

**CITY OF HAYDEN LAKE  
MINUTES OF REGULAR MEETING  
SEPTEMBER 20, 2011**

CALL TO ORDER

Mayor Morris called the meeting to order at 6:00 pm. Present were Council members Tom Gorman, Todd Walker, Bob Grant and Chris Beck. City Attorney Pete Bredeson and Code Enforcement Officer Dick Pelton were present as representatives of the Council. Visitors present were William Bentz, Aaron Rietze and Sue Hennessy.

AGENDA

**Councilman BECK moved to approve the posted agenda for the meeting. Councilman GORMAN seconded the motion. The motion carried.**

**Councilman WALKER moved to approve the consent agenda, including the minutes from the August 25, 2011 regular meeting, the list of invoices for approval and the paid invoices pending approval. Councilman GRANT seconded the motion. The motion carried.**

PUBLIC HEARING – PERACCA VARIANCE APPLICATION

Mayor Morris opened the public hearing at 6:03 pm. The application is for a variance to retain a newly constructed wood step platform that extends seven feet (7') into the ten foot (10') side yard setback for the subject property, which is located at 10421 Gibson Road, Hayden Lake, Idaho 83835. Since no written comments were received, oral testimony regarding the application was then heard. Aaron Rietze, a landscape architect hired by the Applicants, testified that he began the design process for the subject platform in 2010. Mr. Rietze further stated that the idea of actually building the platform came about in the spring of 2011. He also testified that Sue Hennessy lives in the house as the Applicants live in California. Ms. Hennessy apparently contacted Mr. Rietze during the spring of 2011 to see if a permit was needed for building the subject platform. Mr. Rietze testified that he came to City Hall on a Friday afternoon to obtain the necessary permits, only to find that City Hall was closed. The next week, after the platform had been constructed, Mr. Rietze again visited City Hall, which is when he found out about the City's ten foot (10') side yard setback requirement. Sue Hennessy also provided testimony at the hearing. She testified that not obtaining the proper permits for the platform was simply an oversight and that the Applicants weren't in any way trying to circumvent the City Code. Ms. Hennessy also testified that any impact the platform has would be on the Applicants' immediate neighbors who have indicated that they are fine with it. She also stated that she did not know that a permit would be needed for the platform. Ms. Hennessy referred to a variance request having been granted for a residence across the street from the Applicants owned by one Richard Hackett and questioned why the City Council wouldn't now grant this variance. Dick Pelton, the City's Code Enforcement Officer, testified that on June 28, 2011, while doing a final

inspection on a house next door to the Subject Property, he noted construction of the platform being conducted without a building permit. Mr. Pelton also testified that he noted the same conduct on August 4, 2010, although at that time a fence was being constructed. After discovering that the fence was being constructed without a fence permit, Mr. Pelton contacted Aaron Rietze, who according to Mr. Pelton said he would get a permit. Mr. Pelton stated that the City Clerk had to send Mr. Rietze a letter requesting that he apply for a fence permit, which he did ultimately obtain. Mr. Pelton explained that the purpose of the City's ten foot (10') side yard setback requirement is for fire protection. He also stated that after discovering the subject platform, Mr. Pelton explained to Mr. Rietze that the Applicants could remove the portion of the platform located within the 10' side yard setback and obtain a building permit for the remainder of the platform, or they could apply for the variance at issue.

Councilman Grant then asked Mr. Pelton if the only noncompliance issue was the 10 foot (10') side yard setback. Mr. Pelton indicated that noncompliance also involved the Applicants not obtaining a building permit. Councilman Beck then asked Mr. Pelton why the hot tub that is located on the subject property, which also protrudes into the 10 foot (10') side yard setback and is now surrounded by the platform, is allowed. Mr. Pelton stated that the hot tub is allowed since it is not a permanent structure. Councilman Walker then questioned why the platform looked unfinished. Ms. Hennessy stated that construction was halted when the Applicants found out about the 10 foot (10') side yard setback. Councilman Walker then asked if there were plans to put a roof over the platform, to which Ms. Hennessy said no. Ms. Hennessy also indicated that the wooden poles that project vertically from the platform are going to be cut off.

Mayor Morris then asked if the platform encroached into the 10 foot (10') side yard setback more than the hot tub did. Ms. Hennessy replied that she didn't think that the platform encroached so far into the setback. Mr. Pelton then stated that the drawing that was submitted by the Applicants with the application shows that there is a lot of open space in the back yard where the platform is located. Ms. Hennessy then questioned whether or not the drawing was prepared before or after large rocks were placed in the back yard. Mr. Pelton responded that the drawing was prepared beforehand. Councilman Grant then questioned City Attorney Bredeson about the hardship test for variances as prescribed by Idaho law. Mr. Bredeson indicated that there must be an undue hardship due to special physical characteristics of the site.

At 6:22 pm, Mayor Morris closed the public hearing.

**Councilman GRANT made a motion to continue deliberations on this matter to the October 4, 2011 regular meeting. Councilman GORMAN seconded the motion. The motion carried.**

#### PUBLIC HEARING – AMENDMENTS TO COMPREHENSIVE PLAN

Mayor Morris opened the public hearing at 6:25 pm. She then asked City Attorney Bredeson to explain the proposed amendments. Mr. Bredeson stated that the purpose of

the amendments was to incorporate additional factors that are required to be considered in the Comprehensive Plan by the Local Land Use Planning Act, one being agriculture and the other being private property rights. Mr. Bredeson stated that the factor relating to agriculture was added by the 2011 Idaho Legislature.

There being no written or oral comments regarding the proposed amendments, Mayor Morris closed the public hearing at 6:27 pm.

**Councilman BECK made a motion to table the adoption of Resolution No. 104, which would adopt the proposed amendments to the Comprehensive Plan, until the October 4, 2011 regular meeting. Councilman WALKER seconded the motion. The motion carried.**

#### NEW BUSINESS

Mayor Morris then briefly explained the audit engagement letter that the City received from Anderson Bros. CPA's, P.A. regarding the City's audit for Fiscal Year 2010/2011.

**Councilman GRANT moved to approve the letter conditional upon review and approval of the same by the City Attorney. Councilman BECK seconded the motion. Roll Call Vote: Councilman Gorman voted "aye", Councilman Walker voted "aye", Councilman Grant voted "aye" and Councilman Beck voted "aye". The motion passed.**

#### OLD BUSINESS

##### I. STRAHORN ROAD OPTIONS

Councilman Gorman briefly discussed the traffic counts for Strahorn Road, Lakeview Drive and Miles Avenue received from Lakes Highway District. Councilman Gorman then asked City Attorney Bredeson how much he could discuss about the matter having previously recused himself. City Attorney Bredeson responded that he just can't influence or attempt to influence the other members of the Council. Councilman Gorman stated that he will recuse himself from all further discussions regarding this matter.

Councilman Beck then stated that due to what has transpired and due to uncertainty regarding whether or not he has a potential conflict of interest relating to this matter, he was recusing himself from any corresponding discussions or decisions.

Councilman Grant stated that he could rehash the comments he made at the last regular meeting where this matter was discussed if anybody would like him to. Mayor Morris indicated that she thinks that the City should meet with representatives of the Hayden Lake Recreational Water and Sewer District ("HLRWSD") regarding their plans for Strahorn. The Mayor asked Councilman

Walker if he would report back to the Council regarding the same. Councilman Walker agreed.

Mayor Morris then stated that the road needs to be fixed one way or another.

Councilman Walker stated that the City doesn't appear to have enough money to reconstruct both sides of Strahorn right now, but could pay for the related engineering. If HLRWSD participates in the project, Councilman Walker stated that the City may be able to reconstruct both sides. Or, if HLRWSD constructed the base for the road, City might be able to afford asphalt paving.

Councilman Grant then stated that the Council needs to agree on a conceptual plan for that road. Councilman Grant indicated that funding for the project is a separate issue and was ready to make a decision.

Councilman Walker stated that there was no easy answer regarding this matter. Councilman Walker would like to keep Strahorn a one way southbound with a bike path, with any new sewer line being constructed down the west side of the road. Councilman Walker added that he believes this option is in compliance with the City's Comprehensive Plan since it preserves the rural atmosphere of the City and is also the best option for potential damage to trees. **Councilman GRANT made a motion to that effect, seconded by Councilman WALKER. Roll Call: Councilman Walker: "aye", Councilman Grant: "aye". The motion passed.**

Councilman Grant added that this will be a permanent decision and is the only way to get that road repaired. He thinks this option is "win/win" for residents along Strahorn and the Hayden Lake Country Club. He also stated that it is in the best interests of City to keep road the way it is.

## II. HLCC/CITY ACCESS AND UTILITY EASEMENT AND RIGHT OF WAY DEED

Mayor Morris indicated that she hadn't seen these documents, so she would like to continue the matter to the next meeting. William Bentz then spoke regarding the lake access that lies east of Bozanta Drive. Mr. Bentz thinks that this access should be made a part of these documents. He also stated that the Hayden Lake Country Club has plans to build on the access and will fight tooth and nail any effort to include the lake access in the documents.

Councilman Grant questioned City Attorney Bredeson regarding whether or not the lake access was a separate issue apart from the documents at hand. Mr. Bredeson indicated that it was. Mr. Bentz then stated that the lake access was included in the maps that were exhibits to the 2000 Annexation Agreement between the City and the Hayden Lake Country Club. Councilman Grant asked City Attorney Bredeson to clarify this at the next meeting.

## MAYOR

Mayor Morris briefly discussed a draft Maintenance Agreement for winter street maintenance that was received from Lakes Highway District. City Attorney Bredeson suggested that this be put on the agenda for the 10/04/11 regular meeting. Councilman Grant asked Councilman Gorman if Councilman Gorman could talk to Joe Wuest before then. Councilman Gorman agreed to do so. Councilman Gorman stated that he was under the impression that Lakes Highway District wouldn't charge for these services if the City didn't require a contract.

## STREETS AND WATER

### I. SNOW PLOWING

Mayor Morris referenced some examples of forms from the City of Hayden regarding berm removal for disabled residents. Councilman Gorman stated that it was up to the Council whether or not to charge for the service or not. Councilman Grant then stated that the forms would create a lot of bureaucracy and that Hayden has a much larger population than the City. Councilman Grant stated that he thinks that the City should continue to assist its residents in an informal manner. **Councilman GRANT made a motion to continue the status quo. Councilman BECK seconded the motion. The motion carried.**

### II. SIGN REQUEST

A request for a stop sign at the intersection of Hayden Avenue and Lakeview Drive was discussed. Councilman Gorman stated that this was part of the City's Capital Improvements Plan and that there is a hope that motorists will start using the traffic light at the intersection of Lancaster Road and U.S. 95 instead of traveling through the City. Mayor Morris and Councilman Walker both questioned how and where the stop sign would be placed. City Attorney Bredeson indicated that the City Engineer should review the matter since placement of the sign needs to conform to the Manual of Uniform Traffic Control Devices. Councilman Walker stated that involving the City Engineer at this point seemed pre-mature. He suggested that the Council just keep the request in mind for the time being.

A request for a "no outlet" sign at the entrance to Point Hayden was then discussed. Mayor Morris stated that she didn't know where the sign would be placed. Councilman Grant then asked if he should recuse himself from this matter, to which City Attorney Bredeson responded "no". Councilman Gorman stated that he had received three complaints relating to this issue. **Councilman GORMAN moved to have a "no outlet" sign placed at the entrance to Point Hayden on the same post as the "no lake access" sign and to have the post moved further towards the entrance of Point Hayden. Councilman BECK seconded the motion. Councilman GRANT abstained. The motion carried.**

Councilman Gorman then stated that when Chipmasters paved the streets in Point Hayden, they didn't pave all the way to the totem poles. Chipmasters has indicated that they won't charge for the additional work if the City wants it that way. Councilman Gorman responded to Chipmasters by stating that if Chipmasters told him what their cost to complete the work is, he would bring it to the Council. Councilman Gorman hasn't seen the bill, but thinks that it is around \$3,800.00. Councilman Gorman thought that the bill had already been approved. However, the bill couldn't be located in the invoices that were previously approved as part of the consent agenda for this meeting.

Councilman Walker asked whether or not Chipmasters did a good job. Councilman Grant indicated that they had and thought that City should cover this additional cost. **Councilman GRANT moved to pay the additional cost to Chipmasters not to exceed \$4,000.00. Councilman WALKER seconded the motion. The motion carried.**

EXECUTIVE SESSION PURSUANT TO IDAHO CODE SECTION 67-2345(1)(b): TO CONSIDER THE EVALUATION, DISMISSAL OR DISCIPLINING OF, OR TO HEAR COMPLAINTS OR CHARGES BROUGHT AGAINST, A PUBLIC OFFICER, EMPLOYEE, STAFF MEMBER OR INDIVIDUAL AGENT

**Councilman GRANT moved to go into executive session pursuant to Idaho Code Section 67-2345(1)(b). Councilman GORMAN seconded the motion. Roll Call Vote: Councilman Gorman voted "aye", Councilman Walker voted "aye", Councilman Grant voted "aye" and Councilman Beck voted "aye". The motion passed.**

The Mayor, Council and City Attorney Bredeson went into executive session at 7:14 pm. Complaints brought against City employees were discussed along with what disciplinary action was warranted as a result of such complaints. The executive session ended at 8:00 pm.

After the Council came out of executive session, Mayor Morris brought up the subject of employee raises. Councilman Beck questioned the City Attorney if this was an appropriate subject to address since it was not on the agenda. City Attorney Bredeson indicated that it could be taken up if the agenda was first amended for a good faith reason. Councilman Grant then stated that he felt that this should be taken up at the 10/04/11 regular meeting.

ADJOURNMENT

**With no further business, Councilman GRANT moved to adjourn at 8:03 pm, seconded by Councilman BECK. The motion carried.**

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Nancy E. Morris, Mayor

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Lynn M. Hagman, City Clerk