

**MINUTES
PAYETTE CITY COUNCIL
REGULAR MEETING
June 1, 2009**

6:30 PM Public Hearing

City Attorney Bert Osborn announced convening of the City Council for the purpose of the Public Hearing.

6:00 PM – PUBLIC HEARING

A. Compliance with Payette Weed Control Ordinance, Section 8.12, Payette Municipal Code

Aaron Sobers – 2855 Center Ave; Payette, ID

My problem is that the weeds on Center Ave; are dry, tall and starting to fall over. We did know that he did want to put some livestock out there, but I don't think this is going to take care of the problem at this time. There is a code that is written and is plain and simple and I'm sure that if I had a problem I would be enforced to take care of that and I think that everyone else should have to abide by it. I realize that there are other people on my road that have the same problem and I think it should be taken care of. Councilor Williams stated that as you drive out to your house the school has some property out there and are there similar concerns there? Mr. Sobers stated yes.

Gerald Young – 2875 Center Ave; Payette, ID

I have the same complaint as Aaron does. It has been three years and nothing has ever been done out there except for the minimum 16 feet around the properties on Center Ave. My property sits back in and there has never been anything done around my place. Our concern is with the weed control and we noticed tonight that the school district is fencing there's off to put horses out there. Councilor Heleker stated that since the previous statement was that it is past the livestock stage to help. On the school property is it your opinion that we are beyond that stage there as well. Mr. Young stated that he did not know. I don't know how much nourishment they are going to get out of the weeds. They are awfully high and some spots are almost 4 feet high.

Robert Brown – 2475 Center Ave; Payette, ID

Since the comment about the school came up I thought I would let you know that Shannon Pierce is fencing off part of the property that comes out to Center Ave. He is going to put some horses in there and I don't know if that is the solution at this time, but I don't think the chief wants to go put out another fire up there either. This is a really bad situation that needs to be taken care of. I have called the school district every year and talked to them about the weed problem and they assured me that Shannon Pierce would be putting some horses in. Councilor Heleker asked if that was only a portion of the school property or will they be fencing off more. Mr. Brown stated that it was only the area that butts up against Center Ave. I don't know about the stuff by the ball parks, because that's all weeds over there to. It definitely needs to be taken care of though. Councilor Williams stated that I think everyone in this room recognizes the importance of this issue. Are you more concerned with that or

the fire hazards or both? Mr. Brown stated that he is concerned about the fire hazards because of the weeds that are growing against his house.

Nancy Sobers – 2855 Center Ave; Payette, ID

I am concerned about the fire hazard, and there is a particular area that I am concerned about and that would be Mr. Lancaster's property. There is about two acres that right now is just starting to bloom up and come the end of summer there is going to be four foot tumbleweeds and Russian thistles. We have had to pick up after Mr. Lancaster for the last three years and would really like this to be enforced and some action be taken. Give him a deadline; don't just keep putting him off.

Gene Lancaster – 11428 Scotch Pines Rd; Payette, ID

We also have contracted with Shannon Pierce and we were told before we could start putting a fence up we had to go through the process of getting a conditional use permit from Planning and Zoning, but apparently the school is exempt from that. WE are still planning on starting that and Mr. Pierce stated that he would be starting that next week. There will be 21 head of horses and I'm sure that is not going to be the ultimate solution, but my dilemma is that if we don't contract with him and get it fenced this year, we won't be ready for next year. He likes to put the horses in their late march or early April. Our proposal is that we do the top 37 acres, the piece above Young's property up to Payette Heights Road; he is going to fence that piece and we will start with that. If I mow it he's not going to want to put his horses in there. My proposal is that I be allowed to cut a fire break around all the houses say 100 feet wide in addition to the three rows of disking that has already been completed. Councilor Williams asked about the school not obtaining a permit for their fence. Clerk Cordova stated that the school is not exempt from having to obtain permits and I will contact them first thing tomorrow morning. Councilor Williams stated that they are going to apply after the fence is already in. Clerk Cordova stated yes.

Charlie Miller – 2985 Center Ave; Payette, ID

Personally I am for the horses I think they will help, but I don't know where they are going to get the water. I don't think there is any water up there.

Robert Brown – 2475 Center Ave; Payette, ID

The horses that Shannon is putting on the school property I am providing water for them. I don't know what Mr. Lancaster is going to do; I don't think there is any water up there.

Aaron Sobers – 2855 Center Ave; Payette, ID

We talked about there being a code on the weeds and it needs to be enforced. It might help to have horses out there for next year, but it is too late for this year and if he would have taken care of the weeds when we initially started this process there wouldn't be a problem. This has gone on long enough and as I believe that this is another ploy to stall for time. He told us the other day that he had money for this project. If he has money for the project, why not take care of the weeds. This has gone on too long and he is wasting your time and our time. This is just ridiculous. Let's just follow the code that is in place.

Mayor Henderson stated that right now as far as the City is concerned this is the code and we are going to enforce the code. It is my understanding that we have in fact sent

notification to everyone to enforce the code. Chief Clark stated that he had not sent out notification to Mr. Lancaster as he was waiting for direction from the Council. Mayor Henderson stated that the only action would be outside of the normal code enforcement, whether it is Mr. Lancaster applying for a conditional use permit or it would be someone from the Council making a motion to make some type of exception. The whole purpose of this was we wanted everyone to be able to speak their mind and this was not a ploy to stall for time. It is the attitude of the administration that we are going to enforce the code unless told otherwise so that is where we go from here. Unless Mr. Lancaster comes forth and asks for the Council to consider it or a motion is made by the Council during the meeting, we are going to enforce the code.

Council Cochran stated that he believes we need to stick with the code on this. I can tell you from the past we have actually arrested a 70 year old woman on violations of weeds. This was during most of your terms and it never got to the council, it just got taken care of. A search warrant was issued as well as an arrest warrant and we got the property taken care of. No one was really seriously hurt and the 70 year old woman never spent a lot of time in jail and I'm not sure if she even spent any. The idea was that it is a violation just like Mr. Lancaster and it got taken care of and the ordinance was there for a purpose. It has been there from Councils in the past and we need to uphold it just like it is. Mr. Lancaster needs to be given a citation and go through the court proceedings that way we are not sending a message to these people that we are stalling. Mayor Henderson stated that once again it was never a point of stalling; it was the fact that we were recognizing the fact that the neighbors had concerns about the weeds and they wanted them taken care of. We recognized that Mr. Lancaster in good faith bought this property was going to develop this property and no fault of Mr. Lancaster we have had an economic down turn and Mr. Lancaster has a big piece of land that he has to deal with. So, the whole point of this was so we could all voice our opinions see if we could come to some agreement and move forward. It was by no means a way to stall the issue.

Councilor Williams asked who you are going to arrest for the school. Councilor Cochran asked if the school has been notified to mow the weeds. The school is not the issue we are talking about Mr. Lancaster's property and that is the only thing on this agenda. Mayor Henderson stated that as of tomorrow we will be officially notifying Mr. Lancaster and the school. Councilor Mussell stated that once the person is given a citation how long does he have to comply? Mayor Henderson stated that it depends on the code and that we would have to check.

The City Attorney adjourned the meeting at 6:45 PM.

7:00 Regular Meeting

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

ROLL CALL

Members Present: Mayor Henderson, Ivan Mussell, Lee Nelson, Les Cochran, Mark Heleker, Georgia Hanigan, Jeff Williams

Members Absent: None.

Also Present: Jeff Sands, Fire Chief; Doug Argo, City Engineer; Mary Cordova, City Coordinator/Clerk; Tiffany Howell, Utility Clerk; Street Supervisor; Jamie Couch; Bert Osborn, City Attorney; Alan Massey; Aaron Sobers; Gerald Young; Robert Brown; Nancy Sobers; Gene Lancaster; Charlie Miller

PLEDGE

Mayor Henderson led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mussell moved and Heleker seconded a motion to approve the meeting minutes of 05/18/09 with noted changes.

After a unanimous voice vote by the Council, the motion CARRIED.

APPROVAL OF BILLS & PAYROLL

A motion was made by Cochran and seconded by Hanigan to approve the City Bills & Payroll in the amount of \$181,131.74.

At the roll call:

Ayes: Nelson, Mussell, Cochran, Heleker, Hanigan, Williams

Nays:

The motion CARRIED.

SPECIAL ORDERS

None Heard.

COMMUNICATIONS

None Heard.

PLANNING & ZONING

A. 04/23/09 Regular Meeting Minutes

OLD BUSINESS

A. USDA Clarifier Loan Approval Conditions
- Heath Price

Heath Price – 2208 East Chicago St; Caldwell, ID

Councilor Williams asked if this will be built on the Adams Property. Clerk Cordova stated that part of it will. Councilor Williams asked if part of the projected budget pay for that property acquisition? Clerk Cordova stated that we have paid for part of it. Councilor Heleker stated that somewhere in here the applicant will contribute \$40,000 is that correct, and to get to that amount there is a 1/10th of an annual payment per year until the total amount is paid in full. Mr. Price stated that we are looking at two different things. The \$40,000 originally the PER that

done by the engineer he was going put in \$80,000, but we have already paid well over \$40,000 to the engineers so what we will do on that is once the money is approved. The other 1/10th is a reserve that is required so that each year that 10% of your annual fee so that you have that reserve as a security in the future.

Councilor Nelson asked if this loan offsets the bond. Mr. Price stated yes. Clerk Cordova stated that we did apply for the USDA loan after the bond election and after that passed for the clarifier, so what we are doing now we have applied to USDA and the Council approved the application. Now the engineering work is finally complete and now what Heath is here to do is say ok here are the conditions of the loan. The next step we are going to go through is we do have to put the project out for bid and then during construction we still have to apply for interim construction financing to start building it. So we will be coming back to you guys for the interim construction loan, but Heath is just here to say, ok we are here to give you this loan and here is the ball and chain that go with it. Councilor Williams asked if this was the long term financing and these are the details of the deed of trust. Clerk Cordova stated that was correct. Councilor Mussell asked if the engineering work was done by Holladay Engineering. Clerk Cordova stated yes. Councilor Mussell asked if that went out for bid. Clerk Cordova stated that it was covered within the bid when we advertised for engineering services. Mr. Price stated that part of this is a request for obligation of funds, so what this letter serves as is the conditions of our financing. We need a letter from the Mayor stating that within 60 days the City will comply with this letter.

Hanigan moved and Nelson seconded a motion to authorize the Mayor to sign the letter complying with the conditions of financing.

After a unanimous voice vote by the Council, the motion CARRIED.

- B. Ordinance 1304 - AN ORDINANCE FOR THE ANNEXATION OF PROPERTY GENERALLY LOCATED NORTHWEST OF PAYETTE. IT INCLUDES THAT PROPERTY NOT INCLUDED WITHIN THE CITY LIMITS LYING WEST OF NORTH 9TH STREET RUNNING WEST TO THE SNAKE OR PAYETTE RIVERS, WHICH PROPERTY IS MORE PARTICULARLY DESCRIBED IN EXHIBITS "A" AND "B", ALL SITUATED IN PAYETTE COUNTY, IDAHO, AND ADJACENT AND CONTIGUOUS TO THE CORPORATE CITY LIMITS; ESTABLISHING AND DETERMINING THE LAND USE CLASSIFICATION OF SAID LAND AS B-RESIDENTIAL, EXCEPT PARCELS #5294-1, #5451, #5450, #5449 & #5294 WHICH WILL BE ZONED INDUSTRIAL; DESIGNATING THAT PROPERTY DESCRIBED IN EXHIBITS A AND B AS A CATEGORY B ANNEXATION; MAKING CERTAIN FINDINGS IN THE OFFICIAL MINUTES OF THE CITY CLERK; providing that copies of this ordinance shall be filed with the Payette county assessor, the payette county recorder, and the idaho state tax commission; providing an effective date; providing for publication by summary.**

-SECOND READING

Williams moved and Heleker seconded a motion to introduce Ordinance 1304 by title only.

After a unanimous voice vote by the Council, the motion CARRIED.

Councilor Heleker stated; that what the public hearing did for me was that I envisioned seeing a number of non-contiguous parcels sitting out there that we may want to think about in a different way. However, looking at a larger map like we did and having the opportunity to break it down parcel by parcel I didn't see that, I didn't see the non-contiguous parcels that I had anticipated. So it made me feel a little differently about the entire annexation and the feeling of, that it could be the time to annex that entire area. Councilor Hanigan stated that during our work session we had conversation about when the first City tax bills would be due. It would seem like if we were to annex the proposed annexation for January 1, 2010, that would give them an opportunity to acclimate before that first tax bill. Hopefully anyone that is caught in this little problem right now, that maybe things would be a little better by then. Mayor Henderson stated that also keep in mind that the property owners have the option, if they are in an economic crisis to apply for the circuit breaker program.

Councilor Nelson stated that on the first reading of this we eliminated the Boren property and looking at the property and the maps we were just given now I'm not sure if it was personally the right decision. Mayor Henderson asked Attorney Osborn since we eliminated the discussion on the Boren property we would have to start over on that parcel or can it just be re-instated. Attorney Osborn stated that we could move this to its 3rd reading and re-instate Mr. Boren's property. Councilor Cochran stated that the work session finally brought some things home to him. Water and sewer is not a necessary standard whether we should annex someone or not and when we talked about the cemetery and not having water and then we find out that they do have water. Water and sewer are not the issue. These are two separate items and I too have a different perspective. I think that if it is possible to bring it back on the table I would like to do so.

Councilor Williams stated that the Boren property is unique enough that it doesn't feel like it fits. I mean the police protection and all that, yeah that does. Councilor Heleker stated that when you say the uniqueness of that property what do you consider unique. Councilor Williams stated that the uniqueness is that there is a State Highway that serves them not a City street and it is not exactly surrounded by residences.

Cochran moved and Hanigan seconded a motion to amend to move Ordinance 1304 to its 3rd reading and re-instate the Boren property.

At the roll call:

Ayes: Nelson, Cochran, Heleker, Hanigan

Nays: Williams, Mussell

The motion CARRIED.

NEW BUSINESS

A. Special Event Permit Application

- White Stone Christian Fellowship – Kids Club
- Request for Waiver of fees

Zachary Heim – 1411 1st Ave So; Payette, ID

We are asking for the fees to be waived. Also we are asking that the insurance requirements be dropped to \$500,000. Mayor Henderson asked if the City dropped the insurance requirements to \$500,000 last year. Clerk Cordova stated that yes we did. Mr. Heim stated

that the reason we are asking is because the insurance company told us we would have to increase the whole cost of the building. Mayor Henderson asked Clerk Cordova if we had them submit the security deposit last year. Clerk Cordova stated yes. Mr. Heim stated that the reason we are asking for the fees to be waived is because of the cost and this is an event for the kids and we would like to see it continue. Clerk Cordova stated that the insurance requirements of \$500,000 is fine with our insurance company we have just always requested the million dollar policy to protect us. If someone comes and asks us for less than \$500,000 than we would not want to do something like that per our insurance company? Anything between a million and \$500,000 is fine. Councilor Mussell asked how many kids they had at last year's event. Mr. Heim stated there were 25 per day, but we had probably 60 kids signed up and came different days.

Heleker moved and Mussell seconded a motion to approve the Special Event Permit Application by Whitestone Christian Fellowship as well as waive the application fee and reduce the insurance requirements to \$500,000.

After a unanimous voice vote by the Council, the motion CARRIED.

B. Appointment of Randy Choate to Payette Planning & Zoning Commission

Heleker moved and Williams seconded a motion to re-appoint Randy Choate to the Panning & Zoning Commission for another 6 year term.

After a unanimous voice vote by the Council, the motion CARRIED.

C. Request for extension of Curb, Gutter, and Sidewalk

- Aric Barto

Mayor Henderson stated that the request from Mr. Barto is postponed until the June 15th meeting. Mr. Barto was not able to attend tonight.

D. Request for Appeal of Conditional Use Permit Denial

- Steve Nunes

Mayor Henderson stated that he is appealing the Planning and Zoning Board's denial of his conditional use permit. Mr. Nunes is planning to add some residential apartments above his buildings on Main Street. The reason for the P&Z unanimous denial was because of a fire code issue that was not being met with the property.

Steve Nunes – 5 North Main; Payette, ID

Mr. Nunes stated that this is an economical thing. We were going to put in an early detection electronic system that sends the information to dispatch. This system is going to run in the neighborhood of \$30,000 and my bank has completely backed out at this point. Earlier they had told me to go ahead with it and then after I got everyone wound up and even got Fruitland Electric out there doing some research work on how to operate this thing the bank

told me no, because the property values are not going to hold. She told me there was not enough value on paper and I told her I could do that if I could finish the apartments. The problem is the \$30,000 fire system that I still would like to have is not feasible at this time. I need to finish the two apartments above 15 North Main and have them appraised and at that time I can use that appraisal to go back to the bank and see if we can't continue on with the original plan. Mayor Henderson stated that he saw a letter from the State Fire Marshal that list a bunch of items that he would like you to complete for this to happen. Which of these do you have a problem with doing prior to completing your project. Mr. Nunes stated that he has not seen a list. Mayor Henderson gave Mr. Nunes the list to look over and see if there was anything he was opposed to doing. Mr. Nunes stated that he would have to have Chief Sands come over and show him all of these ceiling problems, but other than that I have no problems. Mayor Henderson stated that when you say that you would be willing to meet those and the alarm system you would be willing to install in the future, would you be willing to set a date. Mr. Nunes stated that it depends on the economy and when I finish that apartment. Councilor Williams stated that the \$30,000 for the early detection sounds like this might work perfectly for our revolving loan fund. Mr. Nunes stated that he had come in and talked to Clerk Cordova about the loan fund. Councilor Williams stated that he does not feel comfortable sleeping in a location that could have a fatality, but I do think we could make this a win, win with the revolving loan fund. Councilor Nelson stated that from the lists we have received it sounds as if you are more than willing to complete all the items. Mr. Nunes stated yes, absolutely. Councilor Williams asked if Mr. Nunes would rather have a conditional use permit and put in the firewalls for one unit or would you rather have some interim financing possibly in the cities revolving loan fund to get all of them up to speed and occupied. The cities loan fund is not the cheapest. Mr. Nunes stated that Bank of America said the same thing. Mayor Henderson asked Mr. Nunes if he would like to come back to the next meeting and give him some time to look over the revolving loan paperwork. Mr. Nunes stated that the only that stops him from saying yes, is that he doesn't know what the interest rate is on the revolving loan fund. Mayor Henderson told Mr. Nunes to look over the paperwork and come back to the next meeting.

E. Approval of an Amendment to the City of Payette Alcohol and Drug Policy and Testing Procedures

Councilor Williams stated that he has to give credit where credit is due and thanks to Mr. Massey for finding an error. We need to add will on the second to last page.

Heleker moved and Mussell seconded a motion to approve the Amendment to the City of Payette Alcohol and Drug Policy and Testing Procedures with changes noted.

After a unanimous voice vote by the Council, the motion CARRIED.

F. Resolution 2009-05 A Resolution of the Payette City Council Adjusting Water and Wastewater Rates by the Consumer Price Index (CPI)

Councilor Mussell stated that he is glad to see that we are not taking the full 6.1% that we could, but have instead decided to go with a much lower rate of 4%.

Mussell moved and Cochran seconded a motion to approve Resolution 2009-05 as written.

After a unanimous voice vote by the Council, the motion CARRIED.

DEPARTMENTAL REPORTS

A. Engineer's Report

Clerk Cordova stated that there was some questions as to how Weiser makes sure that there base rates are always paid, whether they are on or off. I just wanted to let the Council know that June 5, 2006 through Resolution 2006-04, "Councilman Williams moved and Councilman Mussell seconded a motion saying that the property owner shall be responsible for the monthly base water and sewer fees whether or not the water is on or off". So I just wanted to let the council know that we did pass that Resolution in 2006. However, at that time our software could not do that, but since we received our new software will plan to implement this. We are sending out notices to property manager and owners, it is also on your bill this month to try and give everyone a heads up. This will be effective as of August 1st. Councilor Williams stated that he thinks that is good. Who are we going to asses a bill to on bank or vacant properties? Clerk Cordova stated that we can always put a lien on the property and once that property sells we usually re-coop our fees. Councilor Williams stated that since this I my world and what I do, I would maybe send a notice to the title company and let them know that this is what we are going to do. Clerk Cordova stated that she would send a letter to the title companies letting them know of the upcoming change.

Clerk Cordova stated that on the very last page of your council packet there is a picture of the work that is being done at the pool. I would like to give some kudos to the parks department working in conjunction with the street guys and the water guys. The expansion of the deck at the pool is near completion and they have just done a wonderful job. When I took that picture it was over 90 degrees and they were just working hard to get that done. So, I just wanted to recognize our staff and what a good job they have done. Councilor Mussell asked if a new concession stand will be out on the deck expansion. Clerk Cordova stated yes.

CITIZENS COMMENTS

Steve Nunes – 5 North Main Street; Payette, ID

Mr. Nunes stated that he will not be back in town until June 17th. Mayor Henderson stated that City will add you to the first meeting in July.

MAYOR'S COMMENTS

- He would like to recognize Jamie Couch as being our new Street Supervisor.
- He would like to thank Steve and Julie Krygsman for their efforts on raising funds and for repairing the Skate Park.
- Our next regular City Council meeting will be 7:00 PM June 15th.

Heleker moved and Hanigan seconded a motion to adjourn to executive session per Idaho Code 67-2345 to discuss pending litigation at 8:00 PM.

After a unanimous voice vote by the Council, the motion CARRIED.

ADJOURNMENT

A motion was made by Heleker and Mussell seconded by to adjourn.

After a unanimous voice vote, the motion CARRIED, and the Council adjourned at 8:47 PM.

Signed this _____ day of _____, 2009.

DOUGLAS E. HENDERSON, Mayor

ATTEST:

Mary Cordova, City Clerk