

CITY OF POCA TELLO, IDAHO
CITY COUNCIL AGENDA
CLARIFICATION MEETING AND
REGULAR CITY COUNCIL MEETING
FEBRUARY 5, 2009

CLARIFICATION MEETING The City Council Agenda Clarification Meeting was called to order at 5:39 PM by Mayor Roger Chase. Council members present were Roger Bray, Ron Frasure, Gary Moore, Eva Johnson Nye, Robert Richway, and Brian Underwood. No motions, resolutions, orders, or ordinances were proposed. No vote was taken.

AGENDA ITEM NO. 1: The Regular City Council meeting was called to order at 6:02 PM by Mayor Roger Chase. Council members present were Roger Bray, Ron Frasure, Gary Moore, Eva Johnson Nye, Robert Richway, and Brian Underwood.

Mayor Chase led the audience in the pledge of allegiance.

AGENDA ITEM NO. 2: The invocation was given by Patricia Visser representing the Bahai Faith.

Mayor Chase announced that Agenda Item No. 8, an Agreement with Wildhorse Ridge Water and Homeowners Association, had been pulled from the agenda and will be considered at a later date.

AGENDA ITEM NO. 3: Council was asked to consider the following business items:

-MINUTES (a) Waive the oral reading of the minutes and approve the minutes from the Agenda Clarification and Regular City Council meetings of January 8, 2009, and January 15, 2009.

-PAYROLL AND MATERIAL CLAIMS (b) Payroll and materials claims for the month of January in the amount of \$4,759,464.70.

-CDBG ADVISORY COMMITTEE APPOINTMENT (c) Confirm the Mayor's appointment of Tami Lewis to serve as a member of the Community Development Block Grant (CDBG) Advisory Committee. Ms. Lewis' term will begin February 6, 2009, and will expire January 1, 2011.

-POCA TELLO YOUTH FORUM APPOINTMENT (d) Confirm the Mayor's appointment of Chelsie Blanchard to serve as a member of the Pocatello Youth Forum. Ms. Blanchard's term will begin February 6, 2009, and will expire in June of the year she graduates from high school.

-RATIFICATION (e) Ratify a Letter of Commitment and
COMMITMENT LETTER Memorandum of Understanding with Family
AND MEMORANDUM OF Services Alliance. The documents are a
UNDERSTANDING requirement of a Federal Grant that
Family Service Alliance applied for.

-VOLUNTEER INTERN (f) Approve Volunteer Intern Contracts with
CONTRACTS-GRIFFIN Christopher Griffin and Jamie Harmon.
AND HARMON Mr. Griffin and Ms. Harmon will serve as
research analysts and do work pertaining
to the Historic Preservation Commission's walking tour brochures
and the sustainability award application. The Contracts terms
are from February 9, 2009, to May 8, 2009.

-DAY CARE (g) Accept the recommendation of the Chief of
EMPLOYEE LICENSE Police and deny the Day Care Employee
DENIAL-GONZALEZ License of Laura D. Gonzalez.

A motion was made by Mr. Moore, seconded by Mr. Richway, to
approve consent agenda items 3(a) through 3(f) and to consider
3(g) as a separate agenda item. Upon roll call, those voting in
favor were Moore, Richway, Bray, Frasure, Nye, and Underwood.

Agenda Item 3(g) considering the recommendation of the Chief of
Police to deny the Day Care Employee License of Laura D.
Gonzalez was discussed at this time.

Mayor Chase stated that the Police Chief recommended denial of a
day care employee license for Miss Gonzalez because of her prior
criminal record as a juvenile and because she did not list some
offences that should have been listed on the application. Mayor
Chase added that it was Miss Gonzalez's opportunity to tell the
City Council what the past criminal offenses were and to provide
an explanation for those incidents in order to try to convince
the Council to over ride the Chief's recommendation and grant
her application for a Day Care License.

Laura Gonzalez read a statement outlining her request for a day
care employee license. Miss Gonzalez distributed copies of her
criminal history for the Council to view. She reviewed her
criminal history and why she should be able to continue her
employment at the day care.

Terry Felsman, Police Captain, gave an overview of the Police
Department's concerns regarding the day care license
application. He stated that Miss Gonzalez is 16 years old and
has items on her criminal history that has a bearing on the
application approval. Mr. Felsman stated that because Miss
Gonzalez is a minor he did not want to go further into her
criminal history.

Carol Grimes, 596 Hyde, Child Care Advisory Committee Secretary, stated that the Committee supports the Police Department's decision. The Committee feels the screening of applicants is in place for safety reasons. Ms. Grimes believes there are other types of jobs Miss Gonzalez could do until she is older.

In response to a question from Council, Dianne Brush, Licensing Enforcement Officer, stated that City Code requires day care employees to be at least 16 years of age and employees under the age of 18 years must be supervised at all times. Ms. Brush noted that although this day care provider may provide supervision, a different day care provider may not because they are not aware of the requirement.

Angela Blom, co-owner of A Beautiful Child Day Care, stated that she understands the validity of the Child Care Advisory Committee's concerns. However, she questioned why government agencies would spend the money to rehabilitate people if they are not going to be given a second chance. Ms. Blom assured the Council that Miss Gonzalez would be supervised at all times. In addition, she would not be supporting Miss Gonzalez if she did not feel the children would be safe.

Linda Gonzalez, A Beautiful Child Day Care Supervisor, and also Miss Gonzalez's mother, stated that she knows the criminal history but feels the children will be cared for safely.

Kim Spivey, 752 North 10th Avenue, stated that she has been a friend of Miss Gonzalez for about 5 years. Miss Spivey stated that Miss Gonzalez loves children and feels that parents trust her.

Breanne Carter, 475 Chickadee, stated that she works at A Beautiful Child Day Care. Miss Carter believes that Miss Gonzalez has an upbeat attitude and the children adore her

Discussion continued regarding the criteria and responsibilities of day care providers and child safety concerns.

Mayor Chase and the Council stated that these types of decisions are difficult and the children's safety is the highest concern.

A motion was made by Mr. Underwood, seconded by Mr. Moore, to postpone Agenda Item No 3(f) for two weeks to allow for additional research on the information that was provided.

In response to a question from Council, Linda Gonzales stated that she would allow the Council to review her daughter's juvenile record documents. She added that Laura's Probation Officer was willing to provide information but then found that state regulations would not allow him to do so.

Mr. Underwood's motion was voted upon at this time. Upon roll call, those voting in favor were Underwood, Moore, and Frasure. Bray, Nye, and Richway voted in opposition to the motion. Due to a tie in the voting Mayor Chase was required to cast the deciding vote. Mayor Chase voted against the motion. Therefore, the motion failed.

No further motions were made.

Mayor Chase stated that since no further motions were made the license was denied.

Mayor Chase welcomed members from Scout Troop 331.

AGENDA ITEM NO. 4: Mayor Chase proclaimed February 1 through COMMUNICATIONS 7, 2009, as Clergy Appreciation Week in PROCLAMATIONS Pocatello and encouraged citizens to take time to show their appreciation and support to local clergy.

Members of the Bannock Civitans received the proclamation and stated that they were happy to recognize the clergy in the community.

Mayor Chase declared February 2, through February 6, 2009, as Teen Dating Violence Awareness and Prevention Week and urged citizens to increase their awareness of dating violence in our community.

Sarah Leeds, Family Services Alliance Executive Director, accepted the proclamation. Ms. Leeds stated that they are educating young people on safe dating practices to help prevent teen dating violence.

AGENDA ITEM NO. 5: Mayor Chase reminded the Council of the CALENDAR REVIEW February 12th Study Session at 9:00 AM and the February 19th Regular Council meeting at 6:00 PM.

Mayor Chase announced that citizens can still pre-register for the curb side recycling program; that the Call of the Wild Sweetheart Brunch and Tour will be held at the Pocatello Zoo on February 14th; and that City offices will be closed on February 16th for President's Day. However, garbage pick-up will be on schedule.

AGENDA ITEM NO. 6: Mayor Chase announced that there were no DISCUSSION ITEMS discussion items from the audience.

AGENDA ITEM NO. 7: Council was asked to consider a request
APPEAL OF TAXICAB from Gary Dee Shatto appealing the Police
DRIVER'S LICENSE Chief's decision to deny him a Taxicab
DENIAL-SHATTO Driver's License.

Terry Felsman, Police Captain, reviewed the Chief's recommendations for denial of the taxi cab license. Mr. Felsman noted that possession of a controlled substance is a reason a taxi cab driver license application can be denied.

Gary Shatto, 3968 Stockman Road, stated that he is appealing the Chief's recommendation for denial because he has been a taxi cab driver for 8 years. Mr. Shatto admitted to making mistakes in his past but feels he has become a good citizen. Mr. Shatto provided handouts to the Council showing that he was approved by the Transportation Security Administration.

In response to questions from Council, Mr. Shatto stated that he was granted a waiver when he applied for his taxi cab license 8 years ago. He was charged with drug paraphernalia a couple of times during the 8 years but was able to get back on his feet again. Obtaining a taxi cab license does not require drug testing but Mr. Shatto stated that he would submit to a drug test if it would help him obtain his license.

A motion was made by Mr. Underwood, seconded by Mrs. Nye, to allow Gary Shatto to reapply for a taxi cab driver license in July 2009 with the condition that he must provide clean drug test results from the same provider used by Idaho Probation and Parole.

Dianne Brush, License Enforcement Officer, described the individuals who typically use taxi cab services in Pocatello. Ms. Brush stated that these individuals are usually disabled or elderly and asked the Council to keep this in consideration when making a decision.

Captain Felsman stated that Mr. Shatto did not disclose the second drug charge when completing his taxi cab application and feels that Mr. Shatto violated the conditions under which his taxi cab license was issued.

Mr. Underwood's motion was voted upon at this time. Upon roll call, those voting in favor were Underwood, Nye, Bray, Frasure, and Moore. Richway voted in opposition to the motion. The motion passed.

Mayor Chase welcomed members from Boy Scout Troop 351.

AGENDA ITEM NO. 8: As announced earlier, the request to AGREEMENT-WILDHORSE approve an Amended and Restated Agreement RIDGE WATER AND between the City and Wildhorse Ridge HOMEOWNERS Water and Homeowners Association ASSOCIATION clarifying and restating the previous Agreement entered into by the parties in 1998 had been pulled from the agenda.

AGENDA ITEM NO. 9: Council was asked to approve a Use USE AGREEMENT Agreement between the City and Rick -POCATELLO MOTOCROSS Morrison doing business as Pocatello ONE DAY EVENT Motocross Park for the use of City property adjacent to the Motocross Park for a one day enduro cross country event on March 14, 2009.

A motion was made by Mr. Bray, seconded by Mr. Moore, to approve a Use Agreement, subject to Legal Department approval, with Rick Morrison for the use of City property for a one day enduro cross event on March 14, 2009. Upon roll call, those voting in favor were Bray, Moore, Frasure, Nye, Richway, and Underwood.

In response to a question from Council, Rick Morrison, Pocatello Motocross Park, stated that their races draw approximately 500 attendees and 1500 attendees for special events such as the enduro cross country event. Mr. Morrison thanked the Mayor, Council, and David Allen, Pocatello Airport Director, for all of their assistance.

AGENDA ITEM NO. 10: Council was asked to consider a request "COUNCIL SELECT" by the Pocatello Charter School, FUNDING REQUEST represented by Billie Johnson, for -POCATELLO COMMUNITY "Council Select" funds in the amount of CHARTER SCHOOL \$466.00. The funds will pay Conditional Use Permit application fees associated with construction of a wind turbine. As of January 30, 2009, there was \$10,000.00 in the "Council Select" line item.

Billie Johnson, 435 University Drive, stated that she is a volunteer at the charter school and became aware of the wind turbine project for schools program. Ms. Johnson felt the program would be a great educational opportunity for the Charter School. She stated that the turbine has already been ordered and the school is still in the process of getting donations for the project.

In response to a question from Council, Ms. Johnson stated that curriculum materials will be available for students to use in conjunction with the wind turbine program. The turbine does not produce a great amount of electrical power but is mainly for educational purposes only.

Mayor Chase explained that the Council receives multiple requests for Council Select funds from the school district and other groups. Even though many of the projects are worthwhile and supported by the Council, "Council Select" funding is not always approved.

A motion was made by Mrs. Nye, seconded by Mr. Richway, to approve the request to use "Council Select" funds in the amount of \$466.00 to pay Conditional Use Permit application fees associated with the construction of a wind turbine for the Pocatello Charter School.

Mr. Frasure stated that "Council Select" funds are to be allocated for non-profit groups with limited financial resources and the school does have fund raising capabilities.

Mr. Bray stated that he felt by approving the request it would set a precedent for future requests from schools. Mr. Bray outlined how the Council has tried to develop a policy for "Council Select" funds and would like the Council to adhere to the plan. By approving one school's request he feels it will open the door for all of the schools to request funds.

Mrs. Nye's motion was voted upon at this time. Upon roll call, those voting in favor were Nye, Richway, and Underwood. Bray, Frasure, and Moore voted in opposition to the motion. Due to a tie in the voting, Mayor Chase was required to cast the deciding vote. Mayor Chase voted against the motion. Therefore, the motion failed.

AGENDA ITEM NO. 11: Council was asked to consider a request
SHORT PLAT from Kathryn AlMBERG of Downtown Housing
-WHITMAN Development, LP, (mailing address: PO Box
CONDOMINIUMS 6943, Boise ID 83707), represented by
John Elle of A & E Engineering (mailing
address: PO Box 1327, Pocatello ID 83204), regarding a short
plat to subdivide the Whitman Hotel at 122 South Main Street
into 6 condominium units. The property is located in the
Central Commercial zoning district which has a Historic
Preservation overlay. The plat is to be known as Whitman
Condominiums. The Planning and Zoning Commission considered
that request on January 14, 2009, and recommended approval with
conditions.

Michelle Pak, Associate Planner, gave an overview of the short plat and the request. Ms. Pak stated that staff evaluated the application and recommended approval with the following conditions: 1) the subdivision plat shall conform to all state and local laws and ordinances including the State Condominium Property Act; 2) notes on the plat shall be approved by City Engineering staff and prior to recording Architectural details

(i.e. interior division walls, fixtures, etc.) shall be removed from the plat; 3) the Condominium Declaration of Covenants, Conditions, and Easements shall be submitted, reviewed and approved by the City Attorney; and 4) all other standards or conditions required by Municipal Code not herein stated but applicable to commercial and residential development shall apply.

In response to questions from Council, Ms. Pak gave an overview of the plans for parking which included using the Union Pacific parking lots near the building. Lighting for tenant's safety and clean up of littering of the parking lot was also discussed.

Kathryn Alberg, Downtown Housing Development, LP representative, reviewed how parking lot safety concerns have been addressed. Ms. Alberg stated that there are two entrances for the building. She anticipates that the back entrance on the Union Pacific parking lot side will be used the most because of parking time limitations on Main Street. Ms. Alberg stated that the entrance door has been restored with new glass. The rear of the building is well lighted, has locking entry, and is secure. Parking is also within walking distance of the building with crosswalks for the tenants.

A motion was made by Mr. Moore, seconded by Mr. Frasure, to approve a short plat to subdivide the Whitman Hotel at 122 South Main Street into 6 condominium units, subject to staff conditions and that the Decision be set out in appropriate Council Decision format. Upon roll call, those voting in favor were Moore, Frasure, Bray, Nye, Richway, and Underwood.

AGENDA ITEM NO. 12: Council was asked to approve an
WATER RIGHTS Assignment and Assumption of Agreement
PURCHASE for the purchase of additional water
rights for the City. The documents would
provide for the City to purchase up to 10.96 shares of water in
the McCammon Ditch Company which diverts water from the Portneuf
River pursuant to water rights that have been decreed in the
Snake River Basin Adjudication. The purchase price is
\$19,600.00 per share.

In response to questions from Council, Dean Tranmer, City Attorney, confirmed that the proposed water rights have been reviewed by city staff and will benefit the City in future water issues. Mr. Tranmer reviewed the transfer application process that the City will need to go through after ownership of the water rights has been obtained. He also outlined the amount of water that could eventually flow into the Portneuf River as a result of the water right purchase.

Mayor Chase stated that only a few water shares are being purchased at this time to make sure the diversion process is working properly. If the water director approves the diversion and transfer points, the City hopes to purchase more water rights.

A motion was made by Mr. Underwood, seconded by Mrs. Nye, to approve an Assignment and Assumption of Agreement for water rights, subject to Legal Department approval, for the purchase of up to 10.96 shares of additional water rights in the McCammon Ditch Company in the amount of \$19,600.00 per share. Upon roll call, those voting in favor were Underwood, Nye, Bray, Frasure, Moore, and Richway.

AGENDA ITEM NO. 13: Council was asked to authorize the PROPERTY PURCHASE purchase of the vacant property at the -SOUTH FIRST corner of East Halliday and South First AVENUE Avenue from the Idaho Foodbank Warehouse, Inc., at a price to be negotiated by Planning and Development Services staff based on its fair market value, but not to exceed the dollar figure discussed at the September 4, 2008, Executive Session. The property will be used for development of a public parking lot. Funding for the purchase and improvement of the lot is through Community Development Block Grants and potential other grant monies; no use of general funds is anticipated.

A motion was made by Mr. Moore, seconded by Mr. Frasure, to approve the purchase of the vacant property at the corner of East Halliday and South First Avenue from the Idaho Foodbank Warehouse, Inc., at a price to be negotiated by Planning and Development Services staff based on its fair market value, but not to exceed the dollar figure discussed at the September 4, 2008, Executive Session. Upon roll call, those voting in favor were Moore, Frasure, Bray, Nye, Richway, and Underwood.

AGENDA ITEM NO. 14: Council was asked to approve a Merchant AGREEMENT-HEARTLAND Services Agreement with Heartland Payment PAYMENT SYSTEMS Systems to process credit card and debit card payments. Heartland offered lower costs than the present agreement and the Joint Purchasing

Committee, formed from the Finance and Information Technology Departments, recommended approval.

A motion was made by Mr. Frasure, seconded by Mr. Richway, to approve a Merchant Services Agreement with Heartland Payment Systems to process credit card and debit card payments.

Kevin Wakeman, 562 Euclid, is employed at Idaho State University Federal Credit Union and the Credit Union was notified of a

breach in the Heartland Payment Systems. He does not know if the Joint Purchasing Committee had the information about the breach when making their recommendation but wanted to make the Council aware of the breach.

Jerry Higgins, City Treasurer, stated that according to the information the Finance Office received from Heartland, the breach did not allow any names or numbers to be released. Mr. Higgins added that Heartland has hired individuals to repair the breach and he has been assured that they are taking care of the situation.

Mr. Frasure amended his motion to approve the Merchant Services Agreement with Heartland Payment Systems to process credit card and debit card payments with the condition that the Finance and Legal Departments ensure that the company can provide safe transactions and to verify if other merchant services were also affected by the breach.

Mr. Richway accepted the amendment.

In response to a question from Council, Mr. Tranmer stated that he believes there is a clause in the proposed contract that would allow the City to terminate if a breach is made and will ensure that this is added if found the clause is not already included in the contract.

Mr. Wakeman stated that VISA supplied their Credit Union with a list of cards that were affected by the Heartland Merchant breach and the Credit Union is in the process of reissuing cards to 50 percent of their members. He also reviewed the information that was breached and stated that it is estimated that a large number of credit cards were involved.

Mr. Frasure withdrew his motion.

A motion was made by Mr. Bray, seconded by Mr. Frasure, to postpone action on Agenda Item 14 until more information on the breach can be obtained by Finance staff. Upon roll call, those voting in favor were Bray, Frasure, Moore, Nye, Richway, and Underwood.

AGENDA ITEM NO. 15: Council was asked to authorize the Police SURPLUS PHONE SALE Department to sell 132 surplus phones -POLICE DEPARTMENT to the following companies: 84 phones to Simply Sellular for a price of \$437.00, and 48 phones to Pace Butler Corporation for a price of \$172.00. Total to be paid to the City of Pocatello is \$609.00.

A motion was made by Mr. Moore, seconded by Mrs. Nye, to authorize the Police Department to sell surplus phones to Simply

Sellular in the amount of \$437.00 and to Pace Butler Corporation in the amount of \$172.00. Upon roll call, those voting in favor were Moore, Nye, Bray, Frasure, Richway, and Underwood.

AGENDA ITEM NO. 16: Council was asked to consider an ORDINANCE changing the designated zone of -ZONE DESIGNATION approximately 7.37 acres of a portion of TUSCANY HILLS Lot 1, Block 1, Tuscany Hills Subdivision SUBDIVISION located off of Vista Drive from Residential Medium Density-single Family and Residential Estates to Residential-Commercial-Professional.

A motion was made by Mr. Frasure, seconded by Mr. Moore, that the ordinance, Agenda Item 16, be read only by title and placed on final passage for publication, and that only the ordinance summary sheet be submitted for publication. Upon roll call, those voting in favor were Frasure, Moore, Bray, Nye, Richway, and Underwood.

Dean Tranmer, City Attorney, read the ordinance by title.

Mayor Chase declared the final reading of the ordinance changing the designated zone of approximately 7.37 acres of a portion of Lot 1, Block 1, Tuscany Hills Subdivision located off of Vista Drive. Mayor Chase asked "Shall the ordinance pass?" Upon roll call, those voting in favor were Bray, Frasure, Moore, Nye, Richway, and Underwood. Mayor Chase declared the ordinance and summary sheet passed, that it be numbered 2862 and be submitted to the Idaho State Journal for publication.

There being no further business, Mayor Chase adjourned the meeting at 7:39 PM.

APPROVED BY:

ROGER W. CHASE, MAYOR

ATTEST:

RHONDA L. JOHNSON, MMC, CITY CLERK

PREPARED BY:

RUTH E. WHITWORTH, CMC, DEPUTY CLERK