

**MINUTES OF THE SPECIAL MEETING OF THE
HAILEY CITY COUNCIL
HELD NOVEMBER 11, 2009
IN THE HAILEY TOWN CENTER MEETING ROOM**

The Special meeting of the Hailey City Council was called to order at 4:03 P.M. by Mayor Rick Davis. Present were Council members Carol Brown, Don Keirn, Fritz Haemmerle, and Martha Burke. Staff present included City Attorney Ned Williamson, City Administrator Heather Dawson, and City Clerk Mary Cone.

All council members present.

PUBLIC HEARINGS:

PH 495 Sweetwater Discussion (continued from November 09th meeting)

Williamson has spoken with the following department managers; Building, Planning, and Public Works Director to get their thoughts and concerns. Williamson also met with Laski and owner Jeff Adams today several times. Williamson met with Kathy Grotto with Blaine County Housing Authority to get her concerns as well as Anna Mathieu.

Williamson suggested to Laski (Sweetwater attorney) that some of original changes requested of Sweetwater would not be well received by the council. Sweetwater revised their changes which were handed out at Monday's 11/9/09 meeting.

Foreclosure is set for part of the development Phases 2, 3 and 4 on November 30, 2009.

Williamson outlined a few facts pointing to a map. 49 units along Countryside are completed. while 6 units have not received final Certificate of Occupancy; the remaining buildings are only shells.

Williamson then reviewed the current proposal. First Sweetwater wishes to record the final plats on the units ready (#1 on proposal handed out in 11/9/09 council meeting) including the commons building and the initial 71 units – 49 completed and 22 partially completed. One way to do this is to amend the Development Agreement. Then the plat could be amended to create sub blocks which match the Deeds of Trust. 2 banks have loans which encumber two different sections of the property. Sweetwater is also requesting relief from the phasing (#2 on proposal handed out). We should be in Phase 3 right now, but only Phase 1 is under construction and not completed.

Williamson covered a few areas where Sweetwater is seeking monetary relief, landscaping, countryside traffic signal, and park fees. Under the proposal, payment for traffic signal and park fees would be deferred until construction of Phase 2. A few units would be held as security for the park fees and traffic lights in case they are never paid. The problem with this is that there is a lien on the units to be used as security which would be a first lien resulting in the possibility that these units would not go to the City unless the bank released the first lien.

Sweetwater initially agreed to provide 80 community housing units. 40 of the units have been conveyed by purchasing and gifting of the River Street lots to the City at a value of \$1,770,000 and by in lieu fees paid of \$2,230,000. For the other 40 units, on-site community housing would be provided 1 to every 10 units built. There appears to be consensus among the housing authority and Sweetwater that the conveyance of River Street would satisfy the housing requirement for Phase 1A. The housing authority is requesting 3-4 units for Phase 1 B. Sweetwater proposes to defer the Park fees and reimbursement of the traffic signal until a sale of a unit in Phase 1 B. Williamson suggests that the City seek a release on any claims on the River Street property so that there would not be any future claims against this property.

Brown asked Williamson, does changing the plats have any effect on how we view it in the future? Williamson replied, no.

Jim Laski clarified the bank owned properties. The first bank lien (Sterling Bank has deed of trust) is on Phase 1, Laski points to a map showing the properties.

Brown asks what if foreclosure did occur on this property. What if we extend timelines and then foreclosure still occurs in the future. Williamson believes that a foreclosure would not necessarily cancel the PUD agreement. It makes it more difficult that it was recorded after the deeds of trust. The primary burden is community housing with regards to the PUD. If the bank is the high bidder and then owns the development, they could sit on it and do nothing to it.

Haemmerle asked about the final plats. Does this cause a problem? Williamson replies, yes it causes a problem, because no property could be sold until the final plat is recorded, which would require payment of \$1000 per unit. 49 units are finished, therefore; \$49,000 would be due from Sweetwater to record these units.

Haemmerle clarified that the developer could have recorded the plats on the 49 units if they would have paid \$49,000. Haemmerle asked why they have not recorded the final plat. Williamson and Laski explained why; due to community housing units, in default of payment for the traffic signal, the park fees of \$1,000 per unit. Laski added that they did not record the plats because of the community housing units; taking all of these into account the total fees would have been approximately \$200,000 to record the final plats.

Kevin Adams, owner/developer of Sweetwater showed council several things on a map which he brought to today's meeting. Adams explained to council his suggestions on improving the property to get it presentable for future sales.

Lowell Thomas of 811 Aspen Valley Drive spoke to council. Thomas would prefer to not have a bank owned property as banks tend to let the property go – don't maintain it.

Kathy Grotto with Blaine County Housing Authority (BCHA) spoke to council. BCHA does concur that the River Street property satisfies half of the Community Housing Units. In terms of timeframe changes, Grotto is concerned that the reality is – there could be no more development

– Phase 1 may be all that is developed. We need community housing units incorporated into Phase 1.

Josh Fields of 2240 Winterhaven spoke to council. Fields finds it ironic that the council was discussing a nuisance ordinance tonight. Fields would like the council to work with the developer to clean up this property and not have an eye sore for the community.

Peter Lobb of 403 E. Carbonate suggests that the council defer the fees but still collect them as units are sold. At least that would be some income, better than nothing. Lobb would also like to see the traffic signal to be paid for by Sweetwater.

Jim Laski asked to clarify a few points. Open space is still on the table. The community housing topic can be discussed with BCHA.

Adams is challenged with finding a balance between what the banks will allow and what the city will accept and still see the project moving forward.

Haemmerle summarized that the city is not the developers “partner”. Haemmerle is not willing to reduce/eliminate the fees but to restructure when they are paid is okay. Haemmerle cannot agree to #3 and #5. Haemmerle feels a bit betrayed in that the traffic signal has not been paid for by the developer – so at this point the city is out this money. Haemmerle is willing to use the \$1,770,000 of the River Street property as credit. Haemmerle is willing to negotiate if Sweetwater foregoes their rights to sue the City of Hailey in the future.

Burke wants to see this property completed. What happens if this property is foreclosed on? Burke would like to take this gamble to give this property a chance to move forward. Burke agrees with Lobb and Haemmerle, how do we collect the fees owed?

Keirn agrees with Haemmerle & Burke on #3 and #5 but doesn't see another choice. Keirn would like to see Community Housing equally in Phases 3 and 4. Keirn feels this is about all we will get including the River Street property.

Brown is in agreement with all of council's comments.

Haemmerle can't believe that \$250,000 will break this development as the banks are financing 100's of millions of dollars.

Mayor Davis summarized, council wishes that incremental payments are made.

Haemmerle sees that if they can come to agreement on the Park fees and the traffic signal then this is the only disparity.

Adams reminded council that the City is seeking reimbursement from the state (ITD) for some part of the traffic signal and that Sweetwater's portion was approximately \$60,000. Williamson added that Tom Hellen sent a letter to ITD about 1 year ago asking for reimbursement. No response was received from ITD.

Brown recapped, when units begin selling in Phase 1, they will figure out triggering events. Laski feels that there is no more certainty in this option than what they have proposed. Haemmerle disagrees and feels that the next Phases will not be built (and therefore, will not see any money as proposed by the Sweetwater developer), but he is willing to take the risk on collecting money as Phase 1 units are sold.

Haemmerle suggests if council agrees to this, then they will forego future litigation claims.

Keirn makes a motion to accept these terms which will be finalized into a revised PUD agreement, and authorize the city attorney to work on finalizing this language with the developers, seconded by Burke, motion passed with Haemmerle opposing.

Council will review these amendments in the 11/23/09 meeting.

Mayor Davis concluded the meeting at 5:12 P.M.

Rick Davis, Mayor

Mary Cone, City Clerk