

**MINUTES OF THE MEETING OF THE
HAILEY CITY COUNCIL
HELD OCTOBER 22, 2018
IN THE HAILEY TOWN CENTER MEETING ROOM**

The Meeting of the Hailey City Council was called to order at 5:28 P.M. by Mayor Fritz Haemmerle. Present were Council members, Kaz Thea, Pat Cooley, and Martha Burke. Staff present included City Attorney Christopher P. Simms, City Administrator Heather Dawson, and City Clerk Mary Cone.

[5:28:37 PM](#) Call to order by Mayor Haemmerle

[5:29:02 PM](#) **Burke moves to approve amended agenda adding items CA 147 and NB 428, seconded by Cooley, motion passed with roll call vote. Thea, yes. Cooley, yes. Burke, yes.**

Open Session for Public Comments:

[5:29:36 PM](#) Tim Egan Hailey resident, posed a question about the Hailey URA. He manages the Meriwether building, and he was wondering, if Hailey can you change the URA area to repair or replace the sidewalks along 1st Ave. Egan suggests to include areas in the city where landlords can afford to replace sidewalks.

CONSENT AGENDA:

- [*CA 427](#) *Motion to adopt Resolution 2018-126, authorizing a contract with IDWR to lease water rights to the water supply bank contract 851, for Northridge water rights 37-22773, 37-22774, 37-22775, 37-22776 and Old Cutters water rights nos. 37-22311, 37-22316, AND 37-22321* **ACTION ITEM**
- [CA 398](#) Motion to adopt Resolution 2018-113, ratifying the mayor’s signature on a grant application to the Seagraves Family Foundation, seeking \$64,492 in funding for renovation of the Hop Porter Park play structure **ACTION ITEM**
- [CA 399](#) Motion to approve grant application to FEMA requesting \$753,572 under the Assistance to Firefighters Grant program. The total cost of project is \$791,250 includes a 5% city match of \$37,678. **ACTION ITEM**
- [CA 400](#) Motion to approve grant application to FEMA requesting \$46,048 under the Assistance to Firefighter Grant (AFG) Micro Grant program for firefighter SCBA fit testing, hydraulic tools and communications equipment. The total cost of project is \$48,350 includes a 5% city match of \$2,302 **ACTION ITEM**
- [CA 401](#) Motion to approve a grant application to The Bureau of Land Management requesting wildland fire gear and equipment under the Bureau of Land Management 2018 Rural Fire Readiness Direct Transfer Request program **ACTION ITEM**
- [CA 402](#) Motion to adopt Resolution 2018-114, authorizing Pay Estimate No. 1 in the amount of \$30,036.34, for work completed on the Balmoral Park Basketball Court Improvements **ACTION ITEM**
- [CA 403](#) Motion to adopt Resolution 2018-115, ratifying the mayor’s signature on Change Order No. 2 with Skyline, to extend the final completion date to November 16, 2018, on the Water System Pressure Reducing Station project **ACTION ITEM**.....
- [CA 404](#) Motion to adopt Resolution 2018-116, authorizing Pay Estimate No. 3 in the amount of \$83,718.23, for work completed on the Pathways for People – Croy St. and 2nd Ave. project **ACTION ITEM**.....
- [CA 405](#) Motion to approve Resolution 2018-117, authorizing contract for services with *the Chamber of Hailey and the Wood River Valley* for visitor information, events promotion, downtown beautification and Hailey Ice, Inc.; contract amount of \$67,500 plus a \$10,000 allocation for Hailey Ice. **ACTION ITEM**.....
- [CA 406](#) Motion to approve Resolution 2018-118, authorizing lease agreement with *the Chamber of Hailey and the Wood River Valley* for use of the Welcome Center for \$1/year. **ACTION ITEM**

- [CA 407](#) Motion to approve Resolution 2018-119, authorizing contract for services with Mountain Rides Transportation Authority for bus and van services under Hailey’s annual contribution of \$78,750 **ACTION ITEM**
- [CA 408](#) Motion to approve Resolution 2018-120, authorizing contract for services with Wood River GIS Services for Geographic Information Services (GIS) mapping services; contract amount not to exceed \$11,000. **ACTION ITEM**
- [CA 409](#) Motion to adopt Resolution 2018-121, authorizing an agreement with SPF Water Engineering in the amount of \$5,150, to prepare a water model for the pending 2 IT Ranch annexation **ACTION ITEM**.....
- [CA 410](#) Motion to adopt Resolution 2018-122, authorizing a loader lease agreement with Western States Cat in the amount of \$21,132.37 per year, to replace an expiring lease agreement **ACTION ITEM**.....
- [CA 411](#) Motion to approve Resolution 2018-123, authorizing the City Clerk to direct Sterling Codifiers to recodify Ordinance No. 1238 as Hailey Code Chapter 17.04R **ACTION ITEM**.....
- [CA 412](#) Motion to approve Resolution 2018-124, authorizing lease agreement with Pitney Bowes for a 5-year lease on a refurbished DM400 Postage meter and scale and authorize the Mayor to sign **ACTION ITEM**
- [CA 413](#) Motion to approve Resolution 2018-125 to declare surplus property **ACTION ITEM**
- [CA 414](#) Motion to approve new alcohol license for Tundra and El Toro restaurants **ACTION ITEM**
- [CA 415](#) Motion to approve minutes of October 1, 2018 and to suspend reading of them **ACTION ITEM**.....
- [CA 416](#) Motion to ratify claims for expenses paid in October 2018 **ACTION ITEM**.....
- [CA 417](#) Motion to approve claims for expenses incurred during the month of September, 2018, and claims for expenses due by contract in October, 2018 **ACTION ITEM**.....
- [CA 418](#) Motion to approve Treasurer’s reports for the month of September, 2018 **ACTION ITEM**.....

[5:31:33 PM](#) Burke, cooley seconded, burke first.

Burke moved to approve all consent agenda items, seconded by Cooley, motion passed with roll call vote. Burke, yes. Cooley, yes. Thea, yes.

APPOINTMENTS AND AWARDS:

AA 420 *Appointment to Hailey City Council to replace Colleen Teevin.* no
documents

[5:32:11 PM](#) Mayor Haemmerle announced that he has interviewed 11 candidates for Colleen Teevin’s replacement, but he is not prepared to announce a selection today, it will be forthcoming.

PROCLAMATIONS AND PRESENTATIONS:

PP 419 *Presentation by the Chamber of Hailey and the Wood River Valley* no
documents

[5:32:59 PM](#) Mary Austin Crofts presents from the Chamber of Commerce. Croft presents successes and challenges at the Chamber. They have a great Board of Directors at the Chamber. Crofts reviews the Chamber visitor services, emails, phone calls website visits. Last year they printed a Discover *Hailey and the Wood River Valley* guide, the winter issue was handed out to

council tonight. Membership, Hailey city memberships is the largest group with revenue \$265,447 expenses \$261,559, with balance of 3,888. The Chamber holds events, Wake-up with Hailey and Business After Hours as well as business openings. Chamber event partnerships include ArborFest, fiddlers championship, 5b father's day bash event (and chili cook-off) and 4th of July parade and related events. Chamber helped with this year's Wood River Artists Studio tour, and did most of their advertising. Another event, 1st annual Hispanic Heritage festival this year. For this year's budget, the City gave the Chamber an additional \$10,000 to pass through to Hailey Ice, Crofts will be working with Hailey Ice to get them their funding. Trailing of the Sheep event is this weekend and Halloween Hoopla is from 3-5 pm on 10/31. Save the date Nov. 6th wake up, at St. Luke's. [5:44:27 PM](#)

PUBLIC HEARINGS:

PH 421 Consideration of the Pathways for People – Myrtle St. Connector Final Design from Galena Engineering ACTION ITEM

[5:45:25 PM](#) Brian Yeager presents. The only difference in what you see tonight is the wall design on the East side of the path, with minor tweaks in drainage. Now it is 2 smaller walls, not 1 large wall, and a tremendous cost difference, because there is less excavation needed. The wall change saved money, project is still over what we budgeted. [5:48:42 PM](#) \$152,000 over budget. Jeff Loomis with Galena Engineering is here to answer any questions.

[5:49:10 PM](#) Haemmerle asks, part is paid for by a grant. Yeager replies, correct \$499,000 will be paid for by a grant. Originally we had \$500,000 paid for by the grant and \$152,000 from Development Impact Fees (DIF). Now, we are going to be using an additional \$90,000 from DIF and \$16,000 from Pathways for People funds. Haemmerle, are we still over? Yeager, we have it covered from all the funding sources.

No public comments.

[5:50:25 PM](#) Thea, what is the timing of the project? Yeager, project bidding next spring and construction in 2019. So the added expense won't slow us down? Yeager, we have approximately \$300,000, Pathways for People levy funding. These are cost estimates, we won't know true costs until we actually get bids. [5:51:35 PM](#). We may not have enough to complete the Wertheimer component yet, but we are shooting for that.

[5:52:31 PM](#) Heather reads public comments from Ken Lagergren, an email received over the weekend, regarding his drainage concerns, the water runoff creating puddles on the path. Standing water is always a concern, Haemmerle states. [5:53:40 PM](#) Yeager, yes water is always a concern, and shows a series of catch basins letting council know that they are attempting to deal with the water runoff in this design.

[5:54:26 PM](#) Jeff Loomis clarifies, asking for council to approve this final design.

No public comments, again.

[5:55:30 PM](#) Cooley moves to approve the design as presented, seconded by Thea, motion passed with roll call vote. Thea, yes. Cooley, yes. Burke, yes.

NEW BUSINESS:

NB 428 Consideration of a request by Michael Pogue for an emergency moratorium regarding Sober Living Group Homes ACTION ITEM

[5:56:13 PM](#) Jim Phillips attorney representing City of Hailey, moves to staff table and Chris Simms moves to audience for discussion of this item.

[5:57:15 PM](#) Haemmerle, email sent on Oct 19 from Mike Pogue has a letter and exhibits a-f. Jerry Mason, entire letter from Jerry Mason has been distributed to council.

[5:58:17 PM](#) Mike Pogue represents several neighbors including Chauncey Gardner. Pogue requests a 182-day moratorium on the Sober living facility. Pogue explains that it was a Community Development staff decision to consider this as a single family residence use. P&Z commission, upheld determination of staff decision. But P&Z explained that they have no criteria to evaluate this application or use. [6:01:31 PM](#) Pogue asks, what will be the impact on the community if this starts operating in Hailey? We want time to ask these questions before this use starts. Pogue feels moratorium is appropriate because of these questions.

[6:03:45 PM](#) Haemmerle speaks. Pogue replies, haven't yet made another appeal to city council.

[6:04:14 PM](#) 67-6523 Emergency Ordinance and Moratorium, "...governing board finds imminent peril" Haemmerle, you have expressed concerns over this use, but what is the imminent peril? Pogue, [6:04:57 PM](#) operation of these homes will house substance abuse, drug problems, felons, housing for 8 of these folks with supervision. But we don't know what that supervision will be. [6:06:11 PM](#) Haemmerle we have parolees all over the city, and they are unregulated as well as sex offenders. Pogue, responds, it is not a high burden to ask the city to do this.

[6:07:36 PM](#) Haemmerle reads the statute of Single-family dwelling "...a group home for people with disabilities and the elderly." Pogue responds, it says "...those who are supervised at the facility in connection with their disability or age related...? [6:08:54 PM](#) Haemmerle, you are asking for a moratorium for the group home for those with disabilities and the elderly, so we are picking out these protected classes? Pogue, 2 things, if you think this is too broad, because you have a senior care facility, then we can narrow it without singling out any one class. Cities can give greater scrutiny. [6:09:49 PM](#).

[6:10:31 PM](#) Jim Phillips, attorney speaks. At this point, the administrator has given a decision which was upheld by P&Z, this group by law is defined as a single-family dwelling. They are permitted within the city without any action by city. P&Z hasn't adopted a written decision on the last meeting. P&Z thought the City Council should look at guidelines, but by the terms of your ordinance, an appeal is a separate matter. [6:13:13 PM](#) There is a request for a moratorium on group residences in the city. This is a broad request. Idaho code calls out the limitations of the city, with regards to a moratorium, imminent peril, must be found. Right now there is no

factual record, no specific facts or information from the people that will operate the facility. Before you can consider adopting a moratorium. And it could be on selected classes. Right now there is no permit that would be issued, since it is (group home) already allowed, hence no permit that you can issue a moratorium on. Another thing to think about, under Idaho law, persons right to zoning, date when a building permit is issued. 2 permits on this house in discussion, even if a moratorium is adopted, this house is grandfathered in as a single-family dwelling. [6:18:16 PM](#) when it comes to housing, Federal Fair Housing act, prohibits discrimination on basis of race, religion, sex or disability. [6:19:01 PM](#) Disability cannot be considered in the adoption of any ordinance, evidence in what to do about this house. This is a step too far. [6:20:08 PM](#) In regards to adopting city ordinances with a Conditional Use Permit (CUP), caveat, fair housing act prohibits blanket prohibition on disabilities. You would have to come up with a process with each applicant. Phillips summarizes, this request violates fair housing. Recommends not adopting a moratorium.

[6:22:56 PM](#) Pogue comments, the building is grandfathered in, not the proposed use. Fair housing act, specifically allows the city to adopt ordinances to manage these types of homes. He refers to his handout, Pogue reads, [6:24:40 PM](#) FHA contains exclusions include "...those that otherwise constitute a direct threat..." City can provide a greater restriction within the Fair Housing Act.

Haemmerle asked who submitted the building permit? Horowitz replied the Advocates as the owner of the house.

[6:25:45 PM](#) Jim Phillips comments, the exemption of Fair Housing is on individuals found to be a danger, you cannot put a blanket prohibition on people based on their criminal records.

[6:27:12 PM](#) Burke, worked with the advocates for 10 years, guidelines for the Advocates, to stay there, go to councilor, don't steal, meant to move victims back into a normal life.

[6:28:18 PM](#) Haemmerle, single-family dwelling. [6:29:18 PM](#) Burke responds. We don't know how this will be supervised, where will they smoke.

[6:31:03 PM](#) An Idaho county was sued for fair housing, Phillips responds, we must be very careful. That was a different use and a larger house.

[6:32:54 PM](#) Haemmerle, single-family dwelling, to change a building permit after an application has been made, could put the city at risk. [6:34:17 PM](#) Secondly, we spoke with Jerry Mason at the start of this and his letter is dated Aug 9th, 2018. Haemmerle spoke with Mason about this and he stated that it is really a simple matter, it is considered a single-family dwelling. If you wanted to go down the CUP process, it puts you in great peril with Fair Housing, and you don't want to go down that path. [6:35:49 PM](#) Burke, we don't have facts as presented by legal counsel, Phillips.

[6:37:12 PM](#) Thea, it seems to her, we need more information. Thea understands the single family definition. Thea doesn't have enough information to make a decision. She doesn't disagree with the principal of this idea. There seems to be 67-6532, it feels different than a single family use.

[6:40:04 PM](#) Haemmerle responds, when a permit is issued, you cannot change the criteria after the permit is issued.

[6:40:55 PM](#) Burke doesn't think a moratorium is warranted. [6:41:55 PM](#) Thea asks if we had had an Ordinance, it would have had to align with the Fair Housing Act? Phillips, correct.

[6:42:02 PM](#) Phillips responds, you cannot distinguish residential use for disabled people. Phillips has not researched cities that have CUP laws on this topic.

[6:45:14 PM](#) Haemmerle just because you have those laws, doesn't mean you escape discrimination claims. Phillips responds. Even if you adopt laws, you must adopt reasonable accommodations.

[6:46:59 PM](#) Cooley speaks, issue before us is a moratorium, I don't think that it is proven, we don't want to discriminate, and sees this is another form of discrimination. This sounds expensive and a long process. Burke, if this house is associated with the Advocates, then he believes that is a good thing. Cooley wants to move forward.

[6:49:08 PM](#) Haemmerle, what are our options? Phillips, your options are, grant request, deny it, or table it. You have possibility of hearing this as an appeal down the road too.

[6:49:51 PM](#) **Burke moves to deny the emergency moratorium for Sober Living house with sadness, Cooley seconded, for discussion. Thea, feels our hands are tied and wants more information, Burke, we don't have a leg to stand on Kaz and therefore we do the right thing and deny the moratorium and we can hope that the people that run this place get it. Haemmerle, as an elected person act on fact and law but you have to act legally as well. Thea, yes. Cooley, yes. Burke, yes.**

NB 422 Discussion of Joint Hailey and Wood River Fire Board's proposed letter to Blaine County Commissioners requesting Blaine Manor Property for a joint fire station. ACTION ITEM

[6:52:50 PM](#) Burke presents, hope to get a placeholder on the former site of clinic. It is a logical spot to consider a fire station and ask the Blaine County Commissioners to keep this in mind while they are doing planning for this site.

Thea asks a question about 1st right of refusal. Cooley responds, the County owns the property, a portion of the property they've given to ARCH and then there is a remaining portion of that property left to develop. [6:54:21 PM](#) The Joint Fire Board is asking for a 1st right of refusal on the remaining portion of the property for a joint fire station. If BC deems appropriate, then they could give property for the use. Burke, we haven't made a decision yet on this, but ask for a 1st right of refusal, placeholder from the county. Burke, we wanted your approval. Cooley, the JPA fire board is still evolving, so while we get those items decided, we want this as an option for the future. This was brought up by the fire board chair, Hailey representatives asked for city council's approval prior for this letter being sent. The county is aware of our funding limitations, Burke adds, as Greenberg knows. This is a letter of interest. Burke wants to sign it.

Thea agrees a letter of interest.

[6:58:40 PM](#) Cooley moves to authorize signing and sending of letter, seconded by Burke, Burke yes. Cooley, yes. Thea, yes.

OLD BUSINESS:

OB 423 Discussion of Public Outreach schedule for the Hailey Town Square: meeting schedule and outreach efforts ACTION ITEM

[6:59:22 PM](#) Horowitz first will start with top 2 sites in the public forums, with Nov. 7th the first meeting. Proposal in March 2019. Haemmerle, make sure to ask if anyone has a better spot for a town square.

STAFF REPORTS:

[7:02:16 PM](#) Jeff Gunter Friday 5:30 at Grange Hall - retirement party for Assistant Chief Dave Stellers.

Dawson announce that The Mint grand opening is the same time as Stellers retirement party and the owners want city representation.

Sun Valley Institute meeting from 2-4 tomorrow, you are all welcome to attend. Dawson provided a handout.

[7:03:44 PM](#) Craig Aberbach, thanks for support of JPA fire board letter and grants.

[7:04:08 PM](#) Brian Yeager, asking for bids small portion of the Della drainage project. Plan to obliterate the striping for the 1st block of Croy and restripe to 1st ave on Monday next week. Yeager has told the 2 businesses, Cari's and Jersey Girl that he is working on it, but will tell him what they will be doing Friday.

May have to have a special meeting for the appointment to council seat.

[7:05:30 PM](#) Thea, would like to go to Power of Community to Build a Vibrant Economy - 2018 Economic Summit, Oct 30th all day at Sun Valley Resort, sponsored by the Chamber.

Discussion about special meeting date **[7:07:06 PM](#)** Next Monday special meeting, 10/29 at 5:30 to consider appointment of new city council person. Thea asks about the appointment process. Mayor Haemmerle will hand out a resume to council.

[7:10:16 PM](#) Burke moves to adjourn, Cooley seconds, motion passed unanimously.