

**MINUTES  
PAYETTE CITY COUNCIL  
Work Session & Regular Meeting  
December 15, 2014**

**6:30 PM – Work Session**

**ROLL CALL**

Members Present: Mayor Jeff Williams, Dale, Nelson, Heleker, Sands, Wickersham, Jensen

Members Absent: None.

Staff Present: Mary Cordova, City Administrator; Bert Osborn, City Attorney; Doug Argo, City Engineer; Mark Clark, Chief of Police; Brenda Stowe, Administrative Services Clerk

- A. Non-conforming uses –Mayor Williams started the discussion stating they had gone over a lot of information at the last work session and feared they may be more confused than they were. He asked if anyone had any questions. Councilor Dale asked if they could specifically ask about the property on 7<sup>th</sup> Avenue North, Whitney Arms trailer park, a property that was purchased and the purchaser asked to make changes. It has been an eye – opener for her how restrictive the non-conforming use is and not doing anyone a favor. By encouraging and supporting the non-conforming use seems almost worse than if the property is a land mark for those who wish to move forward and make changes. The Council asked for clarification on which property Dale was speaking of, the trailer park directly behind the Minit Market or the one that was placed behind where the old Whitney Manor used to be. The one owned by Mr. Shott, he wanted to add more trailers or expand. Jensen felt that what Dale is saying it seems somewhat restrictive for someone wanting to improve it, we want people to upgrade, improve appearances and it just seems restrictive on what we will allow people to do when they purchase a non-conforming property. If you go up to 25% of the property value you can't improve it anymore. Sands feels there is a difference between saying its non-conforming no you cannot do it and it being in a non-conforming use zone. He would be able to support something that allowed bringing the property up to code. There are properties that require conditional use permits every time they are sold, the new owner must acquire a CUP, and it makes them unattractive to buyers. He would not say no changes can be made to the property, he would rather say those changes can be made provided you bring it up to code. Be it parking requirements, landscaping, whatever it is, we need to stay uniform. Keeping the intent of our code intact and uniform where these uses are, we have a lot of them, it is an old town. Our Zoning has changed as our township has changed, and he feels that instead of saying it can't be done its a non-conforming use, tell them if you take this property and want to change it you must bring it up to current code. Cordova thinks they are on the right track, non-conforming use is not a new thing it has been in our code since 1959, the legal definition of a non-conforming use is a legal use of that land before zoning came along, it doesn't mean they have stopped using it. Just because we zoned it B Residential in 1970 but it has been in use since 1946 doesn't mean we make them stop using it. The purpose of the non – conforming use is that someday that use is going to go away because it is not conforming to what today's zoning is. If any non-conforming use person wants to bring that property into compliance with existing code they can. It may mean they have to get rid of three trailers on the site, they can do it. They can't just pick and choose which codes they are going to comply with. Be in compliance with the current code or use it the way it is. With non-conforming use the owner of the property has the right to use it as is. They do not have the right to expand or enlarge it. Dale asked if the non-conforming use goes with the property or the person. It stays with the property. Sands mentioned the houses behind A&W that are residential in a commercial zone; each new owner must get a CUP.

Cordova said that is not quite the same thing. Residential use in a commercial zone is permitted however, a commercial use in a residential zone is not. A non-conforming use would be having a use that is not allowed at all, like an Albertson's in an A residential. We recently had a business in an A residential with a sign in their yard, that is not allowed. It is zoned to protect the residents if someone buys in an A residential Zone they want to be assured that a business is not going to move in next door. Sands questioned if he wanted to open a bar on main street with an occupancy of two hundred fifty people everyone would park on the street, but if he opened it out on the highway, he would have to provide parking and drainage, why the difference? What is the difference between that and the downtown apartments? Cordova answered zoning is the difference. Downtown is C-1 Commercial and allows mixed use, both residential and commercial. If the owners wish to enlarge or expand, it can only do so if it stays within the percentage set by our code. If it exceeded the percentage then that would trigger an adjustment for the parking requirements. If you can't meet the parking requirements, then you can't do it. Sands inquired about a variance for parking, can anyone ask for that? Cordova stated that depends on the situation and the zoning requirements of the property. Mayor Williams asked if there was anything different the Council would like to see or that the Council wants to see done? They can ask Bert Osborn and go from there. Wickersham feels each property is unique in its use and once that use footprint is established any other buyers of the property would need to conform to that use. The Mayor said if you take all on an individual basis and do something for one then you'll need to do the same for another. He asked if they should change the code to individualize the non-conforming uses. Cordova said then you need to get rid of the non-conforming uses. Wickersham doesn't see how you can put all non-conforming uses in the same basket. The Mayor asked if the Council wanted to repeal the code. The Council body did not wish to repeal the code. Sands wanted to know what the liability to the city is taking each case one by one versus a standard code. Osborn cautioned against taking individual cases, what is done for one project will need to be allowed at another where a standard would set the same requirements for all. Wickersham thought the standard basis for non-conforming use to be required then perhaps make exceptions when a property is defined as having a special history or significance, and then any coming after that would need to fit that footprint. Dale asked if a variance can even be considered when a property is in a non-conforming use. Can the non-conforming use be dropped once the property is brought up to compliance? The Mayor asked about the percentage of property value that decides how much improvements can be made. Cordova said that regular wear and tear repairs can be made but improvements cannot exceed 25% of the property value. Wickersham felt that limit was not realistic to those wishing to improve properties with prices what they are today. It was asked if the code could be changed to increase the percentage amount for improvements. Cordova said it would require a code change. Heleker reminded the Mayor that we would need to close discussion and revisit another time.

### **7:00 PM – Regular Meeting**

A regular meeting of the Payette City Council was called to order at 7:05 PM by Mayor Jeff Williams in the City Council Chambers of Payette City Hall, 700 Center Avenue.

#### **ROLL CALL**

**Members Present:** Mayor Jeff Williams, Craig Jensen, Nancy Dale, Lee Nelson, Mark Heleker, Jeff Sands, Ray Wickersham

**Members Absent:** None.

**Staff Present:** Mary Cordova, City Administrator; Mark Clark, Chief of Police; Doug Argo, City Engineer; Bert Osborn, City Attorney; Brenda Stowe, Administrative Services Clerk.

**PLEDGE**

The Pledge of Allegiance was led by Kim Bruce.

**CITIZENS COMMENTS**

None

**APPROVAL OF MINUTES**

A motion was made by Heleker and seconded by Wickersham to approve the regular meeting minutes of 12-01-2014 as written.

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

**APPROVAL OF BILLS & PAYROLL**

A motion was made by Sands and seconded by Heleker to approve the City Bills & Payroll in the amount of \$207,120.18

At the roll call:

Ayes: Sands, Wickersham, Jensen, Dale, Nelson, Heleker

Nays:

The motion CARRIED.

**SPECIAL ORDERS**

None

**COMMUNICATIONS**

A. Thank You – Street Department

**PLANING & ZONING**

A. None heard.

**AGENDA ITEMS**

- A. Kurt Folke Audit – Kurt Folke said our audit went very well. He thanked Mary and Bobbie for all of their help. He went over how to read the audit information and explained that in some instances it may appear there is a loss but what has actually happened is a transfer of funds from one account to another. Kurt explained that next year there will be a new accounting standard ASB 68 that we will see as a liability on our financials. The government has decided there needs to be a pool of funds to insure that PERSI has sufficient funds to pay retirees and the funds must come from the city level. The City will not ever pay with a check, the rates will adjust.
- B. Bike Pump Park – Gerald Loveland took the floor explaining he and Janet had been in contact with Kathy Muir the original liaison for the grant in connection with the bike pump park. He feels the city is not in compliance with the grant. There are several options for the park area other than a bike pump park they feel would be more appropriate. They know the City did come close to losing the grant. He feels that when the City comes into compliance with the

grant many of their objections will be absolved. He feels it does need a detailed design and proper signage and until these things are done the project should be postponed. Sands replied we are trying to come into compliance and are awaiting a report from the Parks & Rec. Committee. Mr. Loveland said Kathy the grant liaison, would love to attend the next Council meeting. Sands asked that we give Ms. Bruce a chance for her presentation. Ms. Bruce informed the Council that she has been working on the project for over a year. Initially three locations were in consideration and the Council chose this one because of the grant. The committee was trying to work with a small budget and donations. Ms. Bruce is frustrated the project has taken on more of a life than anticipated. The initial plan for a "dry" park has been amended to include landscaping and trees. The only water available comes from a pipe from the school under the street, we are not sure the school will be willing to provide water. Her frustration has extended to the city because there are no set procedures for a project like this one. She would like to see a checklist for citizens trying to make community improvements to follow. She feels the council has required changes to the project at each meeting and that she does not receive adequate communications of what is required. Sands reminded Bruce that he warned her it would be a long haul, government works slowly. Heleker believes one group feels the project is moving too slow while another group feels it is moving too fast. The Mayor reminded the council they have an obligation to make sure they are not out of compliance. He said they did meet with the school board and felt the board had given their approval of the plan to build a bike pump park. Bruce stated she would just like some written guidelines. Dale asked if Bruce was aware of the grant and violations prior to proposing the project. Bruce said she became aware when they chose the site for the park. Nelson provided a list of projected annual expenses Bruce had for a full blown finished park. She has met with Randy Fales to discuss the placement of trees but landscaping is not viable without access to water. The Mayor and Nelson suggested phases. Bruce feels the park could still be functional without water. She liked some of the suggestions the Loveland's have made. Dale asked if a dry park would be accepted in the neighborhood. William's replied that we could put mag chloride in the dirt to keep dust down. Jensen spoke with Randy Fales who feels this is a pocket park and it would serve the community well. The possible land swap with the school was brought up, but it was not received well by the school. Nelson did state the committee has made a recommendation to the Council to move forward with this site with the projected budget and plans for phase 1 Kim Bruce has supplied. Dale stated her greatest concern is that we be in compliance. Gerald Loveland feels all things must be in compliance, he is not against what Bruce wishes to do, just wants it done correctly. Mr. Wilkie said let the dirt fly; just do it. Janet Loveland felt there were things that should be addressed: safety and signage. The phrase "just dirt" is not a good one. There are many options for the Council to consider other than just dirt. She stated there are several million dollars in grants available to the City per year. Dale said it appears that looking down the list phase 1 would put the park in compliance with the grant.

A motion was made by Dale and seconded by Nelson to approve up to \$1,500.00 for clearing of vegetation, installing proper signage, moving the dirt to a central location, port a potties, trash services and barriers, Phase 1 of the Bike Pump Track Park upon compliance with grant and the approval of Kathy Muir.

At the roll call:

Ayes: Heleker, Jensen, Nelson, Dale

Nays: Sands, Wickersham

The motion CARRIED.

- C. Gene Wilke storage containers –Mr. Wilkie asked for an extension for the removal of his storage containers at the airport. He has emptied them and posted them for sale online. He will continue to pay rent until they are gone. Wickersham said the Airport Committee had no issue with the extension.

A motion was made by Wickersham and seconded by Heleker to extend to Mr. Wilkie's storage of his containers at the airport to April 30, 2015 with the understanding he will pay rent until their removal.

- D. Carefree SCADA Services Proposal - Mayor Williams stated this was a budgeted item concerning the water systems. Cordova explained it is an annual subscription and yes it is in the budget. Jensen asked about the amount. Cordova answered it is \$290.00 a month.

A motion was made by Jensen and seconded by Dale to approve the Carefree SCADA proposal.

At the roll call:

Ayes: Dale, Jensen, Heleker, Nelson, Wickersham,  
Sands

Nays:

The motion CARRIED.

- E. Business License Renewals -All but one business has supplied complete information.

A motion was made by Heleker and seconded by Wickersham to grant the business listed that have completed the Renewal Application and the one not listed contingent upon the completion of Renewal Application.

The motion CARRIED.

## **DEPARTMENTAL REPORTS**

- A. Police Department – November 2014
- B. Treasurer's Report- November 2014 – Jensen questioned page 2 under Legislative item #543, he was surprised to see they have nearly used all their funds; do they come due all at once? Cordova answered she believed that to be the AIC dues. Jensen also had questions regarding building permits and inspections, the difference between page 1 item #322100 and Page 3 item #340 why the large difference? Sands explained the difference was because of our full time employee and when he left we had to pay out his vacation time.
- C. Parks & Rec Committee – December 3<sup>rd</sup>  
No comments heard.
- D. Airport Commission – December 8<sup>th</sup> Ray Wickersham reported that the committee had met with TO Engineering and they felt the meeting went really well. They do have a plan and they felt TO Engineering did a good job with their presentation of the work they are doing for the Airport.

- E. Library Commission – December 9<sup>th</sup> Nancy Dale reported that numbers are down for November at the Library and they felt it was due to the bad weather.
- F. Public Works Committee – December 15<sup>th</sup> Jeff Sands said Mary is gathering Specs for the permit. The Street Department is having work done on two trucks. He also stated the fall clean-up was about 100 loads less than last year also due to the bad weather. He commended the Street Department for their efforts even after the snow. All of the Christmas tree lights have been replaced with LED's so expenses there should be lower. The Mayor asked if anyone noticed that one tree was different from the rest. Can you find it?

**MAYORS COMMENTS**

Mayor Williams commented on our Christmas party and how hard Bobbie worked to get all involved in the games and pull it off so well. He mentioned attending the AIC Legislative committee meeting. It is a preview of what might be presented at legislature in the coming year. There may be Amendments to the Public Records Law. Wickersham and he learned while back about Public Defense Reform, about misdemeanor reclassification. Even though it appears the cities are a big burden many citations are actually state infractions. He thinks they will look at transportation funding again this year, some property tax exemption proposals, some things they are doing at the state level to promote economic development within the state. There is a big contingency across the state about a local option tax, the Mayor can't see that benefiting Payette as we are a border town. He wished everyone a Merry Christmas and a Happy New Year.

**CITIZEN'S COMMENTS**

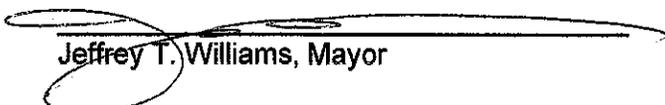
Ray Wickersham wished to give kudos to Chief Clark for the insight of purchasing body cameras, after the Ferguson thing, a pat on the back for seeing a lot of problems they can solve and thinking of that ahead of time. Nancy Dale just wanted to mention how much we appreciate Jamie and the Street Department for getting out there in the snow and cleaning up the streets, especially down there on 10th and Hwy 95 you do not have to worry about turning into a hole and not coming back out.

**ADJOURNMENT**

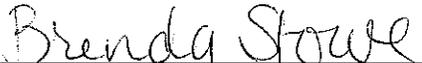
A motion was made by Heleker and seconded by Sands to adjourn the regular meeting at 8:33 PM.

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

Signed this 6<sup>th</sup> day of January, 2014.

  
Jeffrey T. Williams, Mayor

ATTEST:

  
Brenda Stowe, Administrative Services Clerk