

**MINUTES OF THE MEETING OF THE  
HAILEY CITY COUNCIL  
HELD NOVEMBER 23, 2009  
IN THE HAILEY TOWN CENTER MEETING ROOM**

The Meeting of the Hailey City Council was called to order at 5:34 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.

**AIRPORT ISSUES:**

Susan McBryant spoke to council. McBryant, Tom Bowman and Martha Burke began the interview process today to select the nominee for the airport advisory committee. McBryant and Burke will get the suggested nominee names to council for their next meeting. Then the next step is to have interviews with the Blaine County Commissioners and have a decision by the January 2010 meeting.

Haemmerle asked how the council is involved in this selection process. McBryant answered that they would like the council to review the candidates and let her (and Burke) know how they want to proceed. Burke indicated that this group (Burke, McBryant and Tom Bowman) was given direction in a previous council meeting. Haemmerle wants the council to have the final say in this selection process. McBryant clarifies; the council will make the recommendation.

Angenie McCleary Blaine County Commissioner spoke to council. McCleary clarified that there will be a District 2 nomination committee. The County Commissioners will be interviewing the nominees on Thursday and Friday December 3<sup>rd</sup> and 4<sup>th</sup> from District 1-3 nominating committees and the Aviation Committee.

Haemmerle wants to see a Memorandum of Understanding in place between Hailey and Blaine County as to who will accept assurances once the new airport is in place. Haemmerle wants Hailey to have oversight until this is done. Haemmerle wants the council to have oversight of this selection process.

Mayor Davis asked to have the agreement drawn up and given to Williamson for his review. Mayor Davis will leave it up to Burke as to when to call a special meeting for further discussion. It needs to be before December 3, 2009. Council tentatively scheduled a special meeting on Monday 11/30/09. Mayor Davis asked Williamson if council can discuss this during Executive Session on Monday 11/30/09.

**CONSENT AGENDA:**

- CA 496 Motion to approve application to Idaho Commission on the Arts QuickFund Grant for The Welcome to Hailey Sign Project..... 1
- CA 497 Motion to authorize the Mayor to sign the Tree City USA Recertification forms ..... 23
- CA 498 Motion to approve transfer of alcohol beverage license for Mobile Cycle Repair Inc. dba Power House..... 35

CA 499	Motion to accept grant award from the Donald W. and Gretchen K. Fraser Fund Grant (Idaho Communities Foundation) ID: 21420 for \$2,500 Project Title: to buy surveillance cameras for the skateboard park and to approve that the city enter into the grant agreement and authorize the Mayor to sign .....	41
CA 500	Motion to approve pursuing joint effort with multiple agencies on EECBG grant request.....	45
CA 501	Motion to pre-approve grant application for car share and clean cities coalition program for the Department of Energy, Energy Efficiency & Conservation Block Grant, General Innovation Fund. ....	47
<del>CA 502</del>	<del>Motion to approve Hailey Christmas Trees Special Event at the lot adjacent to Bank of America on Main Street North.....</del>	<del>51</del>
CA 503	Motion to authorize Mayor to sign the Annual Recertification for the Community Flood Insurance Rate reductions .....	61
CA 504	Motion to approve Resolution 2009-18 appointing new members to HHPC Rachel Wolfe and Andrew Carey and reappointing the following members: Ben Schepps, Taylor Walker, Rob Lonning for another term expiring January 1, 2012 and Stephany Smith, and Frank Rowland for terms expiring January 1, 2013.....	81
CA 505	Motion to approve and authorize the Mayor to sign elevator upgrade agreement with Schindler Elevator for City Hall elevator to bring it into compliance.....	83
CA 506	Motion to approve Taxi License Renewal for Airport Cab Company .....	87
CA 507	Motion to approve minutes of November 09, 2009 and to suspend reading of them.....	91
CA 508	Motion to approve minutes of November 11, 2009 and to suspend reading of them.....	103
CA 509	Motion to approve claims for expenses incurred during the month of October 2009 .....	109

Mayor Davis pulled item CA 502 for clarification, page 51 of packet. Mayor Davis asked if there was a run involved in this special event. Tom Hellen Public Works Director indicated that there is not a run associated with this special event.

**Haemmerle moved to approve all consent agenda items including CA 502 with clarification, seconded by Burke, motion passed unanimously.**

**MAYOR’S REMARKS:**

Two positions are open on the Hailey Library Board. If anyone knows of individuals who would like to serve on the Library Board, contact us.

**PUBLIC HEARINGS:**

Mayor Davis announced that he will wait to begin the Sweetwater discussion until Council member Brown is present.

*PH 512 Request by Blaine County School District for final plat extension of Lots 1-3, Block 1, Woodyard Place Subdivision (Woodside Blvd and Winterhaven Dr)*

Mariel Platt, Hailey Planner spoke to council. Platt reported that Hailey staff has suggested a 1 year extension on the plat because the School District needs more time to acquire the .12 acres. Originally the School agreed to the Findings of Fact which stated that they would provide the land on Woodside Elementary Subdivision but they are not sure if they will proceed with recording the plat.

**Haemmerle makes a motion to approve plat extension until 2012, seconded by Burke, motion passed unanimously.**

*PH 513 City initiated Text Amendments to the Hailey Zoning Ordinance No. 532 - Section 2 to add the definition of Small Scale Wind Energy Systems and Solar Panels, Section 4 to allow for Small Wind Energy Systems and Freestanding Solar Panels as Conditional Uses*

Hailey Planner, Mariel Platt has incorporated council's comments/suggestions from the last meeting. Platt gave an overview of the changes made to the proposed ordinances. Council asked Platt to research roof mounted wind systems in the last meeting. Platt was unable to find solid examples of noise issues with roof mounted systems.

Carol Brown arrived at 5:53 pm.

Keirn suggested that roof mounted systems should be reviewed by a structural engineer before mounting. Dave Ferguson, Building Official is not present at tonight's meeting.

Brown asked a height question. Platt answered that roof mounted systems can be up to 10 feet taller than the roof as written in tonight's document.

Haemmerle asked if wind energy systems require a Conditional Use Permit. Platt confirmed, yes.

Tony Evans with the Idaho Mountain Express asked council a question. Is the City working with the County to develop a county wide solution? Platt answered, no because the County deals with much larger structures and primarily agriculture.

Council comments: Given the updates in tonight's packet Burke is comfortable with moving forward. Mayor Davis asked that the two points that Keirn suggested be added. Brown is okay because this is a limited area.

**Burke makes a motion to approve the proposed addition of a new section, Section 11.4.2, Small Scale Wind Energy Systems and the amendments to Section 11.8.2 Expiration, finding that the amendments are in accordance with the Comprehensive Plan, that essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare, and to adopt Ordinance 1041 and proceed with the first reading by title only, seconded by Brown, motion passed unanimously.**

Mayor Davis conducted the 1<sup>st</sup> Reading of Ordinance 1041 by title only.

Definitions:

**Burke moves to approve the proposed amendments to Section 2.2, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.11, and 4.12, finding that the amendments are in accordance with the Comprehensive Plan, that essential public facilities and services are available to support**

**the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare, and proceed with the first reading by title only of Ordinance 1042, seconded by Haemmerle, motion passed unanimously.**

Mayor Davis conducted the 1<sup>st</sup> Reading of Ordinance 1042 by title only.

Mayor Davis then moved the discussion to PH 511.

*PH 511 Sweetwater Discussion (continued from November 9th meeting) consideration of 1st Amendment to the Planned Unit Development Agreement*

Williamson gave council an overview since the last regular council meeting. After the special meeting, Williamson drafted the changes to the PUD agreement. Williamson spoke with Kathy Grotto at Blaine County Housing Authority (BCHA) to get her input. Williamson drafted the proposal as BCHA requested. The term sheet refers to Park fees and traffic signal fees. Williamson felt the fees should be paid at time of the Building permit issuance instead of when the units are sold. Williamson suggested that if deferring payment until the time of sale of any units, there is a risk that there will be no funds available to pay.

Williamson drafted (3 significant points) documents which were sent via email to council this weekend and council has these documents in front of them tonight. Williamson's 3 main points are regarding community housing, financial obligations and a broader release.

Williamson reviewed (page 4 of Laski's proposed agreement) Laski's proposal. Sweetwater wants an adjustment to the SGA Development Agreement so that they don't pay interest on the money. Regarding park fees Williamson added - Sweetwater wants to tie the fees to the sale of units, not issuance of building permit. Page 9 of Laski's proposal, Sweetwater wants approval contingent on Sweetwater's lender (Sterling Bank). Williamson was given a landscape plan today where Sweetwater proposes to put up fencing and remove other fencing (to be completed by June 1, 2010). Williamson passed around the Landscape exhibit to council. The landscape plan is broken down into 4 sections, 3 color codes one area is in Pink, another area to be fenced in yellow and a third area will be trees and for grass along Countryside. Page 4 of Park/land improvements, Brown asks Williamson a question. Brown asked to clarify the SGA Development agreement changes. Jim Laski attorney for Sweetwater clarified his changes. Laski explained that in his changes to the SGA agreement the CPI is added on at the end of the build out of the area. It is still adjusted but not on a \$1000 per unit amount.

Haemmerle asks question on page 8, bond completion on performance, estimate \$90k, this bond was never posted. Are we forgiving this \$92,000 asks Haemmerle? Williamson answered that the language proposes that the City can withhold the issuance of a building permit and certificate of occupancy for any townhomes in any phase.

Today Williamson received another proposed agreement from Jack Magids the work-out attorney for Sweetwater. Williamson views this as mostly language that helps market this property, but would like more time to review this document. Williamson suggests that council if they want to move forward, condition the motion with subject to approval of the language by City Attorney in Magid's proposal.

Jim Laski attorney for Sweetwater spoke to council about the minor differences between the agreements in front of council tonight. The timing of payments is one difference; another is the SGA agreement changes, the traffic signal and the landscape bond. Laski feels the SGA agreement addresses payments and should not be changed. Sweetwater does plan to put up the landscape bond. The landscape bond is behind a larger loan anyway, and they may have no issues getting the loan approval. The community housing changes caught Sweetwater off-guard, they are willing to consider changes in the future, added Laski.

Council comments:

Brown reviewed her understanding of last meeting's verbal agreements. Brown wants the payment to be made at time of building permit. Brown will support the community housing changes even though it increases the units by 40% percent. As to the broader release, no – let's settle this now, not later in court. The CPI index adjustment - Brown wants what was originally agreed to. Brown on traffic light, she would like to see Sweetwater pay for this as written in the original agreement. Brown wants to hear how council feels on the security.

Keirn agrees with Brown on her comments. Keirn is surprised by the community housing changes and has questions too. Keirn agrees with Brown on the timing of payment of the fees at time of building permit issuance. Keirn does not like the broader release, no court later, and will not agree to this release.

Haemmerle finds the bank's stance appalling; they want relief of \$250,000. Banks, when they are in trouble with their customers, they charge more fees. When it benefits the bank they treat their customers poorly. When customers are in trouble with banks, the banks want a handout from the City of Hailey as in what Haemmerle calls "lousy fees". Item 13 is a requirement in Haemmerle's mind. Haemmerle likes Williamson's language which states that Sweetwater will release for future litigation. Haemmerle does not want to see us give in to Sweetwater's proposal.

Burke recounts the last discussion regarding Sweetwater. It was Burke's understanding that there was a release of River Street property \$1,770,000. What is the broader release asked Burke. Williamson clarified what release language Sweetwater is opposing; consisting of 6 components two of which are regarding the River Street property. Williamson reviewed the other components Sweetwater objects to including community housing. Burke continued with her understanding of past discussions. She understood that the River Street property would be released. The City, if agreement reached to this proposal, the community housing would not be satisfied. Brown and Keirn are in complete agreement with Burke's statement.

Kevin Adams, developer of Sweetwater spoke to council. Adams tells council that he believes the bank will sue the City over its Community Housing Ordinance. Adams reviewed all the payments he has made, including the River Street property for Community Housing, dirt to the airport, and money for flowers for the city streets. Adams cannot agree to the litigation release.

After more discussion no decision was reached.

*PH 514 Consideration of Nuisance Ordinance (Continued from Nov. 9th meeting)*

Williamson has made suggested revisions from the last council meeting.

Even with the changes incorporated, Burke is concerned that this will be misused by neighbors. Brown looks to Chief Gunter to advise us if he is uncomfortable with this ordinance. Mayor Davis feels this gives us something to go by now, instead of today's ordinance which did not stand up in court.

Burke suggests they move forward with this ordinance amendment and revisit this in a year or so.

Gunter feels more comfortable with the vehicle parking removed. Haemmerle feels we should have parking addressed at some point.

**Burke moves to adopt Ord. 1045, conducted the first reading by title only, seconded by Keirn, motion passed unanimously.** Note: Ordinance number 1031 has been used by another amendment.

Mayor Davis conducted the 1<sup>st</sup> Reading of Ordinance 1045 by title only.

*PH 515 Consideration of Ruscitto Latham Blanton proposed design and construction for the Rodeo Grounds project with council discussion of its willingness to fund an approximate \$375,000 in Architectural fees*

Tom Hellen Public Works Director clarified the fees and what is in front of council is for future Architectural fees. Haemmerle (page 181) asked Hellen a question about the bond election. Haemmerle is concerned about the principal on paying the Architectural fees if funding for the overall project does not happen – the City is out \$375,000.

Dawson added that Haemmerle's comments are the crux of tonight's discussion. Dawson asks council, are we ready to launch an approximate \$6 million dollar project? Haemmerle reviewed recent discussions in a Rodeo Grounds meeting, the brochure needs to be mailed soon as the end of year donation time is closing in. Mayor Davis pointed to page 201 in the packet agenda summary giving details on the proposed fundraising plan.

Brown asks Dawson where the money would come from if the City were to stand behind this project. \$1 million would be available from City funds, but not more.

Brown is supportive of this project but cannot commit city funds. Haemmerle clarified, is this something that council would feel good about taking this to the public – for a possible bond election. Brown agreed, yes as did Keirn and Burke. Burke feels this is a good time to move forward with this project. This is the type of project that could bring us out of the dull drums. Burke is committed to this project.

Council is behind this but wants controls in place to authorize payments.

Janet Fugate with the Parks and Lands Board spoke to council to clarify a few points. Also, the brochure is in almost in its final form added Fugate. Fugate spoke to the tax attorney for the Parks and Lands Board about this project to confirm the process for the Rodeo Grounds fundraising is in line with its 401(c) 3 status.

### **OLD BUSINESS:**

*OB 516 2nd Reading of Ordinance 1035 – Local Option Tax Ordinance for a 20 year term beginning on July 1, 2010, passed by voters on November 3, 2009*

Mayor Davis conducted the 2<sup>nd</sup> Reading of Ordinance 1035 by title only.

*OB 517 3rd Reading Ordinance 1040 and motion to authorize the Mayor to sign - proposed changes to Chapter 10.08 Parking Ordinance*

**Keirn moves to authorize the 3<sup>rd</sup> Reading by title only and authorize the Mayor to sign the ordinance, seconded by Brown, motion passed unanimously.**

Mayor Davis conducted the 3<sup>rd</sup> Reading of Ordinance 1040 by title only.

### **NEW BUSINESS:**

*NB 518 Ratification of draft language of the mailer for Rodeo Grounds fundraising efforts which includes the City's potential financial contribution*

### **STAFF REPORTS:**

Hellen, first big snow storm, all went okay.

Special meeting 11/30/09 at 5:30 (next Monday night) to review nominees for the airport board.

Keirn's 80<sup>th</sup> Birthday is today, council gave Keirn a birthday card.

**EXECUTIVE SESSION:** Imminently Likely Litigation (IC 67-2345.f/j),

**Haemmerle moves to go into Executive Session to discuss Imminently Likely Litigation (IC 67-2345.f/j), seconded by Keirn, motion passed with roll call vote at 7:25 pm. Burke, yes. Haemmerle, yes. Keirn, yes. Brown, yes.**

Mayor Davis and council came out of Executive Session and concluded the meeting at 7:40 P.M.

---

Rick Davis, Mayor

---

Mary Cone, City Clerk