looking at a rural zoning. He had concerns regarding water and sewer, traffic, and density of homes. He believed the wildlife issue was huge. He advised Cutters currently has a "sense of place".

Tracy Lee, 91 Elkhorn Road, believed the ideas of development are good. She said development of the property was going to happen, regardless of annexation. She believed it was good for the City to have input and that the developer has shown flexibility.

Teresa McGoffin, 146 S. Hiawatha, was opposed. In looking at the map, she did not see how the annexation would make sense. She stated a high density development did not fit and stated water, sewer and traffic issues as concerns. She also believed the area should be maintained as horse property with minimum of one acre lots.

Elmar Grabher, 120 Dollar Drive, Ketchum, developed Dove Meadows. He did not believe that Hiawatha would accommodate the traffic, as all proposed accesses dump onto Hiawatha. He said the dual water plan sounds good, but what would happen when there was no water in the ditch (he gave the example of early spring or after shut off in a drought year) He believed that current development should go towards the airport. He asked who would plow the alleys, as there must be enough area to park all the cars. Grabher suggested going with a rural subdivision if the annexation passes, to force larger lots. He suggested hook-up to City services. He advised lots in the subdivision would not be cheap, as land in the entire area is expensive.

Christopher Black, 205 Fairweather, liked the mix of property lots and was in favor of the application.

Carol Cole, 121 S. Hiawatha, expressed that the applicant presented a nice planned neighborhood, but stated the effect on current neighborhoods would be huge. She stated traffic in the area was bad now and there were many kids who lived in the area. Water, wildlife, open space and the night sky were concerns she expressed.

Carol Moreau, 125 S. Hiawatha, was opposed to the application, at least until questions are answered. She stated that 36% of the proposed lot sizes are the smallest they are proposing. Density is an issue. She agreed that the properties will most likely not be affordable.

Scott Duffy, 705 Canyon, stated he was just at the meeting to learn. He stated cost of land was not the only factor, but availability also figured in.

Brad Bjorsness, 125 S. Hiawatha, believed the density would be like south Woodside, with no benefit to the City. He did not believe that annexation was a necessity and that the county could do a good subdivision.

Matthew Luck, 105 Arapaho Lane in Indian Creek, believed that all questions should be answered in development of planning after annexation. He questioned, however, if the property was appropriate for annexation. He stated lot sizes could be looked at after annexation also. He believed the benefit to the City was minimal.

Andrew Harding asked the Council to consider the impact to the school system. Blaine County School District recently indicated new neighborhood schools were needed when approximately 300 school children inhabit an area.

Marty Martin, 10 Buttercup Road, stated that whether the property was annexed or remained in the county, the kids living there would impact the Blaine County School system. He asked the Council to consider all those who currently live in the area that would be impacted by the traffic.

Clark Shaffer asked how the Quigley annexation would be looked at if the Cutter property was annexed. He questioned if there would be a priority of one over the other and who drives annexations.

McBryant explained that the applications recently received have been owner driven annexations. She further reminded that the Council asked for a conceptual idea so the annexation would not be considered "in a void".

Letters received addressing the application from:

Ralph E. Parks, 114 S. Hiawatha, stated water pressure concerns, wildlife concerns and burn bans related to air pollution. He was opposed to the application.

Susie King, McCann, Daech, Fenton Realtors, in support of the application.

Joannie Rasor, 165 Hiawatha Drive, expressed concerns of traffic, density, parks and open space, wildlife, undergrounding of utilities and water rights of current surrounding property owners.

Teresa McGoffin, 146 S. Hiawatha, (also spoke at meeting), opposed to the application.

Michael & Teresa Parks, 153 S. Hiawatha, stated air quality, water and sewer system, fire hazards, traffic, wildlife habitat, over crowding of existing schools, and the public landfill as concerns. They were opposed to the application.

Steven Poklemba family, 130 S. Hiawatha, (also spoke at meeting), opposed to the application.

James Jeff & Helga Jones, 118. S. Hiawatha, (also spoke at meeting), opposed to the application.

Roberta Christensen, 134 S. Hiawatha, asked the City carefully consider all impacts to surrounding areas.

McBryant closed the public hearing.

Grotto spoke generally to the annexation and the large peninsula of county land that would be left if the annexation was approved. She advised that regarding the Comprehensive Plan, ten to twelve lots shown are within the avalanche zone, and asked if the Council wanted more avalanche lots in the City. She advised of a possible potential for clean up due to waste because of the existing barn and livestock use. She said the proposed park is larger than the ordinance requires. She stated the Comprehensive Plan encourages a mix of lot sizes and the applicant is aiming for upper and mid-income people. Grotto said a traffic study is needed. She advised that the applicant should address the pattern of turn off due to drought in the previous years with regards to the water rights issue. Grotto spoke to what the Council felt was desirable: a squaring off of City boundaries, access to public lands, conservation opportunities—wildlife habitat would need to be addressed and the endowment for the City park.

Keirn asked Ray Hyde about upgrade needed to the water lines, and stated a fire study was needed.

Hyde stated that a computer model, developed along with the Water Master Plan, could address the applicant's needs to provide water service to the proposed subdivision. The model would indicate size of lines needed and where the lines should loop into the system, along with the possible need for a pressure zone to hold water pressure in the

area. The model can also indicate cost and what impact the development will have on the rest of the Hailey system.

Chapman stated the department had 2800 gallons on rolling stock available for firefighting. He advised the northern tip of the property was outside the insurance rating zone and the impact that could bring to all residents of Hailey. Chapman added of plans to put a fire station in Northridge, however there is not a lot available for that at this time. Keirn asked how much public safety service was provided to the area now, with Chapman indicating it was provided through a mutual aid agreement only.

Behncke stated that old Hailey was in the center of town, and allowed ease of walking. She stated her belief that people in Cutters will drive in to Hailey. She believed the application took away from the quality of life of the community and close neighborhoods.

Davis stated he did not have enough information to make a decision at this time, expressing concerns with water pressure, the need for fire and traffic studies, and a fiscal impact study.

Burke expressed concern about the migratory path and wildlife issues. With "Lucky 13" feeding wildlife, she felt a study of migration routes and an environmental assessment were important. She wondered if the Council could mandate larger lot sizes, and expressed her concerns of the property being developed in the county as she did not want to jeopardize the water table with additional septic systems. Traffic mitigation was important and she suggested traffic studies on Hiawatha and Myrtle, along with looking at traffic calming measures.

Keirn also believed more information was needed on traffic, fire, water, the wildlife corridor and the fiscal impact on the community. He stated he was struggling with the peninsula of land that would be left in the county if the annexation was approved. He agreed with remarks made by Christopher Simms about retaining some control over the land, stating people on the edge of the annexation will feel the impacts most due to the septic impact on ground water and wells.

Burke asked if the Council was ready to ask the applicant to provide the additional information, so as to not mislead the applicant. Davis said he could not vote on the annexation until the additional information was supplied.

McBryant explained, for the benefit of the audience, that no annexation applications presented to the City currently had 100 foot rights-of-way leading into those annexations. She stated growth usually happens on the edges of a community and stated if the annexation does not occur, the City will have no ability to mitigate traffic problems or any of the other problems foreseen. The county will not require a developer to improve the streets within Hailey. She expressed a concern of the fire rating, as it impacts all the citizens of Hailey and asked the Fire Chief to supply numbers. McBryant addressed horse property, stating there is horse property currently in the City limits and that more residences does not mean an immediate loss of horse property. She advised her personal take was a preference to annex to allow for mitigation measures. She suggested the Council table or continue the application to allow for the additional information requested.

Keirn expressed favor with that approach, reiterating the importance of the need for control of the property. Burke agreed, stating the City could work with the developers. Davis also agreed, with the addition of requested information to justify.

Davis moved to table the application until the applicant could provide the additional information requested, Burke seconded. The motion carried unanimously.

AMENDMENTS TO HAILEY ZONING ORDINANCE #532

Grotto introduced the proposed changes to the Zoning Ordinance. Changes are planned to Article II, Definitions, to clarify that height is measured from "record grade", which is defined in the Ordinance; hotels—to include meeting facilities; to clarify that multi-

CA 83 Motion to authorize mayor's signature of BLM Right-of-Way application to allow the Toe of the Hill Trail to cross a ¼ mile section of BLM land east of central Woodside

~~CA 84 Motion to approve Fireworks Contract for 4th of July Fireworks event~~

CA 85 Motion to accept Bid for 3rd Phase (Woodside) of Water Meter Installation Project, submitted by Walton's, Inc. for installation of approximately 400 meters at a cost of $813 per vault; and authorization for city staff to negotiate contract with Walton's Inc.

CA 80 – MINUTES OF JANUARY 20, 2005. Brown noted that McBryant had not participated in that executive session. Burke moved, and Brown seconded, to approve the minutes with notations that both Davis and McBryant had not been present during the executive session. The motion carried with Davis abstaining

CA 81 – PAID TIME OFF POLICY – The City Attorney wanted to revise the document. It was not approved.

CA 82 - SAFETY POLICY - Brown continued to have concerns that some of the language of the safety policy showed too much detail. Davis said it would be helpful if we were afforded a copy of accident trends in each department. Williamson said he had removed the mandatory language he was worried about. He had not focused on each bullet point, and left words such as "striving to" rather than "will". The council agreed not to change the document.

Davis moved to approve the Safety policy as presented, and authorize Resolution 2005-07. Burke seconded; the motion carried unanimously.

CA 84 - FIREWORKS CONTRACT - Brown asked if the Chamber of Commerce is involved in fireworks. Davis said it is not, and the finance department is tracking time on fireworks issues. Burke moved to approve as presented. Brown seconded; the motion carried unanimously.

OB 86 2nd READING ORDINANCE 897 – FUTURE ACQUISITIONS MAP

Mayor McBryant read the second reading of Ordinance 897 by title only.

PH 87 OLD CUTTER'S ANNEXATION AND REZONE

John Campbell said it is almost exactly a year since he last stood in front of the council with this application. Since then most of the interactions have been with Planning and Zoning. He said the annexation application had been brought before the city shortly after his purchase of the Cutters property in the summer of 2003. He said the traffic study that was conducted for the application was based on a 135 lot development. Since that time, a traffic light has been put in at the intersection of McKercher and Highway 75, which will

further reduce traffic impacts. Water surface rights are intended to be put into an irrigation system for landscaping.

Campbell displayed a map showing how the project would square city boundaries with higher density at the southern end of the subdivision, and lower density at the northern end. He also displayed drawings of the housing lots, showing a community housing option for the development. He indicated openness on the developer's part to gifting lots to the city for community housing. The commission was charged with determining that the project conforms to the comprehensive plan. A recommendation as to zoning designation was made as well, and the commission's recommendations is shown upon the map.

Campbell said he wants to make sure the development doesn't cost the city any money. Tischler gave a proposal to update his report which was quite expensive. He had learned that Ketchum's annexation consultant is interested in Hailey's work, and Campbell and Brown are willing to pay for that study in order to achieve that result. He hoped the council would approve the annexation conditioned upon negotiating the fiscal impact matters. Brown said while the approval is conditioned upon meeting the requirements of the fiscal impact study, he would also be moving forward on the preliminary plat approval.

Grotto said the planning and zoning commission had recommended the community housing option. She noted that the commission made generally positive findings related to most of the elements of the comprehensive plan. They found it was in general conformance with the Natural Resources section, with additional review from Idaho Fish and Game. It was in general conformance with the Avalanche section and man-made hazards, after clean up of agricultural drywells on the property. The Parks and Lands Board had addressed offsite pedestrian improvements to surrounding area. The commission was unable to find conformance in the 6th section, without a study. The Population and Housing sections were okay, with 10% of the units being deed restricted. There was no utility fee structure to guarantee that services would be provided. Offsite pedestrian improvements and a turning lane off Buttercup Road were also conditions. The Commission was unable to find conformance with the old Growth Management section. It did find conformance with the Community Design section. Grotto had given an analyses of the new growth management section of the comprehensive plan. The Growth Management Section talks about the city evaluating the merits and benefits to the city. F and G talk about infrastructure, and insuring new proposals for annexation can be accommodated. Hailey's Policy to maintaining green spaces is met in that a 3.67 acre city park is planned with additional acres available for park expansion Future growth should pay for itself – that study remains to be completed. There are a variety of lot sizes for community housing. The commission recommend LR-2 at the North, GR at the South, and RGB at the park and hillside areas.

Williamson said he had a conversation today with the applicants, who is suggesting that the council look at annexing the property now, then pursuing the fiscal impact statement, and proceeding at the commission level with preliminary plat. Williamson found that

problematic. The council may, under its ordinance, require a fiscal impact study. Williamson said the council can decide whether to annex and to decide what the zoning districts should be. We can't go beyond that until the property is within Hailey.

Brown said the table that was in the report, asked if that is part of the commission's findings. Grotto said the table was originally part of their staff report, and was incorporated into their original findings of fact.

McBryant opened the public hearing, and noted that letters will not be read out loud, but have been made part of the public record, from Kelly Kipling, Idaho Fish and Game, Steve Poklemba, and Bill Hughes. Grotto noted three additional letters in support of the project from Natham Bingham, Lindy Stark, and Blaine County Citizens for Smart Growth.

Natham Bingham was concerned about sprawl, wanted planning of annexed property to reduce sprawl, and was in favor of Cutter's annexation.

Lindy Stark was in full support of the annexation, seeing the developers as local businessmen working within the valley as an ideal; these developers care about our community. She urged the council to control change by participating in it.

Blaine County Citizens for Smart Growth member Arron Domini was in favor of good planning of growth. He said to manage, not limit growth is part of Hailey's comprehensive plan. The council has decided master planning of infrastructure is important. The city should have a detailed annexation policy or impact fee ordinance.

Jake Lemon, 703 First Avenue North, Hailey, had general comments to make about annexation. He was force annexed into Hailey in 1991. We are in an annexation cycle right now, and forced annexation may become an issue, even though it's not part of this application. Forced annexes have no elected representation. County commissioners are neutral, and the residents have had no opportunity to vote in city elections. He hoped the city will come up with solutions as to how to deal with that situation. Those people's taxes go up, but how much? Their property is reassessed, and the value is immediately doubled. The county continues to collect the same amount of money, as well as the city now taxes them. The taxes end up being quadrupled. He offered to make himself available on forced annexation issues.

Mike Gillman of 127 West Bullion spoke in favor of the application, saying the developers have been through a lot. The developer keeps continuing to come back with more suggestions to make the project better and in conformance with city demands. He, as a young family man, needs somewhere to go, a good place to raise children.

Pat Cooley of Woodside Boulevard said the council is faced with similar considerations as the commission was. The represenation tonight was the same as then, he was hoping for more information. The applicant has had the opportunity to participate in financial impact studies and has declined to do so. There is a clear directive here to have the

financial impact statement. The applicant may find it has numbers it is unwilling to afford. The commission was unable to explore financial impacts. Land acquisition is only part of the financial impact of development

Bill Hughes, 241 Eureka, said it is the policy of the city to manage growth due to infill, and to control or limit expansive development, which are annexations. He said it is not good to have to drive through less dense development to more dense development at the southern end of Cutters. There has to be some monumental public benefit to add density. There is 2.5 times more density than what the county would allow. If we continue to annex, we continue to decrease the quality of life. More and more people are here because of the lottery or inheritance, or significant capital gains from selling property in California or Seattle. This development needs to be better scrutinized. If more water is being taken out of the city that is being replenished, then we have a deficit situation.

Tracy Lee, not a city resident, said the City should consider the alternative if the property is developed in the county. Peregrine Ranch has been given a lot of city services, and is a huge density. Cutters is within a mile from downtown, that is near the core. Hailey should not disempower itself by allowing it to be developed in the county. Rinker thinks he will be putting over 300 units at Peregrine Ranch, currently cutters is zoned R.4. It is more important for the city to have an impact on how Cutter's is developed.

Kelly Kipling, a resident of Ketchum, saw herself as someone who would like to buy property in the valley. She asked why Tischler's 2001 report is no longer good, it should have been good for 10 years. The city hasn't kept that report accurate, it is not fair for developers to pay for the cost of that fiscal report. Simple adjustments may be all that's needed. The developers have covered the fiscal issues, and it is being ignored. She didn't want to see another Peregrine Ranch project. Development is good as long as it is done properly.

Lorna Hazelton, 34 Horseshoe Circle said Buttercup Road is not in the city , but is heavily impacted by this development. Who is going to pay for the traffic impacts? The plan looks lovely, and the developer is trying to do all they can to railroad this through the city council. We know that Quigley canyon will develop, as will Peregrine ranch. How do you manage all the people? We can't move the cars. How do you annex the highway, where will the people shop and work, where is the industry to support this kind of development? Don't let the developer push the council into annexing without a fiscal study. Are we going to be another city where no one can get anywhere because there are so many people jammed into a small place? How much is the council going to allow to happen without the whole community. Cutters ranch will affect people down in Della View and all over the city. No one talks about the price of those homes. More people from out of the area will come in to buy them.

Brad Jorsten said he had owned property in Dove Meadows, which he recently sold and is now living in the county. Dove Meadows became less desirable after this application was proposed. This annexation will add 500 people to this corner of town. There is a definite line between city and county plowing; the city can't keep up with what they need

to do now. That's forever. Do we need these kind of density when there will be more places to buy around the city? It would be better if it weren't so dense.

Lilly Simpson, 7 Quigley Lane, said she lives between Cutters and Quigley. The desirable direction is a rural perimeter and dense interior. Dense development on all perimeters create impacts for humans and wildlife. Horse properties are lower density, provide view corridors and benefits wildlife. Ditches provide important access for wintering wildlife. This density is impacting on wildlife already stressed from new uses out Quigley. Developers are lining up at Blaine County's affordable housing door. Does the city have a needs assessment for affordable housing? There are many people making less than 50,000/year, should we building apartments and dormitories for them? Is that truly the affordable housing need, has the city approached this on a systematic basis? As taxes go up to pay for the infrastructure, people in surrounding areas become unable to live here. Why aren't we taking care of our own people? What are the true needs here; what are we looking at systematically?

Michael David of Blaine Ketchum Housing Authority commended the applicants on their efforts. He said a community housing needs assessment was done in 2002. 40% of applicants currently work within the city of Hailey. 6000 commuters are working in Blaine County. The median income is $50,000 for a single person and $71,000 for a family of four. A median income owner used to be able to afford low end housing, here they can not. He encouraged the city to look hard at this development.

Chris Grathwol of South River Street was in favor of the application. The city has the power to work with the developer, and make sure it's done right. 113 lots are currently proposed, and over 200 lots would be allowed in the county. He didn't want to see the council lose the ability to work with the developer. City residents will be paying higher taxes for county people using our services. In the short term this development might stabilize the spike in housing costs. In the long term it will help more people get more housing. He urged the council to get going on annexing Cutters into the city.

Jed Sidwell, of 109 South Hiawatha, said forced annexations will result from this project. South Woodside lots are currently at $200,000. As the town grew his quality of life went down the tubes.

Leah Johnson of South Hiawatha was grateful the process has taken this long. It should be scrutinized and is a big deal. Hailey is bursting at the seams. Growth is happening everywhere. Annexation anywhere is a scary proposition. There is not the infrastructure to make this area pedestrian friendly. The traffic study was done on December 10, a more limited time in terms of use than in the summer. Pedestrian fatalities and near misses are everywhere in Hailey. Huge issue should be well thought out and thoroughly discussed.

Carol Marlow of 120 South Hiawatha said many issues are still not resolved, but encouraged the council to go forward.

Terry Johnson of 103 South Hiawatha did bring up the issue of traffic and pedestrian safety, saying Hailey claims to be a walking town but is really not safe at all.

Jim Philips of 120 Quigley Road favored conditional annexation. Before it is annexed, the city and developer should have an annexation and development agreement worked out in detail and signed. This annexation is no different in its many issues, water, traffic, infrastructure, proposals to dedicate open space to the public, all of which require proper documents. He urged the council to assess all the issues with the developer, have them down in writing. One of the impacts previously discussed has to do with water rights. Requiring the developer to do all their irrigation though existing surface rights will save Hailey's water for true domestic use. It won't change the priority dates of the surface rights, and maintaining water in the canal is important for vegetation and wildlife. He recommended that the water be pumped out of an irrigation pond by the developer for irrigation.

Mathew Luck of Indian Creek said the developments and Peregrine Ranch and Quigley may add 600 homesites, but they are really only conceptual designs now, and this development has been in front of the city bodies to the point that it has been found to be in compliance with the comprehensive plan. It is 18 months into the process, and represents a smaller, responsible development. He commented that Cooley's earlier comment regarding a fiscal impact study was premature; a fiscal impact statement can't be created until the developer receives guidance from the city council as to what the development will look like. A subdivision application should be looked at, and the council owes the developer the guidance of saying what they think a responsible project will look like.

Christopher Simms of Blaine County Citizens for Smart Growth appreciated the council and attorney narrowing the procedural perspective of this meeting; looking at the commission's recommendation. He was generally supportive of the project, and noted Lilly Simpson and Jim Phillip's comments as being wise. He said the council should be specific about what it wants in terms of a fiscal impact study. Growth Management Policy 3 says that Hailey will support infill development, but recognizes that expansion of city boundaries may be necessary to accommodate growth. That is important because there are areas of city impact that already have some density allowances. Consider expansion of area of city impacts to have less traffic on existing neighborhoods. He believed in traditional, pedestrian friendly development, and felt this project offered that.

McBryant said the term entitlement process had been used, and noted there is no entitlement inherent in this process. She invited Steve Brown to answer one of the questions posed.

Steve Brown said at some point we will have to identify what we will base our fiscal impact study upon, and asked how we can achieve that. Williamson said one of the findings that the council needs to make is whether the annexation would have a negative fiscal impact on the existing citizens of Hailey, and says the council can ask for a study to help determine that, and then can ask for more fees than are noted in the study. He

recommended getting that study before annexing in order to have the facts needed for a good decision.

John Campbell said he is asking for conditional annexation simply because of time. He didn't care when the fiscal study is inducted but he would rather not spend $40,000 on a fiscal impact study unless he had a sense the council favored the project. He would like to go back to Planning and Zoning as soon as possible for subdivision consideration, and look at the configuration of lots. He would like that task to be concurrent with the fiscal impact study. He asked the council to consider a way to sent the project on to the commission for platting consideration.

Steve Brown said he was happy to go out and find another consultant other than Tischler, and has been always willing to pursue a study.

Campbell said if the Cutters becomes part of the city, residents could drive into the city without going into the county. We have 78 acres of developable land that is below the 25% grade. The county is entertaining extremely high densities at Peregrine Ranch, and if that same standard applies to Cutters, he could be looking at 240 developable lots within the county.

McBryant then closed the public hearing.

Davis said according to our attorney, we may not have a choice to proceed without a fiscal impact study. He sympathized with the developer, who has been 18 months into this process. He asked if we could charge other annexation applicants the cost of the study. Williamson said we are not paying for the study. There will be a work product from the study that will be available to us; if another applicant gets the full benefit of that study, they may need to get involved in negotiating that matter. He was adverse to the city getting involved with that. Brown said if we did a study for this application, what role would it play in future applications? Davis said this could be the template we will use. Dawson said there are about four different parts to the study, some of which are unique to each application, and some of which could be shared. Keirn was not unwilling to work out a credit system for the future. He said this council is dedicated to covering every single nickel that these annexations cost. We can charge anything we want to, and if we err, we are going to err on the high side, and the applicants may need an opportunity to determine that this annexation may be too expensive for them. He favored doing the study first. Brown agreed, based on the fact that the commission couldn't make certain findings due to the lack of a fiscal study, and in order to make those findings in an informed manner, she needed the study. McBryant said it is not incumbent upon the city to tell the developer what it wants. The city isn't out seeking an annexation, but having had an application presented to us, it is incumbent upon the developer to state the impact of the annexation upon the city as it exists. Brown concurred, and repeated that the fees assessed within the study are just the bare minimum of what the developer should expect.

Davis said he liked what he sees on the plans. Marathon Partners' unplatted land is already in the city. Anything on this land will have an affect on city services. If it is

developed in the county, Hailey won't have any benefits from the impacts. Keirn said the location indicates the property should be under Hailey's control. As far as general approval, he liked the overall picture. Brown said the fiscal impact study should be based on what we're currently looking at; we don't have any other thing to base it upon. Burke said what put the moratorium in place was we had no means by which to analyze the fiscal impact study. We can't go forward without the study. She appreciated a lot of the other comments that were made. We need to start to address what our concept of affordable housing means.

Brown said the consultant's have experience in California, and asked if they have experience in Idaho, too. After learning that they have been working for the City of Ketchum over the past year, she asked if the client is the city. Williamson said the council needs to determine if the firm is qualified, independent, and can do a study in a form acceptable to the council. Williamson said the study is based on an impact fee analyses. He said he and City Engineer Hellen had both spoke with Richard Caplan. All the principals of the firm were formerly city managers.

Dawson indicated she had held several conversations with both partners of Management Consultants, and had met with Richard Caplan earlier that week. She said all parties were unwilling to work for any other client than the city, but the annexation applicant would have to be responsible for payment for the study.

Brown moved that the Cutters application be put on hold until completion of a fiscal impact study, finding Management Consultants an acceptable firm to study and assess the impacts of the annexation to all city services. Keirn seconded. The council then discussed whether the intent of the motion was to table or continue the application. Brown said new information will come from the study, and felt the matter should be tabled so that it is noticed again when the study is complete. The council wanted to delegate the details of the study to staff. The motion carried unanimously.

PH 90 WOODSIDE ELEMENTARY ANNEXATON AGREEMENT

Rand Peebles outlined the components of the Woodside Elementary Annexation Agreement. One significant change in terms was that the school district had offered a second duplex unit as its way of paying the water and sewer component of the annexation fee. The first duplex had been offered for payment for impacts on Echo Hill park. He said the agreement gives the school district the right of first refusal on the duplex units if the city chooses to sell them.

Jim Lewis said Fanny Mae is willing to underwrite the duplex. Neither the school district nor the city need to carry the debt on these. The savings comes from the price of the lot, and that's where it becomes an affordable housing option. Peebles said the right to rescind the PUD is reserved. Gaeddert explained that the offer of lots had increased, in exchange for a reduction in the water and sewer portion of the annexation fees.

MINUTES OF THE SPECIAL MEETING OF THE HAILEY CITY COUNCIL HELD TUESDAY, NOVEMBER 29, 2005 IN THE HAILEY TOWN CENTER MEETING ROOM

The regular meeting of the Hailey City Council was called to order at 4:00 p.m. by Mayor Susan McBryant. Present were Council members Rick Davis, Martha Burke, Don Keirn, and Carol Brown. Staff present included City Attorney Ned Williamson and City Clerk Heather Dawson.

MANAGEMENT PARTNERS ANNEXATION STUDY ON CUTTERS

Williamson said the application for annexation of Cutters had been noticed for public hearing. The city is at the stage, under its annexation ordinance, of hearing the results of a fiscal impact analyses. This study has been prepared by Management Partners, with a report outlining the basis of a recommendation for a fee.

Andy Belknap of Management Partners offered to review the annexation study methodology and fee recommendations. He introduced Tom Gardner, the lead consultant on the project.

Belknap said this is not a development impact fee study. Growth can and should be expected to pay for itself, but under Idaho law that is limited. The approach of this study is conservative and tries to protect the city's interest that annexation will not create a financial burden upon the city. From the standpoint of a builder or developer, the value of annexation is in the capital assets that have been maintained over the years, the service the city is able to provide, and the quality of life in Hailey. Annexation into the city makes life more valuable. A development impact assessment of any kind, particularly in an area of high housing costs, raises the argument that the city is increasing the cost of housing. That cost is market driven, not based on fees. People buy and sell houses based on market forces, and development also is based on market forces.

The study establishes a service population, and conducts a financial impact analyses. The fee methodology assesses a contribution to current assets, a share of future capital, and a share of operating deficiencies.

Tom Gardner said this is not an accounting issue; it is a policy and budgetary issue. We've put numbers together to arrive at a value, and reasonable people can disagree with a piece or part or element of the value. A new annexation will benefit from current assets, and will tax those assets. The city has future capital needs that are unmet. The operating deficit is discussed at two different levels, revenues against expenses each year and programs which don't meet a benchmark. Every area and program is not benchmarked. A chart showed a summary of fee calculations with the Cutter's annexation apportioned out. Three percent (3%) of these needs would be addressed by Cutters through a fee. That fee, however, is a one time payment, and doesn't allow the

city to reach out over 20 to 30 years to keep it going. The calculations are translated into single family and multi-family units, with water and wastewater hookups. The recommended fee derived by the study is $15,499 per single family and $13,167 for multifamily unit.

The fiscal analyses shows an ongoing shortfall of revenues to expenses over the last three years. The consultants went as far back as 1997 to determine if this is a consistent pattern, and looked at both audited figures and budget figures. The report includes two tables, a city-wide table and one that represents what the cost per household would be for service levels on the newly annexed area. Benchmark areas include police, building, planning, library, and parks. A new development would use, as part of daily life, its share of the city's 11 million dollars of assets. Future capital plans of the city total 23 million dollars, and are shown by department. The questions as to how an annexation contributes to the future capital problem might be asked. The future capital problem is not caused by the annexation, and the annexation may, in fact, contribute to solving that problem. Operating deficiencies are shown in a more conservative approach by using the financial statements.

The recommended annexation fee is about 2.5% of the current market value for a single family unit. That percentage won't be an influence upon market values. He didn't feel anyone would argue that the fee should be smaller than that, although some might argue that it be greater.

The mayor then asked what type of action is required of the city council. Williamson said this study is one component on an annexation application process, and he viewed this hearing as focused largely on the annexation fee recommendation. The mayor asked the public to make comments upon the study itself, rather than upon the annexation at large.

Keirn asked if the $625,000 units would be taxed at that full rate. Gardner said there is an assumption that there would be a 50% homeowner's exemption, and the tax is factored with the exemption in mind.

Jim Speck, attorney for the applicants, distributed an email that comments on the aspects and mechanics of the study. The applicants have had lengthy discussions with Management Partners. They have done an extensive, well-thought out job on this project, and he thanked them for their hard work. He said his clients don't agree with all the various points of how the number was derived. However, the number for the market value for units is fair as far as an annexation fee. They concurred with that. There will be some work that needs to be done in terms of a development agreement and credits toward Cutters as part of the annexation. Future capital improvement portions of the study are well described, and the city currently has $450,000 in reserve, and his client will have contributed toward this fee. The money in the future may need to be raised through some other venues – this property will have already paid and shouldn't be paying twice. The number is nevertheless an acceptable number. The number is more acceptable the quicker we can speed through this process, since time is of the essence.

Brad Bjorsness of 125 South Hiawatha asked if people building within the Cutters Subdivision will be charged a hookup as everyone else. The mayor said they will.

Davis asked if arriving at these figures involved input from city staff. Hellen described how staff has been involved in this study. He said it is fair to say that there was an awful lot of research put into the study. Dawson explained that the study still, however, does not have all of city staff's ideas incorporated into the final figure. For example, there had been an attempt to include the city's land acquisition plan into the future capital plan, but the cost of snow storage areas and some other land costs are not contained within the final figure. The parks capital improvement plan had been revised to current needs by Parks and Lands Board Becki Keefer, but the revised figures were not included because the consultants preferred to use the plan previously reviewed by the city council. She suggested some revisions for accuracy should be forthcoming, which would moderately increase the final figure. She also said it is important to consider these annexation fees, no matter what methodology they are derived from, as one-time annexation fees, discretionary to the council. They should not be used as credits against future development impact fees or any other fee uniformly assessed against properties within the city. The annexation fee is applied prior to property being admitted into the city's boundaries; after such admittance, properties should be subject to the same fees as other properties within the city. Williamson added that if the property is annexed it should be covered under other city ordinances.

McBryant said the council needs to determine what value it will give this document, such as a base line guide for the city council during annexation negotiations. Brown said she came here to think about this one component, not the entire annexation. Based on what she has read, she would be comfortable in accepting this financial component. She did not give credence to Speck's argument about the methodology and future credits. She agreed with what the clerk said and the attorney reinforced. She advised the council to keep in mind not what the annexation will cost Cutters, but what it will benefit them.

Burke said she would like to accept this report in its form. In itself, the report was well done and she understood the methodology. It built upon what the staff has given, and she trusted staff explicitly to give good information.

Keirn was well aware of how much work the staff was putting in to this project, which gave him confidence. The methodology is standard and well done, and he was looking at a financial base line. He saw no reason to go less, and the council can decide where to go with the rest of it. The council needs to make sure its current citizens are protected.

Brown said she had been caught off guard by the reference to multifamily units. McBryant also questioned whether the multifamily units would be affordable. She asked the staff to present any omissions that they are aware of, such as snow storage land acquisition areas. She wanted a listing of that given to the clerk who would distribute the lists to the council.

Williamson said at a future meeting, the city council will have to make findings of fact to approve, conditionally approve, or deny the application.

Belknap said it is important to have a comfort level with the methodology. Burke and Keirn expressed approval of the study methodology. Belknap said his plan has an objective such that staff could keep this updated. Dawson added that the city council will approve changes to the capital improvement plan in the future. Gardner said all the numbers will change, and he preferred to accept addendums rather than redo the entire report. Belknap recommended revisiting the plan once per year as part of the budget process. Keirn said the other 97% is of great interest to the council. Gardner said capital index adjustments could be made annually. There are three components, adopting an annual budget, including within that a capital budget, and discussing during budget deliberations deficiencies and benchmarks. The city should clearly identify where it is under funded. The financial statements are the third component that makes up the model.

There being no further business, the Mayor adjourned the meeting at 5:00 p.m.

Susan McBryant, Mayor

Heather Dawson, City Clerk

Excerpt from January 9, 2006 Hailey City Council Meeting

OLD CUTTERS ANNEXATION

City Planning Director Kathy Grotto said the Old Cutters Annexation application was received in August of 2003, and certified as complete in September of 2003. On March 8, 2004 the city council remanded the annexation to the Hailey Planning and Zoning Commission, who made recommendations on August 16, 2004. On August 23, 2004, the city council put annexations on hold for ordinance and process revisions, and a new annexation process ordinance was adopted in November of 2004. The Growth Management component of the Hailey Comprehensive Plan was adopted in January of 2005, after which the council again considered the Old Cutters annexation application in Feb 2005, at which time, following public hearing, the council tabled the application pending completion of a fiscal impact study. Management Partners was chosen by the applicant, and that company's fiscal report was presented to the council on November 29, 2005. In its information packet for this meeting the council has findings of fact from the Hailey Planning and Zoning Commission, and some public comment letters including one from Bill Schlunegger. A document outlining the benefits of the annexation, dated February 2004, in included as well.

Grotto said finalization of whether the streets and alleys should be public or private, whether the parks and greenspace should be public or privately owned and/or maintained, and some traffic and safety issues still needs to occur. The staff report was based on a plan that was submitted last month, in which the unit count was 123 units, but the location of the duplex lots was different. The plan that the applicant will display tonight may have 146 units, with the addition of housing following the adoption of Hailey's new inclusionary housing ordinance.

Jim Speck displayed the actual plan which was given to Grotto last month. Since then, Hailey adopted a new community housing ordinance. An increase in the number of units was devised to make that new ordinance a part of the plan. Cottage lots are referred to in the plan, and these are sites for townhomes. The plan proposes 24 community housing units, 12 of which would meet the Blaine County/Ketchum Housing Authority deed restriction concept. The other twelve would be location restricted (the Telluride concept); to qualify for buying one a buyer must live and work in the Wood River Valley, and is given first priority if s/he works in emergency services. Because these townhome units are quite small, the population increase over this plan will go from 323 to 350, only an 8 percent increase. He said Hailey doesn't need a cottage ordinance; this can be done under the PUD provision of the subdivision ordinance. Hailey's subdivision ordinance allows 10 townhomes per acre, and this proposal is for 14.5 townhomes per acre, one for every 3000 square feet. Each of the cottage lots will be developed with townhomes, with site specific shared common space. This is a subdivision plan that is progressive and environmentally sensitive. The plan uses good community planning concepts. Not all the cottage units would be community housing, 9 of them would be full market units. They would be dispersed among each other, and it won't be evident which ones are deed-

restricted and which ones are not. The added density from the cottage units create a significant separation between existing homes and the new townhome sites. Generally, a 10,000 square foot lot would house 5 people. With only 6 townhome units on the same 20,000 square feet, only 9 people would inhabit these opposed to 10.

John Campbell said the houses will be efficient to live in and will accomplish a sense of community, keeping the houses at a human scale with front porches and open space in which to interact and still have privacy. They will be of high quality construction and affordable, and will create pocket neighborhoods of detached cottages and houses. He presented a bibliography of references of professionals in support of this type of housing. Houses are configured around a common green, with shared parking spaces arranged around a common courtyard, with parking clustered together. Residents will have to walk from their cars to their houses, which encourages the sense of community. The front porches are configured so that you can see other front porches. The units are of quality architecture. A 1200 square foot house would be built on 3000 square feet of land. He displayed a map that had circled areas, where the community housing would be located. A mixture of the three types of cottage uses (deed, Telluride, and market) will be in each circle. The distance from the west of the property line to the first cottage is 96 feet. The setbacks comply with the existing GR setbacks. The floor plans can really be quite livable. The smallest unit would be 600 square feet, and the largest 1200.

Speck said he had submitted a letter to the council on Friday. He proposed a total of 2 million dollars in annexation fees for all units, including the community housing units, a $13,700 per unit average. In addition, the applicant will give the city a site and easement for a water storage tank. The applicant would not ask for a credit for that land. The applicant will provide a park if annexed, and the open space above the 25% slope includes 65 acres that will be deeded to the city, and below the 25% slope, with the park and pond, the area would become the city's property. The city will get the 24 community housing units. We will provide the water rights necessary to irrigate the project. Management Partners provided revised numbers, which changed the water/wastewater component of the annexation fee to $731,222, and increased the total fee to $2,286,772. If we went to that fee, we would ask for credits, as Airport West did, which would require the city to come up with some sort of mechanism to reimburse the property for funding certain improvements, or otherwise the same property would be asked to do the same thing twice. We wouldn't be looking for any kind of reimbursement in the future. The city can conclude that this won't result in any negative fiscal impact to the city. It is correct that under the zoning we could get 181 units for the straight subdivision. If we were develop in the county, we would be entitled to a 20% density bonus, for a total of 220 units in the county. Airport West developed 67 acres of R.1, with a county maximum of 67 units – a tremendous density bonus coming into the city. The way the zoning is recommended and10 acres are identified for a park, Cutters is left with only 34 acres of GR, which normally would allow 170 units in the GR portion of the development. In light of this, a density change in terms of population is not significant at 8%. Speck said the city has the authority to annex subject to arriving at an annexation agreement.

Williamson said the applicant has requested a decision, but Williamson did not feel a final decision should be made tonight. The council and public should consider the new information in this changed application. The public at large would not necessarily know where those units are and where they should be considered. Within this proposal is a request for cottage units, which Hailey can't consider because the subdivision ordinance does not allow these types of units. The applicant could propose a waiver of minimum lot sizes through the PUD process. Williamson said if the council is inclined to annex the property, he would need to work on the annexation agreement. Williamson said in his memo he relied on the figures provided by Tom Bergin of the county planning office.

Carol Brown said this has the feel of a different application than what was reviewed by the Hailey Planning and Zoning Commission. She asked about procedure. Grotto said if this were an actual subdivision, it would go back to the commission, but since it's an annexation, it's pretty discretionary. Williamson said the commission had determined that the annexation application complied with Hailey's comprehensive plan provided there wasn't a negative fiscal impact.

McBryant said the applicant is displaying only an 8% population increase, but an 18% increase in actual units. She said that is a substantial number. She said getting Speck's letter is appreciated, and will be made part of the annexation application, but it came late in the day. She told the public that we don't know how many units we are talking about, because we don't have an agreement that has been debated.

Carol Brown asked how the council can have a meaningful discussion about cottage housing when it can't consider that option. Speck said the units are stand alone townhouses. Brown said our ordinance does require townhouses to be attached within GR.

Mayor McBryant opened the public hearing.

Wynn Bird of 651 East Myrtle Street said the subdivision as proposed would be beautiful. She asked the council to consider how the people that live in that subdivision are going to get to Main Street. She said she will not allow her daughters to walk down the hill on Myrtle Street because it is already unsafe. We need to consider how we're going to get the cars to Main Street, and the impact of this annexation on our water and sewer systems.

Gina Lagagren of 215 East Myrtle said her concern is the traffic on Myrtle Street. When she bought her house in 1981, Myrtle Street was a dead-end street. Residents are very sensitive to traffic on Myrtle. Traffic should be distributed onto several streets. There are other slopes further down, such as on Bullion, with a more moderate approach to town. If indeed this represents a smaller density possibility, she is still concerned about getting traffic out of the subdivision to the community.

Tony St George of 308 South First said he loved the cottage buildings. He was concerned about snow storage. He imagined the subdivision full of young people without

kids, owning 1.5 cars, hiking up icy sidewalks from their cars to their housing units. Near the Puget Sound and in California that would be great walk, but here there is snow.

Bill Hughes of 241 Eureka Drive wasn't here when we discussed the county's density. The applicant wouldn't be asking for annexation if the same density could be derived in the county. The council needs to consider looking at annexation of lands in between Cutters and Hailey. Hughes said he sat through meetings and heard inventory as a rationale for approving this type of development, but with everything on the market, it's a reason not to approve; there's plenty of inventory.

Matt Furber of 301 N Second Avenue said watching this annexation process has been like watching a dysfunctional relationship. He sees this as an opportunity for the city to make its voice heard on a regional level. Density is something that adds to our community, or it's all over. Density is like that waking dragon, people fear it, but it might be a friendly dragon. This application should be used as an example, let them have more density, put in a bus system, bury Myrtle Street under Buttercup, do something progressive. Make the trail connected; and use the opportunity to make density a really friendly dragon.

Becki Keefer, speaking on behalf of the Hailey Parks and Lands Board, advocated the recreational interests of the city of Hailey. Water rights and available irrigation should be dedicated to the city for all non-hillside greenspace. Dedication of the hillside lands and park expansion lands and pond should be to the city, to help to offset the impacts of the annexation. The Parks and Trails Master Plan anticipates seeing more details on the trails through subdivision review process, which may or may not happen, so she didn't know how this would be worked out. The board felt the trail system as depicted is a first good draft which needs additional details.

Andy Harding of 416 Motherlode Loop was opposed to that sort of density, which is not appropriate in the surrounding neighborhoods.

Michael David of 222 Galena commended the applicant on thinking out of the box. He concurred with much of what Matt Furber said. The issue of density is something we are all struggling with. We will have growth until people stop having babies. This is an opportunity; we do need to look at inventory and proper well design, but have an opportunity to provide good homes comprised of smaller units with good space.

Mary Peterson of 711 East Myrtle said she is concerned about the traffic on Myrtle. It is true that our properties are larger in Dove Meadows. She hated to see it going to smaller density in the county.

Chris Shotts concurred with the comments about traffic. He liked the plan; he liked the density, but was concerned with the safety of kids. The change in density from close to town, out to larger lots, then back to density doesn't seem right; that aspect needs to be facilitated properly

John Henning of 112 South Hiawatha also was concerned about the traffic, and felt that had been well addressed by many. He was also concerned about water. The area across from his house had nice mature pine trees. He urged the council to look hard at whether this fits with existing housing and existing lots in that area.

Kirk Funkhouser of 1121 Queen of the Hills, said the developer has bent over backwards to appease the city, and still no decision has been made. He would like to see a decision made. He is in favor of the application; the city council is not telling the applicant what to do.

Lisa Lindner of 8 Buttercup said having that density on the periphery is tough on residents there. She is a horse owner and wanted to be able to access the hills and the integrity of the irrigation canal should still stay in tact.

Brad Bjorst of 125 South Hiawatha said he owns a townhouse in Driggs, but the houses are 1300 square feet. He said this project could easily propose this many units on 4 times as much land. He had a problem with the design concept.

Steven Poklemba of 130 South Hiawatha said of the 57 properties that surround that land, 30 or more have horses. As far as putting more density, the amount of fertilizers and pesticides that come from homes or cars are a concern. There are many other applications where they are going to get huge subdivisions. What are we going to look at way down the road, growth is contentious by nature. Doubt has followed this project from the start; when in doubt, don't. Each increment of expansion can obscure the downside.

Lindy Pockock of Broadway Boulevard in Ketchum said there's no place for newcomers or young people to go and establish ourselves now. It would be great to have the opportunity to have a place to keep the integrity of people, the way its been in the past.

Kyle Basinger of 413 Warm Springs said this is an opportunity to move somewhere and own a home. He wanted to live here, which, in order to be affordable, he needs to be able to own something.

Denise Thomas of 102 Horshoe Circle said the density that is proposed as contrary to moving out to larger places. When you have the county surrounded by the city without annexing the whole box, you are getting the cart before the horse. How do you get a half a person in a house or a half a car in the parking lot?

Gina Lagagren proposed one possible solution regarding the discrepancy in the lot size. She had some empathy on that subject; and asked if there is any validity to the concept to keeping larger lots at the outside, not close in.

Chris Grahwold of 717 South River Street spoke about the value of different neighborhoods.

Mayor McBryant closed the public hearing. Dawson reminded the council that during its last two meetings, bids had been considered on two projects, both of which came in approximately $500,000 over budget. The city is facing increasing costs daily. She urged that it is unwise to tie an annexation fee agreement to a conceptual plan's number of lots. The subdivision plan will take on a life of its own through the public hearing processes for the subdivision, and the number of lots as well as the configuration of lots is likely to change in response to public comments. She suggested that the annexation fee be considered in flat terms, and proposed that a starting point be $3 million.

Davis asked Chapman about fire insurance. Chapman said there are ways to get some of the Cutter's property into an acceptable radius from the fire station, and he has been talking with WW Rural about shared spaces. If enough houses are built outside that service area, it can result in a lower rating for fire area. Currently Hailey's fire rating is at a level 4. If it went to a level 5 it would cost roughly a million dollars per year for rate payers of Hailey. He said everything north of McKercher Boulevard and south of Countryside Boulevard is increasing that discrepancy.

Keirn said in comparing Speck's letter with annexation benefits given a year ago, fire station and fire endowment have come off the table. Speck said they are off the table. Keirn asked Williamson if the 131 units under the county is the maximum. Williamson said he had pulled that number straight from Bergin's presentation.

McBryant had three key points. The fire issue is now off the table, and that is an issue. Each one here will pay proportionately higher on homeowners insurance. She had a problem leaving an island of county between annexed property and the city. The city has just embarked in pursuit of a local option tax, which is only viable if the city is 10,000 residents or less. Hailey is estimated to have 8500 people now, with a proposal for 400 plus units currently under process within our existing boundaries. We have trouble providing services within our core, bringing new residences into the city diminishes our need to find other funding needs. She hoped to give the applicant enough information tonight for them to know whether they should move on, although we can't give a final approval tonight.

Keirn said his calculations regarding annexation fees had arrived at 3 million dollars. The island thing has bothered him. The fire station is a must. Water is an issue.

Davis said that land will be developed in the county or in the city, and the city will be impacted either way. Both sides have great points. He is concerned about Myrtle Street. We reap the benefit of the tax base or lose that totally. McBryant urged the council not to be afraid that we'll have impacts if the property develops in the county. We'll have to rethink how we do business with the county. We may have to bill back to the county, or the county can step to the plate and do their part in responding to calls. We will have more people shopping in city, there's a benefit. Don't be afraid of this project being in the county.

Burke said she is in favor of the annexation because our little community is changing, we need the fire station, we want water to be accessible with pressure downtown. The water rights issue has not been resolved, traffic and safety is a concern she surely understands because she lives on Bullion Street. We do have to mitigate on almost every street. Spread it out. We have to require at least 3 million dollars, and maybe some land for a fire station too. She doesn't buy any comparison of this development with the Airport West project. The parks stuff seems good, she actually understands this cottage concept - we did it in a different way with the Bunkhouses in Woodside. When Williamson started talking about tools, this is probably the kind of thing we have to be prepared to look at in some way. The irrigation canal and alley, cottage component, road in the form of a driveway, that's a problem because it almost creates double-fronted lots. If you want to consider cottage housing for the elderly, they will need attached garages. We have to talk about if the parks are donated to the city, with some kind of fund, the elk foundation should own the park lands on the hillside. Density is a huge problem. Burke said if she thought all of these homes were going to be second homes that would diminish our community, there would be no support for downtown. She wanted to insure these homes would be inhabited by people who work in the valley.

Carol Brown felt we have a huge opportunity, and we should look seriously at annexing this. She is not afraid of this property developing in the county, and yet 2025 says density should be in and around cities; she has understood clearly what she's been hearing from the county. The project as shown contains superb design elements. The mix of density, large and small, is not the cookie cutter same size repetitive housing. Although we can't talk about the cottage housing, she is intrigued. She said Dawson's advice on fees is good advice. She concurred with the parks and lands board that water rights should be obtained to be used for irrigation. On parks, she would take the board's recommendation. A fire facility is a must, especially the land for it. She wanted to see a proposal for a sidewalk down to the intersection of Buttercup and Myrtle, and a left hand turn lane in the county on Buttercup. We were presented with a plan of 123 units, and our commission reviewed that plan and the community housing would be within that. She had a level of discomfort that this isn't what they reviewed. She said a commuter bus shelter should be constructed, and homeowner's fees should asses a tiny percentage monthly to help fund transit.

McBryant said she is hearing interest in pursuing this if the city can get past some big issues. The council would like to approve the annexation and would like to have the dialogue. It may make some sense to continue this to a date certain with the instruction that she or one member of the council meet with the applicant and do some negotiation and let them decide if they want to continue. She was not comfortable in the council making a motion that in any way represents a vesting.

Brown moved to continue the annexation application to the first meeting in February, and that the mayor assign a council member of her choice to meet with the applicant. Burke seconded; the motion carried unanimously.

Excerpt from City Council Meeting of January 23, 2006 - Cutters

CUTTERS ANNEXATION WORKSHOP

Mayor McBryant said she, Don Keirn, and the city attorney have met with Cutters representatives to consider negotiations toward an annexation agreement. Cutters has always known that the city has the authority to ask for certain contributions. The city set as its issues those that had come out in the public hearing prior to that meeting, and reiterated what the city would expect. Density is problematic, and the Management Partners study is primarily intended to be a basis for annexation fees, not a maximum. Keirn had mentioned a $3 million annexation fee in the public hearing, as well as the value of water rights, sidewalks, and land. It became evident that the city was asking for sums and contributions that the applicant wasn't comfortable offering. We took a break, and the applicant wanted to meet expeditiously again on this matter, so this workshop had been scheduled.

Williamson said the applicant wanted to offer $2 million, and the city wanted $3 million. The applicant had proposed instead of park expansion near the canal, they develop three large lots in that area, and in turn would offer up to $3.2 million dollars. Those 3 lots raised the number of units to 149, and then the applicant had agreed to keep those executive lots, and reduce the total density to 146, but only pay $3 million. Speck said we can't talk about the money unless we know what the density will be. Mayor McBryant asked what is the lowest density the developer would propose.

John Campbell said he can propose a lower density plan of 113 lots, with 132 units instead of 146 units. Instead of 24 community housing units, it would have 10 community housing units (half deeded, half Telluride). Pasadena adopted a 15% community housing ordinance, but allowed a transition period for applicants over the first 12 months at 6%. He would still have 122 market rate units. They offered $2 million on the former proposal, and $1,808,000 on the new scenario. The city does benefit from required elements, such as parks and building permit fees. He had allocated a certain cash benefit to these requirements and added them to the annexation fee component for a total benefit sum of $7,149,500 under the 146 unit plan, and $6,766,500 under the 132 unit plan.

Brown asked if community housing elements of the ordinance were taken into consideration. Campbell said 20% community housing is required by Hailey's ordinance, but he is proposing an 8% interim percentage (like Pasadena's). Keirn said the community housing ordinance is in place. McBryant said the financial study that was done was simply a base, so she is very uncomfortable being tied to the number of lots. The study was simply information for the council to take into consideration in determining the details of the annexation agreement. The park, roads, and building permits are required. Steve Brown said these are benefits that the city gets. Brown said the county is going to get those building permit fees if the project develops in the county; those are not a benefit, but a payment for a service. McBryant said if the building isn't

occurring within the city, the city won't incur the expense of approving those plans and that project.

Speck summarized that the fee is $3.8 million, if water rights and fire land is given to the city. Brown said what she wished had happened when we were given the financial report, and at the end heard our staff say what didn't get factored in, we should have immediately asked for an update of the report. Speck said the report did get updated, with some components of future capital improvements. Brown said she needs to be able to look every citizen in the face and say the city has met its responsibility. McBryant said no credit was given for water rights in other annexations, including the school district and Airport West. Campbell said the Management Partners study said this development will pay for itself. Keirn said residential housing is always a loser.

Speck noted that Hailey would have to amend the community housing ordinance. Brown said she personally had a problem with developing on the east side of the canal. She asked if there is a configuration for the three lots on the west side; Campbell response was not one that's worth a million bucks. Speck asked if the applicant didn't develop the executive lots, would some credit be given against the $3 million annexation fees. Brown said what the city does well is density, and she would be very surprised if the county allowed that kind of density on our borders. Speck said the county would give them 130 lots.

Davis said we're not going to get anywhere when we're in an adversarial atmosphere. He said we are charging annexation fees on a per unit basis, and then we're asking for additional housing units. He had trouble asking for both annexation fees and community housing. McBryant said she had previously expressed that the community housing ordinance is too exacting. Williamson said we have present ordinances, as a reality. Brown said the Telluride option gives a 10% density bonus, and in the BKCHA model there's a 20% density bonus. Speck said when zoning is applied, the base density will be about 250 units (that's the number against which Hailey would be calculating a density bonus). He was willing to wait and have that process work its way through.

Campbell said about a year ago, the council said it would be a nice neighborhood. He felt the city liked it because it had a hand in shaping the proposal. The city felt its fiscal responsibility, and therefore we paid for a study. We're trying to get a grip on what's happening, and Airport West got charged the fee in the study they paid for. Instead of charging the fee in our study, you want to charge us twice as much. The study clearly points out that all you have to charge us is $1.3 million dollars, because the remainder is based on future capital improvements. We've got offers on the table for twice as much money. He is disappointed that the negotiations have fallen apart because of a disagreement over the size of the profit the city is going to make. McBryant said the city is not seeking annexation, and wants to experience a gain for effecting such a change. At the last meeting, the council had given the applicantan out after the 3 million dollar figure had been put out. They didn't take the out, so whose time is being expensed here? She said she has to keep these comments out there. We've been very forthcoming.

Burke said the applicant is trying to show us what benefits the city – roads are the subdivision's, not the city's. She said we need to take off the list the benefits that are really requirements. The applicant was sitting in the room when we recognized the deficiencies of the report. Campbell said all those deficiencies were based on future capital. Brown and Burke said why didn't they state their disagreement at that time. Speck said he did. Brown said that was a memo handed out that night.

Burke said every incremental addition to the community bears a cost, and the costs of our firefighters and police officers will have to be paid. We are asking the applicant to provide something different than Airport West was asked to provide. We are clearly disagreeing about that dollar value. Everyone in this community hates density. Sit on this side of the table and explain to the community how this benefited them.

Speck asked if this isn't largely accounted for in the Management Partners Report. McBryant said Dawson had identified two additional costs that the city is currently struggling with that represent a million dollars. We would get the base fees, we would also be able to achieve a goal that we've set. We want a tangible benefit that can justify the annexation. The benefit to the city has to be something the city needs – there's a nexus there; we annexed and we solved a problem. Speck said we disagreed that we shouldn't get any credit for the land. McBryant said the development should provide its own irrigation. Speck wanted credit for water rights and additional land given to the city. Williamson said there is a six-year difference between the Tischler study and the Management Partners study. Airport West needed greater density than Cutters. The most important considerations here are sewer and water connections. Does the city want private septic systems, does the applicant want the cost of septic systems?. The dollar amounts were pretty close. Brown said they got a five-time density increase, and that allows a huge value to pay for fees.

Davis asked if the council is interested in starting at $3 million and giving credit for a land donation. McBryant said the credit was given for the land at Airport West, but it was land which the city could sell. This property would not be able to be sold. Davis said he would be interested in the appraised value of RGB zoned property. Davis felt it was worth pursuing . Burke said the next issue is that now we have land that not only has to be developed as a park, but has to be maintained as well.

McBryant appointed Brown and Burke to continue in a meeting, if Cutters wants to continue. Speck said they do want to continue.

Excerpt from February 13, 2006 City Council Meeting on Cutters

CUTTERS ANNEXATION

Mayor McBryant explained that the Cutters Annexation hearing is continued from January, 2006 and is focused upon terms and fees required for annexation.

Williamson said after the last meeting workshop the mayor had asked Burke and Brown to meet with the applicants to negotiate the terms of annexation. Williamson said he and Heather Dawson participated in all the meetings, and Ray Hyde participated in about 3 hours of the total 7 hours of meetings. A written document would be necessary to bind the property to the terms of the agreement. He highlighted the major bullet points of the terms discussed. In terms of density, 149 residential lots would be allowed, and the applicants would pay $3,832,500 as an annexation fee, phased over a period not to exceed 4 years after final plat recordation. In addition there would be another payment of $5007 per lot, paid at the time of hook-up to city water and sewer systems. Further discussion about this concept will occur later. CPI adjustments would be made as time progressed and these payments became due. In addition, applicants would convey fee simple title to all the land east of the Hiawatha Canal, 78 acres. An easement for access and subsurface utility easement would be placed east of the canal, with a potential water tank site. In addition the applicants would agree to construct community housing units. They are requesting that 13 be income restricted units while 12 would be work-location restricted units. 6 of the deed restricted units would be duplexes; the remainder CH units would be townhomes. In addition the applicants have agreed to convey fee simple title to lot 73, on the south end of the development, which conveyance would occur if the applicant sold 55% of the market rate lots within 1 year of final recordation of the plat. Private alleys would be privately maintained, and the remainder of streets, water and sewer would be constructed to city standards, then accepted and maintained by the city. The applicant would retain all their water rights. A park would have to be developed, 4.13 acres is required, and an additional area shown on the plat of .73 acres would be added to the park. Open space east of the canal would remain undeveloped. The park will be dedicated to the city with an improved parking area to service the park. Sidewalk and turn lanes would be required to be constructed outside of the subdivision, at Myrtle and Buttercup.

Jim Speck, attorney for the applicant, clarified that the density actually is 116 lots and 149 units. The total number of RGB acres is 82.7 acres, which includes the park. 4.63 acres should be shown on the plat. Brown asked if the easement described is for personnel trucks, or vehicular access. Williamson said for vehicular access. Brown asked how much of the park area is under the 24% grade. Hellen said about 4-5 acres is below 25% grade, the remainder is up on the hillside. Davis asked if lot 73 would not be deeded to the city if the 55% sale amounts aren't met. Williamson said if sale projections aren't met, the lot would not become the city's. Davis asked about the non-litigation clause. Williamson said it is an attempt to protect the city – like the non-suit convenant to protect the airport in Woodside from subdivisions. Speck said the corner lot is meant to be suitable for the fire storage facility that Chief Chapman desires.

Mayor McBryant said the city has done its best effort to take advantage of this applicant's interest in coming into the city to meet the city's need. She asked for public comment as to whether the negotiations have been satisfactory or not. There was no public comment. Brown said she was going to speak last, because she was assigned to this task, and she doesn't want to color it with her thoughts first.

Hellen said if a per lot fee is paid at the time of hookup, it will sound like the hookup fee, and he didn't like that timing. He said tying that fee to the issuance of a building permit has the potential for administrative problems, especially if building permits aren't pulled for a long period of time. He preferred to see that fee paid at the time the lot is sold, or blended into the percentage of payment at the time the percentage of lots are sold.

Grotto wanted to include added language that further subdivision of the lots shouldn't be allowed, and wanted that shown on the plat as well.

Davis said current CIP numbers for the entire city are approximately $18 million, and this is 1/3 of that amount. Money is not everything, but when you are a cash-starved city sorely in need of capital improvements, with a 3% cap on your budget each year, he definitely needs to stand up and take notice. He appreciated the work done with the developers. He concurred with the positive results that have been reached.

Keirn said he and the mayor did the first round of negotiations on this, and his wish-list is pretty well met here. The taxpayers of Hailey are very well protected with what is here in the list. The $5007 per lot fee must be obtained at the time of sale.

McBryant said although it may not be the best agreement we could get, it is a pretty good agreement. The applicant continued to come to the table and work with us, which is appreciated and it is time to move forward.

Burke said this is a good proposal; this looks like a part of our city, including different sized lots, with affordable housing units and open space.

Brown said when the negotiations were finished she put it aside and didn't look at it again until Sunday night, in an attempt to look at it with fresh eyes. Philosophically, if we're going to annex anything, it should look and feel like city. There's no question that Hiawatha Drive will change character as this property is developed, whether in the city or the county. This will get some benefits for everyone that we want. The expansion fee should be paid as each lot is sold. Brown said the fire station should not put there, but instead should be put in a more appropriate place as one is found. Chapman hoped to find the right parcel of land in the next 4 to 5 years- acquisition of Lot 73 is a good solution.
Mayor McBryant opened public hearing. Carol Cole of South Hiawatha said looking at the dollars and benefits to the city, this is a much different proposal than what we started with a long time ago. If the fire station lot is to be given to the city, the percentage of

sales language may thwart that. It is not likely that 55% of the lots will be sold in a year, and the city may lose that lot entirely.

Dan Gillmore of Shenandoah Drive asked if, since the city is going to take ownership of 70 acres parkland, would maintenance of that be considered in the terms of the agreement. Mayor said maintenance of that park was part of the fiscal study done for this annexation.

Keirn moved that the city attorney be instructed to draft an annexation agreement containing the elements described, including the 2 changes – one that the $5700 per lot fee be paid at the time of sale, and that further subdivision of the lots not occur. Davis seconded. Discussion then occurred.

The mayor said the 55% sales quota might be high. Keirn suggested one year at 35% or 2 years at 55%. Mayor said this is a life-safety issue. Keirn agreed that the public safety issue is pretty critical.

Speck said this point was hashed out at great length, and there is a logic behind the 55% that Campbell had explained in detail during the negotiations relative to the success of the development. The 3.8 million dollars will pay for some life safety elements, far above what the Management Partners study laid out. The applicant is not willing to bend on that particular point; that was a very important point for us. Speck said we are willing to pay at the annual payment or when the lots are sold, but didn't want the future homeowners to be paying for the same thing, in whole or in part. A hookup fee is overlapping what that $5007 fee covers. Speck said building permits might be taken out at a point where future improvements will already have been built. Brown said she struggled with the 55% within one year clause. McBryant said it is controllable; the applicant could hold back a lot or two beyond that time frame. The applicant should be comfortable with the far more generous offer of 2 years. Burke wanted to let the attorneys discuss this. Burke said she agreed to this after long negotiation, under the intent and the financial concerns, she was prepared to support this, and she still is. Keirn asked about the significance of Lot 73, and was more comfortable with 2 years because it is controllable. Davis said there are ways of tracking this to see if lots are being held back. Changing the terms of the agreement isn't worth adding another year; he was comfortable with the way it is. Brown said her concern is that she is mentally factoring that lot in, and it may not be there. She was comfortable turning this element over to the attorneys to see if there is resolution.

Brown amended the motion to include that attorney's discuss element 6. Davis second, but the amendment failed with Davis, Burke, and McBryant opposed, McBryant said the matter should not be sent back to the attorneys, saying it is a council issue.

The motion then carried unanimously.

PH 73 OLD CUTTERS ANNEXATION

Davis recused himself from any further discussion on this application. Carol Brown said she received 2 letters by email, and distributed those for the record.

Williamson said following the last meeting, Speck took on the task of drafting the agreement, submitted late in the week. Williamson reviewed it over the weekend. A proposed ordinance and findings of fact are in the packet. The Council is charged with the task of deciding whether to annex the property, and if so, should adopt an ordinance defining the limits of the property and setting the zone. He distributed a colored map of the area to be annexed, showing Limited Residential and General Residential zoning. If the council decides not to annex, it should outline the reasons why. He recommended against approving the annexation agreement tonight because of the changes that have occurred in the drafts over the weekend. He wanted the language to state that the annexation fee is an annexation fee only, and should not be connected in any way with any other fee, and subsequent development should not be entitled to any other credits because of the annexation fee. He wanted to include some other types of remedies in the annexation agreement. The draft talks about an obligation of the city to amend ordinances to allow for stand-alone townhome developments, but it is not the place to say that we will or can do that in an annexation agreement.

Carol Brown asked if the community housing in the annexation agreement is restricted to people working in the valley. Williamson said he recommended some changes under 2-B, at the most we can say that the applicant would propose 13 units, 7 income restricted, the others restricted by some other method. Williamson said we need to review that issue independently from the annexation agreement.

Carol Brown asked for clarification on the area called "Park" and that denoted as "expansion". Williamson said the expansion part is directly to the north.

McBryant didn't understand the purpose of the credit to people buying and building within 2 years, saying the city wouldn't track that, and what value is that to the city to have it called out in our agreement. Williamson said arguably that would speed up the sales, and make the 55% sales mark more easily achieved. He himself didn't think it would make much difference.

Jim Speck said he had just received Williamson's suggested changes. He said the $5700 per lot fee is calculated on the basis of water and wastewater future capital improvements. When the city charged Old Cutters with going out and hiring experts to say this project would not cost money, Cutters did that, and went through a number of iterations of reports. The first one, in October of 2005, says water and sewer capital assets are not included in this analyses, and are more appropriate for the development impact fee, and needs to be included in that upcoming study. When the city revised the report with Management Partners, they changed that language, and said those costs are

appropriate as future capital and should be included in that section. He had proposed a payment schedule that had $5007 per lot to be paid at the time properties hooked up to water and sewer. The Council has discussed getting that payment in a different manner. Cutters is now being asked to sign some language that says if the city adopts a development impact fee ordinance, and that ordinance has some of these same components, the puller of the building permit fee may be subject to the same fee again. The property will have been charged for the same thing twice, and we don't think that is fair. He has agreed to pay another 2 million dollars on top of the Management Partners fee. This is a sizeable component of that fee. The calculated figure became a price of admission to the city. For this piece of property, we will already have paid for some of that, and we don't think it is fair that we have to pay for that again.

Mayor McBryant opened the matter for public hearing. Mike Gillman of 235 West Walnut Street said he has watched how the developers have done, to the fullest extent, what the city has asked. Buyers of the lots will be paying twice, and that doesn't make sense.

Jim Philips of Quigley Road addressed remarks to sections related to Hiawatha canal and park areas. The Hiawatha canal and other ditch easements are shown much narrower than they are. The high ditch contributes to one of the real attributes of the property, its vegetation and wildlife corridor. That vegetation will need water, and should be provided, if not by the developer, then by the city. There is o provision for that made in the agreement. The city has 150 inches of water in the Hiawatha Canal, but that water may have come from Woodside, and he wasn't sure that water would withstand any challenges during the Snake River adjudication. He wanted an opinion rendered on that before the city takes that into its consideration. The high ditch needs to be maintained for its down canal water users. Heretofore it's been pretty easy for us to maintain that ditch. It makes sense to come up with an agreed upon maintenance plan.

Leah Johnson, of South Hiawatha, asked if the public has access to this agreement. She asked if any notices have been sent out for the last two meetings. Will there be a meeting where there is comment from the public on this agreement? She said you have to be following this to get all the details, and these meetings aren't being noticed to the surrounding property owners.

Written comments were rendered from Jed Sidwell, saying that the developers were continually changing their density and layout, and have now won their request by way of attrition, as we all became weary. The increase in total units and decrease in lot sizes is the result, and how is it that cottage houses are not tied to funding formula.

Written communication also was rendered from Leah Johnson, stating that if annexed there needs to be a turn lane onto south Hiawatha. The access road to Cutters should be appropriate for the density increase.

Mayor McBryant closed the public hearing. She said that the developer didn't have to get the study, that was a choice they made because they wanted to be annexed. She was

very uncomfortable with trying to tie an annexation fee to other future fees. She understands the applicant's position, but is not of the mind to accept that. There are other reasons to come into the city than simply the cost of infrastructure. She was not comfortable changing any of the language so that the annexation fee is construed to be part of any other fee. She didn't support drafting ordinances that are retroactive to any parcel of land. She was uncomfortable giving some sort of privilege against participation in future ordinances.

Keirn said the fees will cover a lot of costs over and above water and sewer, and he couldn't support any change.

Carol Brown asked if the correct water right-of-way is shown, and is the area of the map accurate as well. That is a concern she has now. Williamson said the area that is used for maintenance of the ditch has a statutory easement that covers the ditch to allow reasonable access. He was not sure how those easements shown on the site plan relates to prior use.

Carol Brown said although the community housing language isn't tight enough, she will buy into Williamson's comments that this isn't the right time to address it. She said she would like to have combined, upon exhibit 2, the two areas and call it the park. On page 5, she can agree to process the townhouse definition, looking at townhouses and stand alone cottages. Carol Brown said McBryant summarized well that the price of admission is not based on a hookup fee; that's what it costs to get into the city.

Burke said she would add the language that there is no credit; it's an annexation fee, and there will be impact fees for this and other proposed developments. She said she was not prepared to look at the water in the canal, a corridor for all kinds of creatures. She would be very interested to learn how that works.

McBryant said we need some sort of methodology to assure that watering the vegetation along the canal will occur. She lived for many years along a canal in south Hailey where the water had been diverted, and all the vegetation died. The value to the new landowners will be diminished if the vegetation dies. New language needs to assures that condition will occur. She suggeseted this should be sent back for a rewrite specific to the point made, including that people eligible for community housing be unable to own property anywhere, not just in the Wood River Valley.

Speck said the park size has been recalculated at 4.65 acres, but is now a 5 acre park. Carol Brown said if the developer is going to have bulldozers out there, it would be better to improve the entire 5 acres.

Keirn moved to continue the Cutters Annexation matter to March 13, 2005. Brown seconded; the motion carried unanimously.

Excerpt from March 13, 2006 City Council Meeting – Cutters

OLD CUTTER'S ANNEXATION

Davis recused himself from the Cutters annexation discussion to avoid any potential conflict of interest.

Williamson introduced the annexation agreement as it had unfolded following the council's previous meeting. The park areas had been consolidated into one 5.08 acre park, and the applicants had agreed to develop the entire area as a city park. The developer asked for an annexation fee credit of $45,000, the estimated amount for improvement of that portion of park space which exceeded the subdivision ordinance minimum standard. Community housing language was amended to say that qualified applicants could own no other real property in any location. A turn lane would be constructed off of Hiawatha Drive. Williamson said he believes strongly that annexation fees are different than development impact fees, and included language deterring the applicant from receiving future credits for development impact fees. A difference in language has emerged, and the applicants have indicated they will not sign the agreement if their version of that language is not used. The applicant also is not willing to install a restroom at the park. City staff had indicated the park restroom should be hooked up to the sewer and water lines, rather than Forest Service style restrooms. The final issue deals with the Hiawatha Canal upper ditch. Jim Phillips has met with the applicants; and Phillip's concerns include five points: a pathway on the upper side of the ditch which will be covered up by maintenance of the ditch; access to the ditch; the width of the easement; and a loss of vegetation along the ditch resulting from water no longer flowing in the ditch.

Jim Speck noted that the pathway is on the lower side (residential side) of the ditch, not the upper side.

McBryant said we are at the point where if we find this agreement is satisfactory, the next step is to find the annexation satisfactory. Emphasizing that the conceptual plan may not be the exact layout of the future subdivision, Mayor McBryant opened the public hearing. Al Lindley preferred a Forest Service style bathroom that can be used year around, saying other restroom sustain damage, including broken pipes and plugged lines. The Forest Service restrooms are durable. Why put something in that will eat a lot of maintenance costs?

Jim Phillips said the maintenance width of the canal is one of the issues. A slope exists on the downside of the canal. The city should properly identify the maintenance area to keep encroachments from coming up in the slope. The other issue is with regards to vegetation along the ditch. There is some question about the character of the foot bridges. Maintenance will have to occur around the bridge, and there will need to be access into the ditch. Another access point is needed somewhere around the bridge, and at the southern part of the ditch. Since the city will own the property from the west side of the canal over to the east, he hopes to work out an arrangement with the city to address

the issues of access, and develop a maintenance plan in conjunction with the homeowners. Our approach to maintenance may not be what the neighbors will like to see. The canal company worked out an arrangement with Foxmoor wherein its homeowners maintained the ditch. McBryant asked if the canal company will share the cost of building a weir. Phillips said if it is the city's water in the ditch, we can work out an arrangement for that.

John Campbell agreed that we need to walk the area after snow has melted. It will take heavy equipment up that gulch to build the water storage tank. Where the gulch comes out, there's an alluvial fan, indicating a very gentle slope. Bridges are not all meant to be constructed the same way. Phillips asked if the bridge would be built initially. It will be a major access point.

There were no further public comments. Carol Brown said regarding credits, the annexation fees are very distinguishable from development impact fees. If we go forth, that is her thought process. Regarding the bathroom, if a vault style facility is built, we will pump it on a regular basis. Vandalism doesn't happen often in the Forest Service areas. When it does happen, it's not pretty. We've got a sewer; let's hook it up to the sewer. She was intrigued by the Foxmoore example. She felt the agreement conforms to the comprehensive plan and pages 89-93 of the council packet show those areas of conformance. The annexation fees have been assesses as the price of admission with the study underlying it as a basis, to ensure that we have looked at the fiscal impact responsibly. The Forest Service system is a good system, the main thing is what people put down in the vaults that is inappropriate.

Keirn felt the residents near this property would appreciate the restroom as well.

Burke said the proposal meets the Hailey comprehensive plan. What held us up a year ago was the fiscal impact on the city. A base line was established, and now we can go ahead with this. She understand the developer will have some concerns about future credits, but this is the price of an annexation, and credits aren't appropriate. Vegetation along the canal may not be able t be addressed tonight. When we take out the $45,000 that would be estimated to improve ¾ of an acre, did that encompass a restroom? Williamson said it did not.

Keirn was okay with the 45,000 credit. The citizens of Hailey will be well served by the money the applicants will pay in. The ditch maintenance will be handled in the subdivision process.

McBryant was uncomfortable with annexing this property and having the area that is in the county surrounded by city. She challenged the council to develop a resolution where we bill back the county for service in this area. It's a mistake to have that happen, with those parcels being left out there. Carol Brown said we will have to discuss this when the Quigley annexation application is reviewed. McBryant felt it needs to happen now. Carol Brown supported setting a resolution by which Hailey would bill back services to the county.

Carol Brown noted that the first motion pertains to the annexation application, the second is regarding zoning. **She moved to accept the annexation of Old Cutters, finding it is harmonious with the Hailey Comprehensive Plan as noted on page 89-93 of the council packet, that the application is in conformance with the comprehensive plan, and that the proposed annexation will not have a negative fiscal impact on the citizens of Hailey; with conditions that the annexation be subject to finalization of an annexation agreement providing for terms and conditions** Burke seconded; the motion carried with Keirn, Brown, and Burke in favor.

Carol Brown moved to assign the zoning designation to the Old Cutter's annexation area as presented in the staff report exhibit, finding that it conforms to the Hailey Comprehensive Plan as stated on page 93 and 94 of the council packet, that it does not create additional costs, and that it is in accordance with welfare of the general public. Burke seconded; the motion carried with Keirn, Brown and Burke in favor.

Carol Brown then moved to adopt Ordinance No. 939, and read the first reading by title only. Keirn seconded; the motion carried with Keirn, Brown, and Burke in favor.

Turning the council's attention to the annexation agreement, Williamson said it is his preference to have strong language disallowing future credits in the annexation agreement, but the applicant will not sign the agreement if it contains that language. The agreement will control this matter going forward, rather than council comments made during deliberation. Keirn said the city attorney will not fall on his sword if the language is not in the agreement. Williamson noted that the agreement will need to reflect the requirement that the restroom be hooked up to city services. **Carol Brown moved to accept the annexation agreement as presented, with a minor change on page 5 to require that a restroom be hooked up to city services.** Burke seconded; the motion carried with Keirn, Brown, and Burke in favor.

Brown noted she was impressed with the CC&R's, even though the city doesn't enforce them.

McBryant encouraged Grotto to facilitate an on-site review by the commission of the subdivision application.

Excerpt from April 10, 2006 City Council Meeting – Cutters

OB 115 CUTTERS ANNEXATION – FINDINGS OF FACT & 3RD READING

Davis recused himself due to a potential conflict of interest. Williamson said the annexation agreement had some language about credits omitted, because the applicant didn't agree with that language. He said he wanted to insert language into the findings of fact that had been omitted from the agreement. He suggested that page 7 of the findings of fact contain that language. He wanted to show minor changes in the map. The next process involves subdivision and PUD applications which haven't been submitted yet. He's been pretty clear with the applicant that as it stands now they will have to go through those separate processes. The ordinance can be read, but it can't be published until we get the signed agreement. Speck was not aware that the agreement had not yet been signed. Brown moved to approve the findings of fact for Old Cutters, incorporating the deleted language from the annexation agreement read to us by our attorney tonight. Keirn seconded; the motion carried unanimously.

Keirn moved that the city council approve the third reading of annexation Ordinance No. 939, with publication subject to receipt of the annexation agreement and the updated map, and that the ordinance be read by title only. Brown seconded; the motion carried with Keirn and Brown in favor.

AGENDA ITEM SUMMARY

DATE: 4/25/2011 **DEPARTMENT:** Legal **DEPT. HEAD SIGNATURE:** _____

SUBJECT:

Amended and Restated Joint Powers Agreement (Friedman Memorial Airport Authority) and resolution.

AUTHORITY: ☐ ID Code _____ ☐ IAR _____ ☐ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

See attached memo.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #_____
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: (IFAPPLICABLE)

___ 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:

Make a motion to approve the Amended and Restated Joint Powers Agreement and resolution and authorize the mayor to sign.

FOLLOW-UP REMARKS:

CITY OF HAILEY
RESOLUTION NO. 2011-_____

RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED JOINT POWERS AGREEMENT (FRIEDMAN MEMORIAL AIRPORT AUTHORITY)

WHEREAS, the City of Hailey desires to amend and restate a Joint Powers Agreement between the City of Hailey and Blaine County for the Friedman Memorial Airport Authority dated May 16, 1994, and subsequent amendments thereto;

WHEREAS, the City of Hailey and Blaine County have negotiated a transition and governance plan to accommodate the closure of the existing Friedman Memorial Airport and the opening of a new airport to be located outside of Hailey but within Blaine County;

WHEREAS, the transition and governance plan which accommodates the closure of the existing Friedman Memorial Airport and the opening of a new airport located outside of Hailey but within Blaine County is set forth in the attached Amended and Restated Joint Powers Agreement; and

WHEREAS, the City of Hailey and Blaine County have agreed to the terms and conditions of an Amended and Restated Joint Powers Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the attached Amended and Restated Joint Powers Agreement and that the Mayor is authorized to execute the attached Amended and Restated Joint Powers Agreement.

Passed this _____ day of April, 2011.

City of Hailey

_____
Richard L. Davis, Mayor

ATTEST:

_____
Mary Cone, City Clerk

AMENDED AND RESTATED JOINT POWERS AGREEMENT

Friedman Memorial Airport Authority

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT ("Agreement") is made effective upon its execution between BLAINE COUNTY, a political subdivision of the State of Idaho (the "County"), and THE CITY OF HAILEY, an Idaho municipal corporation located within the County (the "City").

RECITALS

WHEREAS, the County and the City entered into a Joint Powers Agreement dated May 16, 1994 (the "1994 Agreement") which 1994 Agreement has been amended on several occasions; and

WHEREAS, the County and the City have jointly operated and are currently jointly operating, an airport known as the Friedman Memorial Airport located within the City and County (the "Existing Airport"); and

WHEREAS, an airport is of critical importance to the economy of the County and the City, and, as pressure for use of the Existing Airport reaches the physical limits of the Existing Airport, the County and the City have, since the adoption of the Master Plan, decided to seek a replacement site for Existing Airport facilities away from urban populations rather than expanding the Existing Airport; and

WHEREAS the Existing Airport operates under a temporary operating procedure, revocable at any time and created to accommodate certain aircraft while a Replacement Airport is pursued; and, the Existing Airport cannot comply with C-III design standards without expanding the Existing Airport; and

WHEREAS, the Existing Airport cannot permanently comply with FAA design standards without significantly expanding the Existing Airport; and

WHEREAS, the County and the City have agreed not to expand the Existing Airport; and

WHEREAS, the County and the City seek the highest quality and safest airport possible within the physical limits imposed by the geography of the Existing Airport location; and

WHEREAS, Idaho Code Section 67-2328 expressly authorizes public entities to create a separate legal or administrative entity to exercise powers possessed by the public agencies creating such entity; and

WHEREAS, the County and the City have determined that it is in the best interests of the County and the City, and their inhabitants, to continue managing and operating the Existing Airport under the Authority while reconstituting the Board of the Authority during the time that the County and City are seeking a replacement site for the Existing Airport facilities; and

WHEREAS, a Replacement Airport is being planned to be located in the County and it is the intent of the parties that the Existing Airport will permanently be closed and sold when the Replacement Airport is operational; and

WHEREAS, the City and County previously agreed in a July 6, 2010 Agreement for Development of Replacement Airport and Redevelopment of Friedman Memorial Airport to transition to a restructured governing board, which will be accomplished by this Agreement; and

WHEREAS, the County and the City accordingly wish to amend their prior joint powers agreements, while restating pertinent provisions of their prior joint powers agreements;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties agree:

ARTICLE I

DEFINITIONS, PURPOSE, AND AUTHORITY

Section 1.1: DEFINITIONS

For purposes of this Agreement, the following terms shall have the following definitions:

Agreement means this Amended and Restated Joint Powers Agreement, dated as of the execution date.

Authority means the Friedman Memorial Airport Authority created under Section 3.1 of this Agreement.

Authority Board means the Board of Commissioners of the Authority, created under Section 3.2 and reconstituted under Section 7 of this Agreement.

City means the City of Hailey, Blaine County, Idaho.

City Council means the City Council of the City.

Commercial means regularly-scheduled airline activities.

County means Blaine County, Idaho.

County Commissioners means the three member Board of County Commissioners for Blaine County, Idaho.

Existing Airport means the Friedman Memorial Airport, located in the City and County.

FAA means the Federal Aviation Administration of the U.S. Department of Transportation.

Friedman Grant Property means the real property conveyed by deed recorded in Book 128, page 213, records of the County Recorder, Blaine County, Idaho, to the City by Leon Friedman, et al., for airport purposes.

Joint Decision Matter means any matter involving the exercise of one of the enumerated powers under Section 4.1 of this Agreement with respect to the Existing Airport.

Master Plan means the Friedman Memorial Airport Master Plan Update, 1991, or its successor.

Replacement Airport means the airport currently being planned to be located outside the city limits of the City and that, when operational, will replace the Existing Airport.

Section 1.2: PURPOSE

The purpose of this Agreement is (1) to amend and restate pertinent provisions of the 1994 Agreement creating an Authority for the management and operation of certain airport activity in the County, including the Existing Airport, (2) to eliminate safety deviations without expanding the impact of the Existing Airport on the adjacent community, (3) to implement the Master Plan, and (4) to plan for, establish and operate the Replacement Airport.

Section 1.3: AUTHORITY

This Agreement is entered into under the authority of Title 21, Chapter 4, and Sections 67-2326 through 67-2333, Idaho Code.

ARTICLE II

DURATION, AMENDMENT, AND TERMINATION

Section 2.1: DURATION

The term of this Agreement shall commence May 16, 1994 and terminate on December 31, 2020, unless earlier terminated in accordance with Section 2.3 below.

Section 2.2: AMENDMENT

The County and the City reserve the right to amend this Agreement at any time by written agreement between the County and the City, provided, that no amendment shall violate or impair any then-existing contractual obligation relating to the Existing Airport or the Replacement Airport.

Section 2.3: TERMINATION

A. Before Closure of Existing Airport. The County and City reserve the right to terminate this Agreement, by mutual written agreement between the County and the City, at any time prior to its stated termination date. In the event of such termination, or upon the stated expiration hereof, any then-existing valid contractual obligations of the Authority shall become

joint obligations of the County and City, unless the obligations are assigned or transferred consistent with Section 6.1(H) hereof.

B. After Closure of Existing Airport. Following notification by FAA that the Existing Airport has been permanently closed to all air traffic, this Agreement shall be terminated 1) either ten days after the recording of a deed conveying the last parcel of Existing Airport real property to a third party, or one year after execution of an irrevocable purchase and sale agreement for the last parcel of the Existing Airport property, whichever event is earlier, or 2) by mutual written agreement between the County and the City, at any time prior to its stated termination date, whichever is sooner.

~~C. Authority's Successor. Upon termination of this Agreement, the County shall proceed to operate the Replacement Airport, as appropriate, either by assuming all the duties and obligations of the Authority, which may include appointing new members broadly representing the community at large, or, by transferring airport sponsorship to Blaine County.~~

ARTICLE III

CREATION OF AIRPORT AUTHORITY

Section 3.1: AIRPORT AUTHORITY

There is hereby created a separate administrative entity, pursuant to Section 67-2328, Idaho Code, to be known as the Friedman Memorial Airport Authority (the "Authority"). The Authority shall be a public entity of the State of Idaho with the powers set forth in this Agreement.

Section 3.2: GOVERNING BOARD

Except as provided in Article VII below, the Authority shall be governed by a board of commissioners (the "Authority Board") consisting of five (5) members, to be appointed as follows: two (2) members shall be appointed by the County. Two (2) members shall be appointed by the City. The members so appointed may, but need not, be members of the governing board of the appointing entity. One (1) member shall be appointed by unanimous vote of the four thus appointed. Members shall initially be compensated at a salary of $200 per month, and shall be reimbursed for their actual, documented expenses under such rules and procedures as the Authority Board may establish. Commencing one (1) year after the initial organization of the Authority Board, the Authority Board may annually establish the compensation for its members; provided, that the City and County, by joint action of their respective governing bodies taken within thirty (30) days after such action by the Authority Board, may veto any increase in compensation. The effect of such veto shall be to maintain the current compensation in force and effect.

Section 3.3: TERMS OF OFFICE

Of the members of the Authority Board appointed by the County and the City, one (1) shall be appointed to a one-year term, and one (1) shall be appointed to a two-year term, commencing on June 1st of the year of their appointment. Thereafter, members shall be

appointed to two-year terms. The member appointed by the four members of the Authority Board (the "Independent Member") shall serve a two-year term commencing on the date of appointment of the year of appointment. Any member may be removed by the entity originally appointing such member, except the Independent Member, who may be removed only by the unanimous vote of the remaining Authority Board members. Any vacancy shall be filled by the entity which originally appointed such member to fill the unexpired term.

Section 3.4: OFFICERS

The Authority Board shall designate one (1) of its members as Chairman, one (1) as vice-chairman, one (1) as secretary, and shall appoint a treasurer who need not be a member of the Authority Board, any of whom may be removed in the manner provided in the bylaws of the Authority Board. The Authority Board may appoint other officers as it deems necessary.

Section 3.5: BYLAWS, MEETINGS

The Authority Board shall adopt bylaws for its own operation and shall establish such regular meeting dates (which shall not be less frequent than monthly) and times as it shall deem necessary. Except as provided in Article VII, below, any four (4) members of the Authority Board shall constitute a quorum, and a majority of the quorum present shall be sufficient to take any action. Regular and special meetings of the Authority Board shall be conducted in compliance with Sections 67-2340 through 67-2347, Idaho Code.

ARTICLE IV

POWERS OF THE AUTHORITY

Section 4.1: POWERS

In addition to any other powers set forth in this Agreement, the Authority Board of the Authority shall have and may exercise the following powers in the name of the Authority with respect to the Existing Airport and the Replacement Airport:

1. To sue and be sued in its own name.

2. To adopt an official seal and alter the same at pleasure.

3. To authorize any action by motion, resolution, or other official action.

4. To promulgate and adopt all necessary rules and regulations for the management and control of airport property including, but not limited to, landing and takeoff areas (including runways and landing strips for aircraft); taxiway areas for aircraft; passenger and cargo ramp areas and facilities; aircraft parking areas and facilities; facilities for the purpose of controlling or assisting landings, takeoffs, and other movements of aircraft using the airport, including, without limitation, control towers, flood lights, landing lights, beacons, signals, radio aids, and other conveniences and aids to operation, navigation, or ground control of aircraft; automobile parking; airport terminal; aircraft tie-downs and hangars; hours and days of operation and all

rules and regulations necessary for the safe, effective, and efficient operation of all airport facilities.

5. To order, direct, superintend, and manage all repairs, alterations, and improvements.

6. To lease land from the County and the City and to acquire, construct, or lease buildings, structures, facilities, and equipment as it may deem necessary to fulfill its duties. Such lease arrangements are not to exceed ten dollars ($10) per year. Real and personal property shall be conveyed or disposed in conformance with Paragraphs 4.2(D), and (E) of this Agreement.

7. To acquire in the name of the Authority, by gift or purchase, or by lease, such personal property as it may deem necessary in connection with the improvement, extension, enlargement, or operation of airport facilities, and to sell, convey, lease, or dispose of any personal property, in accordance with the statutory requirements applicable to counties, upon such terms and conditions and for such consideration as the Authority Board deems appropriate.

8. To enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the airport, the state and any of its agencies or instrumentalities, any corporation or person, public or private, any municipality, and any political or governmental subdivision, within or without the state, and to cooperate with any one (1) or more of them in acquiring, constructing, operating, or maintaining the airport.

9. To receive moneys and property from the County or the City and to receive gifts, grants, and donations of money or property from any person or entity, to expend or utilize the same for the purposes of the Authority, to deposit moneys in accordance with the public depository laws of the state, and to invest moneys of the Authority in investments permitted under Sections 67-1210 and 67-1210A, Idaho Code.

10. To borrow money and incur indebtedness, not exceeding the budgeted revenues and expenses for the then-current fiscal year of the Authority, and not exceeding any Constitutional limitations or limitations of state law, and to evidence the same by notes, warrants, or other evidence of indebtedness.

11. To manage, control and supervise all the business and affairs of the airport.

12. To hire an airport manager and necessary employees, who shall serve at the pleasure of the Authority Board. Compensation for the airport manager shall be fixed annually by the Board during the normal budget process.

13. To retain and compensate agents, engineers, and consultants.

14. To retain or employ regular legal counsel, and to retain such special legal counsel as may be deemed necessary.

15. To fix, periodically increase or decrease, and collect rates, fees, tolls, or charges for the use or availability of the facilities of the airport.

16. To maintain civil actions for the abatement of any violation of any of the Authority's rules, regulations, or standards.

17. To insure airport property and to enter into contracts for insurance, including, but not limited to, liability insurance.

18. To maintain and administer recordkeeping and management functions.

19. To exercise all or any part or combination of the powers set forth in this Agreement, and to do all things necessary or incidental to the proper operation of this Agreement.

20. Except as provided in Section 7.5, to take such actions as necessary to plan, secure approvals for, construct and operate the Replacement Airport on a site outside the city limits of the City and to remediate and dispose of the site of the Existing Airport.

Section 4.2: LIMITATIONS ON POWERS

A. Nothing in the foregoing enumerations of powers shall be construed as authorizing the Authority Board (1) to create any legal, contractual, fiscal, or tort obligation binding upon the County or the City, or (2) to incur any indebtedness or liability in excess of the limits or authority provided by state law and the state Constitution.

B. The Authority shall have no power to levy or cause to be levied any taxes or to require the County or the City to levy any taxes.

C. The operation of the Existing Airport by the Authority shall be subject to existing leases, rights, contracts, assurances, and privileges heretofore granted by the City and County.

D. All land owned by the County or the City (except the Friedman Grant Property), or by the County and City jointly, and devoted to use for the Existing Airport as of the date of this Agreement (as depicted on attached Exhibit A), shall be conveyed to the Authority for the use and benefit of the Existing Airport, as well as the construction and funding of the Replacement Airport. Any land owned solely by the County or the City shall be conveyed to the Authority in accordance with this Section 4.2(D) with a reversionary right allowing title of the land to revert to the County (in the case of County land) or the City (in the case of City land) upon i) the Conclusion of Planning as described in Section 7.7(A) of this Agreement, and ii) expiration of any grant assurances requiring continued aviation operations at the Existing Airport. Any land hereafter acquired for Existing Airport purposes shall, to the extent consistent with FAA regulations, be acquired by, and title thereto shall be held in the name of, the Authority. Land for the Replacement Airport shall be acquired in the name of the Authority. The Authority may convey or dispose of land at both Existing Airport and/or the Replacement Airport in a manner that facilitates the permanent closure of the Existing Airport, as well as the construction and funding of the Replacement Airport.

E. All buildings, improvements, facilities, equipment, and personal property now in use on the Existing Airport shall be conveyed by the County and the City to the Authority for the use and benefit of the Existing Airport, and the title thereto shall be held by the Authority. The Authority may convey or dispose of all buildings, improvements, facilities, equipment, and

personal property at both the Existing Airport and/or the Replacement Airport in a manner that facilitates the permanent closure of the Existing Airport, as well as the construction and funding of the Replacement Airport.

F. In addition to the foregoing limitations, the Authority shall be bound and limited by the covenants and restrictions set forth in Article VI of this Agreement and the limitations set forth in Article VII of this Agreement.

ARTICLE V

FINANCE AND BUDGET

Section 5.1: ANNUAL BUDGET

The fiscal year of the Authority shall commence on October 1 of each year and shall end on September 30 of the following year. The Authority Board shall prepare a preliminary annual budget for each fiscal year, showing the anticipated revenues and expenditures, which budget shall be adopted as set forth hereinafter. If the preliminary budget provides for a revenue request from the County or the City, the preliminary budget shall be certified to the County or the City prior to the publication of the preliminary budget of the County and the City. Nothing herein shall be construed as obligating the County or the City to grant such revenue request.

On or before the first Tuesday in August, annually, there shall be held at a time and place determined by the Board a meeting and public hearing upon the proposed budget of the Authority. Notice of the meeting and public hearing shall be published in a newspaper of general circulation in the County in one (1) issue thereof. The place, hour, and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required in section 31-1604, Idaho Code. On or before August 15 of each year, a budget for the Authority shall be approved by the Authority Board.

Section 5.2: AIRPORT FUNDS

The Authority shall establish such fund or funds for the deposit and expenditure of airport moneys as it deems necessary or appropriate, consistent with generally accepted municipal accounting practices, and shall provide for the manner of expenditure of funds. All moneys held in airport funds by the County or the City shall be transferred to the funds of the Authority. The Authority Board shall require the annual audit of all airport funds by an independent auditor and shall provide copies of each annual audit to the County and the City.

ARTICLE VI

COVENANTS AND RESTRICTIONS

Section 6.1: The Authority shall comply with the following covenants and restrictions regarding operation of the Existing Airport. All capitalized terms shall have the meanings assigned thereto in the Master Plan, except as otherwise defined in this Agreement. The

covenants and restrictions concerning airport operations shall not apply to the Replacement Airport.

A. There shall be no expansion of the land base of the Existing Airport beyond what has been established by the Master Plan.

B. Commercial airline activity shall be permitted to remain at current levels and increases in the number and frequency of such flights shall be accommodated within the other limitations contained herein and as delineated by the Master Plan.

C. Aviation activities (as defined in the Master Plan) will be requested to observe a curfew between 11:00 P.M. and 6:00 A.M. Additional restrictions to operations, based on Part 150, City ordinances, and airport planning activities initiated prior to promulgation of Part 161, may be imposed on decibels and hours of operation.

D. The number of tie-downs available for locally based tiedowns shall be a minimum of 66, at Master Plan completion, provided that the current number of transient tie-downs shall not be reduced.

E. The Design Aircraft Classification shall remain the equivalent of a B III level or its successor aircraft (as such terms are defined in the Master Plan).

F. To the extent possible, consistent with FAA regulations, landings from, or take-offs to, the north shall be restricted.

G. The Authority shall obtain and maintain property damage and comprehensive liability insurance in amounts sufficient to protect the airport property and to insure the County, the City, and the airport against tort and other damage claims. The amount of insurance shall be subject to approval annually by the County and the City, which approval shall not unreasonably be withheld.

H. No later than January 1, 2012, the Authority, in cooperation with the City and the County, will take actions as appropriate to secure approval from the Federal Aviation Administration for the transfer to the Authority of any grant assurance obligations to the Federal Aviation Administration incurred by the City and by the County in connection with the operation and development of the Existing Airport. As part of such transfer of obligations, the Authority agrees to accept the City's and the County's existing grant obligations with regard to the Existing Airport. In addition, the Authority agrees to accept the future grant assurance obligations with regard to the Replacement Airport. The Authority, City and County agree that as part of the acceptance by the Authority of any past or future grant assurances, the City and the County will to the extent allowed by law be released from any and all of their obligations associated with the grant assurances.

I. The Authority, City and the County shall sell their real property interests in the Existing Airport site in a manner that ensures that an airport cannot continue to operate on the Existing Airport site as a non-conforming use after the opening of the Replacement Airport, and will file appropriate affidavits of withdrawn use in a manner consistent with Idaho Code § 67-6538, and commit to convey title to the real and personal property at the Existing Airport to be

held by the Authority as described in Sections 4.2(D) and (E) in an orderly and expeditious manner to facilitate financing of the Replacement Airport.

ARTICLE VII

POWERS AND OPERATION DURING PLANNING FOR A REPLACEMENT AIRPORT

Section 7.1 PLANNING PERIOD

Notwithstanding anything to the contrary in this Agreement, this Article VII shall apply from the date of execution of this Agreement until the Conclusion of Planning, as defined in Section 7.7.

Section 7.2 GOVERNING BOARD; VOTING

Except as otherwise provided herein, the Authority Board shall be reconstituted to consist of the following members: the three (3) members to be appointed by the County Commissioners of the County; three (3) members to be appointed by the City Council; and one (1) member to be appointed by unanimous vote of the other six (6) Authority Board members (the "Independent Member"). ~~Following notification by FAA that the Existing Airport has been permanently closed to all air traffic, the County may, in its sole discretion, appoint Authority Board members who are not County Commissioners. The three County members shall be voting members.~~

Section 7.3 TERMS OF OFFICE

~~The members of the Authority Board that are County Commissioners shall serve during the period that they are serving as County Commissioners.~~ The members of the Authority Board that are appointed by the City Council or the County Commissioners shall serve for such period as may be determined by the City Council or the County Commissioners, as the case may be, from time to time. The Independent Member shall serve a two-year term commencing on January 1 of the year of appointment. Any member may be removed, and any vacancy filled, by the entity originally appointing such member, except the Independent Member, who may be removed only by the unanimous vote of the remaining Authority Board members.

Section 7.4 QUORUM/PARTICIPATION

A. Quorum. A quorum for all decisions to conduct business, except for Joint Decision Matters, shall consist of at least two (2) County members of the Authority Board. For Joint Decision Matters described in Sections 7.5(A), 7.5(B)(1) and 7.5(B)(2), a quorum shall consist of least two (2) City members of the Authority Board and at least two (2) County members of the Authority Board.

B. Participation. Except as otherwise provided herein, any member in attendance at a meeting, regardless of their voting status, shall be entitled to participate fully in the discussions and deliberations of any matter that comes before the Authority Board. Following notification by FAA that the Existing Airport has been permanently closed to all air traffic, the City members and the Independent Member of the Authority Board shall not be entitled to participate as an

Authority Board member in the discussions and deliberations of any matter that comes before the Authority Board except for decisions described in Sections 7.5(B)(1) and (2).

Section 7.5 DELIBERATIONS AND DECISIONS

A. Before Closure of Existing Airport. Before notification by FAA that the Existing Airport has been permanently closed to all air traffic, all members of the Authority Board shall be entitled to deliberate, make decisions and exercise all powers with respect the Existing Airport, as a Joint Decision Matter, but only the County members of the Authority Board shall be entitled to deliberate, make decisions and exercise all powers with respect to the Replacement Airport for all other matters which come before the Authority Board. To the greatest extent possible, the Authority Chair and Authority staff shall work cooperatively to delineate and separate matters pertaining to the Existing Airport from those involving the Replacement Airport.

B. After Closure of Existing Airport. Following notification by FAA that the Existing Airport has been permanently closed to all air traffic, only the County members of the Authority Board shall be entitled to deliberate and make decisions with respect to any matter that comes before the Authority Board, except for the following Joint Decision Matters, in which case all members of the Authority Board shall be entitled to deliberate and make a decision:

1. A decision to sell or enter into a contract to sell any real estate on the Existing Airport and all decisions incidental thereto consistent with section 6.1(I) and the need for expeditious action to fulfill the purposes of Section 6.1(I); and

2. A decision to authorize funding for, or implementation of, environmental remediation at the Existing Airport site.

To the greatest extent possible, the Authority Chair and Authority staff shall work cooperatively to delineate and separate the matters set forth in (1) and (2) above from all other matters coming before the Authority Board. For purposes of making any Authority decisions except those listed (1) and (2) above, the ~~Board~~County Commissioners may reconstitute the Authority Board as it sees fit.

C. Pursuant to the July 6, 2010 Agreement for Development of Replacement Airport and Redevelopment of Friedman Memorial Airport, the City has primary responsibility for (i) addressing land ownership issues and developing the strategy for redeveloping the Existing Airport site as a unified redevelopment effort; (ii) negotiating with the Friedman family interests; (iii) public outreach to develop a master plan for redevelopment of the Existing Airport site; (iv) preparing a master plan for redevelopment; (v) issuing all of the permits and City authorizations necessary to comply with the City's development regulations for redevelopment of the Existing Airport; and (vi) implementing the master plan and determining the phasing and timing of the development.

D. Prior to closure of the Existing Airport, either party may require joint~~request~~ negotiation, development, and execution of a ~~joint~~ plan setting forth criteria for the sale of real estate on the Existing Airport site. Such criteria shall insure that the real estate is sold in a

manner that optimizes revenue potential for funding of the Replacement Airport while remaining sensitive to the planning needs of the City.

Section 7.6 MATTERS REQUIRING JOINT DECISION

In the event the Authority Board wishes to consider a resolution, motion or other action that is a Joint Decision Matter described in Sections 7.5(A), 7.5(B)(1) and 7.5(B)(2), the agenda for the meeting at which the matter is to be considered shall so indicate. All Authority Board members in attendance shall be entitled to vote on such a Joint Decision Matter. Any such Joint Decision Matter can be approved only by a majority consisting of at least two (2) City members of the Authority Board and at least two (2) County Commissioner members of the Authority Board.

Section 7.7 CONCLUSION OF PLANNING

This Article VII shall be deemed to have been rescinded upon the Conclusion of Planning which is defined as the first of the following events:

A. Ten (10) days after the Authority Board has voted to terminate all efforts to relocate the Existing Airport to a new site. Such a determination will not be treated as a Joint Decision Matter.

B. Upon mutual consent of the City and the County.

If this Article VII is rescinded pursuant to this Section, membership on and procedure for the Authority Board shall revert to that described in Article III.

ARTICLE VIII

MISCELLANEOUS

Section 8.1: TERMINATION OF PRIOR AGREEMENTS

All prior joint powers agreements relating to the joint operation of the Existing Airport are hereby terminated and superseded by this Agreement. Nothing herein shall be construed as impairing any existing contract obligations, all of which obligations shall continue in force and effect in accordance with their terms as obligations of the Authority. In the event of a conflict between this Agreement and any prior Memorandum of Understanding or other Agreement between the parties, the stated and agreed upon provisions of this Agreement shall control.

Section 8.2: ENFORCEMENT OF RULES AND REGULATIONS

In addition to the Authority Board's powers to enforce Existing Airport rules and regulations by civil action, the City may, by ordinance, provide that the violation of any such rule or regulation shall be a misdemeanor and may provide for the enforcement of the same.

Section 8.3: INVALIDITY

If any section of this Agreement is declared invalid by a court of competent jurisdiction, or if the FAA refuses to honor this Agreement or any portion thereof, either party may terminate this Agreement within 60 days of such declaration of invalidity by written notice to the other party.

Section 8.4: EFFECTIVE DATE

The Agreement shall be in full force and effect from and after the date on which the last party executes this Agreement.

BLAINE COUNTY, IDAHO

By_____
Angenie McCleary, Chairman

_____
Tom Bowman, Commissioner

_____
Lawrence~~erry~~ Schoen, Commissioner

BLAINE COUNTY CLERK

By:_____
Jolynn Drage

CITY OF HAILEY
Blaine County, Idaho

By_____
Richard L. Davis, Mayor

ATTEST:

_____
Mary Cone, City Clerk

Approved By:

AUTHORITY

By_____
Tom Bowman, Chairman