

**MINUTES  
PAYETTE CITY COUNCIL  
REGULAR MEETING  
January 2, 2007**

A regular meeting of the Payette City Council was called to order at 7:00 PM by Honorable Mayor Douglas E. Henderson in the City Council Chambers of Payette City Hall, 700 Center Avenue.

**ROLL CALL**

Members Present: Mayor Doug Henderson, Ivan Mussell, Mark Heleker,  
Georgia Hanigan, Vallery Klitch, Lee Nelson

Members Absent: Jeff Williams was excused

Also Present: Mary Cordova, City Clerk; Kellie McCombs, City Treasurer; Doug Argo, City  
Engineer; Jeff Sands, Fire Chief; Randy Schwartz, Wastewater Superintendent;  
Captain Dave Platt; Street Superintendent Willie Hollis

**PLEDGE**

Mayor Henderson led the Pledge of Allegiance.

Councilor Heleker moved and Councilor Klitch seconded a motion to amend the new business section of the agenda to add two additional items:

- 1) Planning & Zoning Commission Appointment
- 2) Reschedule of 1/15/06 meeting

After a unanimous voice vote, the motion CARRIED.

**APPROVAL OF MINUTES**

A. 12/18/06 Regular Meeting Minutes

A motion was made by Klitch and seconded by Heleker to approve the public hearing and regular meeting minutes of 12/18/06 with noted grammatical errors & the change of "McRae to McCrea".

Hearing no objections, the meeting minutes were APPROVED.

**APPROVAL OF BILLS & PAYROLL**

A motion was made by Nelson and seconded by Hanigan to approve the City Bills & Payroll in the amount of \$200,331.37

At the roll call:  
Ayes: Mussell, Nelson, Heleker, Hanigan, Klitch  
Nays:

The motion CARRIED.

### **COMMUNICATIONS**

None heard.

### **SPECIAL ORDERS**

None heard.

### **PLANNING & ZONING**

None heard.

### **UNFINISHED BUSINESS**

None heard.

### **NEW BUSINESS**

#### **A. Request for Exemption to Idaho Code 23-913: Licensed Premises within 300 feet of a Church ~David Lee Posey, 20 South Main Street**

Mr. David L. Posey, 635 River Street, Payette, informed the Council that this process started when the V Club was for sale. He checked with the state regarding liquor licenses and found out that there is a waiting list for future liquor licenses, and only two people on the list, so he placed his name on the list. In July, the State determined that Payette has exceeded 7,500 people, which meant Payette is entitled to a new liquor license. Posey continued that on November 7, he was notified that he was the priority applicant.

The steps he now has to go through, Posey explained, is that he has to get a conditional use permit from the City, which he did last week. And, he needs approval from the City Council because there is one maybe two churches within 300 feet of his proposed location. One church is the Morning Star Church, which Mr. Posey rents space to on the second floor of his building. He did this before he had an application for a liquor license. The Bible Baptist Church may or may not be within 300 feet. If you go entrance to entrance, it is more than 300 feet. If you go from the corner of the building, it is within 300 feet. Mr. Posey asked for an exemption from that state requirement. Posey noted that the Sands Bar is closer to the church than he is. In addition, Posey pointed out that the church decided to be in a commercial area, rather than a residential area. Posey stated that he has received no comments from either church suggesting that they have a problem with a bar at 20 South Main.

Posey continued that Idaho Code requires that the City Council act on the 300 foot requirement. The state will require a resolution from the City council waiving the 300 foot requirement.

Councilor Heleker asked Mr. Posey if the churches were aware of his intention. Mr. Posey replied that they were notified of the conditional use permit application.

Klitch noted that with the current on goings with the state, and changing this past holiday, which was on a Sunday, and allowing liquor to be served on a Sunday, should the state make that a permanent issue, how will the hours affect the churches. Posey replied that a stipulation of the conditional use permit granted by the Planning & Zoning Commission was the operational hours of the bar would be from 4 PM to 2 AM Monday through Saturday.

Councilor Hanigan asked City Attorney Osborn if this would set a precedent. Mr. Osborn replied that the Council decision applies to this application only.

Mayor Henderson asked if the building has been inspected. Posey replied that the first thing he has to do is go to the state fire marshal and get approval for a remodel. He needs to put in handicap accessible bathrooms, and electrical and plumbing renovations.

Councilor Heleker asked how temporary the lease with the church at the same location is. Mr. Posey stated they will remain for up to one year. They made a deal on a new building down the street and will be moving.

Councilor Klitch noted that in doing some research, she is really uncomfortable usurping Idaho Code. She believed that this was put in place to protect existing establishments that were serving liquor, and that if a conditional use request went out to have a bar in that location, most people won't go and check Idaho Code, and will assume there is some element of protection. Traditionally, we would have our own public hearing and collect data. If this is challengeable, and organization could come back later and challenge our decision after thousands of dollars are already invested in the project. Posey said there are two parts of the statutes, one to protect the churches from bars, and later to protect existing establishments. City Attorney Osborn added that as a general rule, churches are encouraged to go into a residential area so we don't have these types of problems. If the City Council approves the application, it is not challengeable, it will stand.

Councilor Mussell stated he is not for another bar in town, and does not think a bar brings good things into communities. He did not want to waive the statute.

Councilor Hanigan moved to direct City Attorney Osborn to create a resolution of the Council to waive the state and municipal requirement of placing a liquor establishment within 300 feet of a church, and that the Council approve such resolution. Councilor Nelson seconded the motion.

At the roll call:

Ayes: Nelson, Heleker, Hanigan

Nays: Mussell, Klitch

The motion CARRIED.

**B. Claim for Damage**  
~ Kim DelValle, 502 15<sup>th</sup> Avenue North

**C. Claim for Damage**  
~Qwest

City Attorney Bert Osborn gave his standard recommendation that the claims are denied and are sent to the investigative branch of our insurance carrier.

Councilor Nelson moved and Councilor Klitch seconded a motion to deny the claims before the Council and send them to our insurance company.

After a unanimous voice vote, the motion  
CARRIED.

Mayor Henderson informed the Council that as of 2006, Tena Meacham's term on the Planning & Zoning Commission expired. The Mayor thanked Tena for her service and wished her the best. To fill the vacancy, Mayor Henderson nominated Matt Keith to the Planning Commission. Mr. Keith is a local businessman, and a member of the Urban Renewal Agency. Mayor Henderson asked the Council for approval of the appointment.

Councilor Heleker moved and Councilor Mussell moved to approve the Mayoral appointment of Matt Keith to the Planning & Zoning Commission.

After a unanimous voice vote, the motion  
CARRIED.

Councilor Klitch moved and Councilor Heleker seconded a motion to move the next regular meeting of the Council to January 16, 2007, due to the Martin Luther King holiday.

After a unanimous voice vote, the motion  
CARRIED.

### **DEPARTMENTAL REPORTS**

Written reports were presented to the Council.

### **CITIZENS COMMENTS**

**Dwayne Youngberg**, 11175 Payette Heights, addressed the Council. Mr. Youngberg announced that per the Mayor's request, there has been an Airport Advisory Board organized, of which he is the chair. The board meets on the 2<sup>nd</sup> Tuesday of each month at 6 PM and will report to the Council following their meetings.

Mr. Youngberg stated that he has had five different people approach him that would like to rent the City hangar. Mr. Youngberg explained that if it were rented, there would be more activity at the airport.

On December 20, a group of pilots met and there were over 40 people in attendance. During that meeting, the question was asked of how many people would have preferred to build a hangar in Payette. There were seven hands that were raised. They did not build because they were afraid the runway would be closed and plowed under. One of those hangars turned out to be a seven place hangar worth about \$150,000. That would have put 10 to 12 more planes at the airport. If we had resounding support that the airport was going to stay, there would be more activity like that taking place.

Youngberg continued that there is an association of experimental pilots in the area that are planning on building a hangar. Their choice would be Payette. It would be a fairly large hangar where aircraft could be assembled.

Youngberg noted that our previous street supervisor had been acting as the airport manager. The Advisory Board hoped that the new street superintendent could also be the airport manager.

**Claude Bruce**, 10550 Hwy 95, addressed the Council and stated that in listening to the Airport Advisory Board, he thought that airport manager would be an excellent position for the street superintendent. The airstrip is a road surface, and this should fall under his category.

Mr. Bruce said that in listening to and reading the paper, had the City reached a point where they need to sell property to function. Mayor Henderson replied at this point, it hasn't been addressed. The Council will always do best for the public. Mr. Bruce continued that there seems to be some need to sell some City property. He wanted to know if the City Council has voted to sell City property to raise funds. Councilor Hanigan stated that the Council has not voted to sell anything. Beyond that, there has been no action by the City to encourage the sale of any property to any private entity. Mr. Bruce said the Council accepted an offer; why wasn't it refused until there was a determination that it was for sale. Mayor Henderson clarified that there has never been any offer accepted in any way, shape or form.

### **MAYOR'S COMMENTS**

Mayor Henderson informed the Council of the following:

- Willie Hollis started with the City today as street department manager.
- Our next meeting will be on Tuesday, January 16, at 7:00 PM.

### **ADJOURNMENT**

A motion was made by Councilor Heleker and seconded by Councilor Hanigan to adjourn.

After a unanimous voice vote, the Council adjourned at 7:35 PM.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
DOUGLAS E. HENDERSON, Mayor

ATTEST:

\_\_\_\_\_  
Mary Cordova, City Clerk