

CITY OF POCA TELLO, IDAHO  
CITY COUNCIL AGENDA  
CLARIFICATION MEETING AND  
REGULAR CITY COUNCIL MEETING  
MARCH 4, 2010

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CLARIFICATION MEETING                      The City Council Agenda Clarification Meeting was called to order at 5:32 PM by Mayor Brian Blad. Council members present were Roger Bray, Craig Cooper, Ron Frasure, Gary Moore, Eva Johnson Nye, and Brian Underwood. No motions, resolutions, orders, or ordinances were proposed. No vote was taken.

REGULAR CITY COUNCIL MEETING

AGENDA ITEM NO.            1:    The Regular City Council meeting was called to order at 6:04 PM by Mayor Brian Blad. Council members present were Roger Bray, Craig Cooper, Ron Frasure, Gary Moore, Eva Johnson Nye, and Brian Underwood.

Mayor Blad led the audience in the pledge of allegiance.

AGENDA ITEM NO.            2:    The invocation was given by Pastor Bill Levy of Calvary Alliance Church.

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 meeting of February 4, 2010; the Study Session of February 11, 2010; the Executive Session of February 18, 2010; and the Agenda Clarification and Regular Council meeting of February 18, 2010.

-PAYROLL AND MATERIAL CLAIMS            (b)    Payroll and material claims for the month of February in the amount of \$5,768,032.42.

-COMMUNITY DEVELOPMENT BLOCK GRANT ADVISORY COMMITTEE APPOINTMENT            (c)    Confirm the Mayor's appointment of Cass Fonnesbeck to serve as a member of the Community Development Block Grant Advisory Committee, replacing Alyce Sato whose term expired. Ms. Fonnesbeck's term will begin March 5, 2010, and will expire January 2, 2013.

-PROPERTY MAINTENANCE APPEALS BOARD APPOINTMENTS            (d)    Confirm the Mayor's appointments of Gene Stanislawski and Jonathan Vincent to serve as members of the Property Maintenance Appeals Board to fill long-term vacancies. Both terms will begin March 5, 2010, and will expire March 5, 2012.

-SISTER CITIES COMMITTEE REAPPOINTMENT (e) Confirm the Mayor's reappointment of Ken Hobbs to continue his service as a member of the African Sister Cities Subcommittee. Mr. Hobbs' term will begin March 15, 2010, and will expire March 15, 2014.

-DAY CARE RESIDENT LICENSE DENIAL-RUEDA (f) Accept the recommendation of the Chief of Police and deny the Day Care Resident License of Alejandra Rueda.

A motion was made by Mr. Bray, seconded by Mr. Moore, to approve Consent Agenda items 3(a) through 3(e). Upon roll call, those voting in favor were Bray, Moore, Cooper, Frasure, Nye, and Underwood.

Agenda Item 3(f) asking the Council to accept the recommendation of the Chief of Police and deny the Day Care Resident License of Alejandra Rueda was considered at this time.

A motion was made by Mr. Bray, seconded by Mr. Moore, to approve the Day Care Resident License for Alejandra Rueda.

In response to a question from Council, Ms. Rueda acknowledged that she understands that she cannot care for any of the children attending the day care.

Mr. Bray's motion was voted upon at this time. Upon roll call, those voting in favor were Bray, Moore, Cooper, Frasure, Nye, and Underwood.

AGENDA ITEM NO. 4: Mayor Blad announced that there were no COMMUNICATIONS AND PROCLAMATIONS communications or proclamations.

AGENDA ITEM NO. 5: Mayor Blad reminded the Council of the March CALENDAR REVIEW 11<sup>th</sup> Study Session at 9:00 AM immediately followed by Service Level Reports; the March 18<sup>th</sup> Service Level Reports at 9:00 AM; and the March 18<sup>th</sup> Regular City Council meeting at 6:00 PM.

Mayor Blad announced that the Water Department Open House at 306 W. Pine will continue through 1:00 PM Friday, March 5<sup>th</sup>; a Living Wills Program would be held at Marshall Library on March 15<sup>th</sup> from 10:00 AM to 12:00 noon; and that the 2010 Census forms will arrive this month. He noted that the census form is the shortest form in history with only 10 questions that should take citizens 10 minutes to complete.

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

AGENDA ITEM NO. 7: Council was asked to consider staff  
BIDS recommendations on the following bids:

-WATER (a) Staff recommended awarding the bid for the  
WHEELED TOOL- lease of a wheeled tool-carrier/loader, to  
CARRIER/LOADER Western States Equipment Company, who  
submitted the low bid for a five year lease  
with annual payments of \$16,518.69. The purchase price of the  
equipment is \$194,734.66.

-WATER (b) Staff recommended awarding the bid for the  
DOUBLE-DRUM lease of a double-drum asphalt compactor to  
ASPHALT COMPACTOR Western States Equipment Company, who  
submitted the low bid for a five year lease  
with annual payments of \$5,651.04. The purchase price of the  
equipment is \$53,671.19.

-ZOO (c) Staff recommended awarding the bid for  
GRIZZLY BEAR construction the Pocatello Zoo's Grizzly  
EXHIBIT BUILDINGS Exhibit buildings to Wellard Constructor's  
Inc., who submitted the low bid in the  
amount of \$294,145.00.

A motion was made by Mr. Underwood, seconded by Mr. Cooper, to accept the recommendation of staff on bids 7(a) and 7(b) and on item 7(c) reject all bids and authorize the re-bidding of the project once the bid forms are corrected.

Dean Tranmer, City Attorney, reviewed the reason bids for agenda item 7(c) were determined to be non-responsive. He explained that the bid documents did not have the correct information as a result of some confusion by all of the parties. Mr. Tranmer recommended that all bids for the Zoo be rejected and the project be re-bid with the condition that the bid forms be amended to provide for placement of listing the specialty contractors on the forms.

Mr. Underwood's motion was voted upon at this time. Upon roll call, those voting in favor were Underwood, Cooper, Bray, Frasure, Moore, and Nye.

AGENDA ITEM NO. 8: Council was asked to authorize making the  
REVISING APPENDIX following changes to the list of approved  
OF RESOLUTION #2003-12 investment firms as stated in Appendix "A"  
of Resolution #2003-12: 1) remove Edward D.  
Jones & Co., US Bancorp, and Mischler Financial Group from the list  
and 2) add First Empire Securities to the list.

A motion was made by Mr. Moore, seconded by Mrs. Nye, to authorize changes to the list of approved investment firms as stated in Appendix "A" of Resolution (#2003-12) to remove Edward D. Jones & Co., US Bancorp, and Mischler Financial Group from the list and add

First Empire Securities to the list. Upon roll call, those voting in favor were Moore, Nye, Bray, Cooper, Frasure, and Underwood.

AGENDA ITEM NO. 9: Council was asked to approve, subject to MEMORANDUM OF UNDERSTANDING-SMITH D/B/A BANNOCK BASEBALL Legal Department approval, a Memorandum of Understanding (MOU) with Travis Smith d/b/a Bannock Baseball to cooperatively run the Bannock Baseball program.

A motion was made by Mrs. Nye, seconded by Mr. Cooper, to approve, subject to Legal Department approval, a MOU with Travis Smith d/b/a Bannock Baseball to cooperatively run the baseball program.

Mr. Underwood noted that during a Study Session information was provided by Jerry Sepich, Parks and Recreation Director, who has worked with Bannock Baseball and Mr. Smith on the MOU. He feels the MOU will benefit everyone involved.

Mr. Cooper stated that the MOU is scheduled to be reviewed after the end of the baseball season to see how the cooperative effort has worked.

Mrs. Nye's motion was voted upon at this time. Upon roll call, those voting in favor were Nye, Cooper, Bray, Frasure, Moore, and Underwood.

AGENDA ITEM NO. 10: Council was asked to consider submitting the GRANT APPLICATIONS following grant applications and if the grants are awarded authorize the Mayor to accept the grants and sign related documents, subject to Legal Department approval. The grants are as follows:

-ZOO IDAHO FISH AND WILDLIFE FOUNDATION (a) A grant in the amount of \$5,000.00 from Idaho Fish and Wildlife Foundation, to assist with constructing the Grizzly Bear

Exhibit. The \$5,000.00 match will be supplied by the Pocatello Zoological Society.

-ZOO IFFT FOUNDATION (b) A grant in the amount of \$10,000.00 from the IFFT Foundation Fund to assist with construction of the Grizzly Bear Exhibit. No matching funds are required.

-ZOO IDAHO COMMUNITY FOUNDATION (c) A grant in the amount of \$5,000.00 from the Idaho Community Foundation, to assist with constructing the Grizzly Bear Exhibit. No matching funds are required.

A motion was made by Mr. Frasure, seconded by Mrs. Nye, to approve grant applications as outlined in 10(a) through 10(c) and if the

grants are awarded, authorize the Mayor to accept the grants and sign related documents, subject to Legal Department approval. Upon roll call, those voting in favor were Frasure, Nye, Bray, Cooper, Moore, and Underwood.

AGENDA ITEM NO. 11: Council was asked to authorize the Police Department to auction the old D.A.R.E. car and allow the proceeds from the auction to go to the Bannock County D.A.R.E. program.

AUCTION AUTHORIZATION  
-D.A.R.E. CAR

A motion was made by Mr. Cooper, seconded by Mr. Bray, to authorize the Police Department to auction the old D.A.R.E. car and allow the proceeds from the auction to go to the Bannock County D.A.R.E. program. Upon roll call, those voting in favor were Cooper, Bray, Frasure, Moore, Nye, and Underwood.

AGENDA ITEM NO. 12: Council was asked to approve, subject to Legal Department approval, a Memorandum of Understanding (MOU) with various agencies in the area to assist Idaho State University (ISU) in their request for a Department of Justice Violence Against Women Grant. The MOU requires the City to expand Domestic Violence/Sexual Assault Training to ISU Public Safety personnel as well as provide other services.

MOU-VIOLENCE  
AGAINST WOMEN

A motion was made by Mr. Bray, seconded by Mr. Moore, to approve, subject to Legal Department approval, a MOU with various agencies in the area to assist ISU in their request for a Department of Justice Violence Against Women Grant.

Mr. Bray stated that he wished the wording of the grant was written more clearly. He felt that it did not articulate the type of grant it truly is since the MOU will strive to promote and detour all violence against women.

Mr. Bray's motion was voted upon at this time. Upon roll call, those voting in favor were Bray, Moore, Cooper, Frasure, Nye, and Underwood.

AGENDA ITEM NO. 13: Council was asked to approve, subject to Legal Department approval, a Memorandum of Understanding (MOU) with various agencies in the area to authorize the interested parties to assist Family Services Alliance in their request for a grant to enhance training and services to end elder abuse in southeast Idaho. The MOU lists various responsibilities for the Pocatello Police Department.

MOU-END ELDER ABUSE  
IN SOUTHEAST IDAHO

A motion was made by Mr. Moore, seconded by Mrs. Nye, to approve, subject to Legal Department approval, a MOU with various agencies in the area to authorize the interested parties to assist Family Services Alliance in their request for a grant to enhance training and services to end elder abuse in southeast Idaho. Upon roll call, those voting in favor were Moore, Nye, Bray, Cooper, Frasure, and Underwood.

AGENDA ITEM NO. 14: Council was asked to approve the purchase of LAND PURCHASE-WPC 88.70 acres of farmable ground, along with BIOSOLIDS APPLICATION associated water rights, wells, pumps, and center pivot irrigation system. The land will be used for the Water Pollution Control (WPC) Department's biosolids application program. The cost of purchase is \$656,750.00 and funds are available in the WPC budget for the purchase.

A motion was made by Mr. Moore, seconded by Mrs. Nye, to approve the purchase of 88.70 acres of farmable ground, in the amount of \$656,750.00, along with associated water rights, wells, pumps, and center pivot irrigation system for the WPC Department's biosolids application program.

In response to questions from Council, Jon Herrick, Water Pollution Control Superintendent, stated that the value of the property cannot be determined by comparing it to other land in the area. He described the unique features of the land; that it is located within the City's EPA permit area; and additional land is being traded as part of the sale.

Council entered into more discussion about the use of the land for bio-solid applications, water front property for a NPDES permit, and that other properties may not allow for bio-solid application. It was again noted that the land is located within an EPA permit area which makes the land more valuable to the City.

In response to a question from the Council, Mr. Herrick explained the high cost of building a new sewage treatment plant as compared to purchasing the land. He further explained that the application of bio-solids is a much more effective use of WPC Department resources. Mr. Herrick noted that he has not looked at other land recently, but in the past there has not been any land available for purchase. He noted that land in the permit area is not readily available and does not come up for sale very often.

Mr. Frasure clarified that an ordinance for the property exchange follows this agenda item and the two items are tied together. He cautioned staff to make sure the City is not paying a higher price in each case when it may find comparable property elsewhere.

Mr. Herrick outlined that the City would receive a total of 140 acres which fits the needs of WPC plant and meets EPA criteria. Bingham Investments will turn around and lease the land back to the city for 10 years so the city can continue to use it for bio-solids application. He reiterated that the use of other lands for this purpose would need to go through the EPA process to determine if it qualified for bio-solid application.

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

AGENDA ITEM NO. 15: Council was asked to consider an ordinance  
ORDINANCE-GROUND to approve the exchange of 71.48 acres of  
EXCHANGE WITH bare ground owned by the City for 71.48  
BINGHAM INVESTMENTS acres of bare ground owned by Bingham  
Investments. (A public hearing on this  
matter was held on February 4, 2010, after which the Council  
directed the preparation of this ordinance.)

A motion was made by Mr. Underwood, seconded by Mrs. Nye, that the ordinance, Agenda Item 15, 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 Underwood, Nye, Bray, Frasure, and Moore. Cooper voted in opposition to the motion. The motion passed.

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

Mayor Blad declared the final reading of the ordinance approving the exchange of 71.48 acres of bare ground owned by the City for 71.48 acres of bare ground owned by Bingham Investments. Mayor Blad asked "Shall the ordinance pass?" Upon roll call, those voting in favor were Bray, Frasure, Moore, Nye, and Underwood. Cooper voted in opposition to the motion. The motion passed. Mayor Blad declared the ordinance and summary sheet passed, that it be numbered 2879 and be submitted to the Idaho State Journal for publication.

AGENDA ITEM NO. 16: This time was set aside for the Council to  
PUBLIC HEARING receive comments from the public on a  
-ANIMAL CONTROL proposed ordinance revising specific  
ORDINANCE REVISIONS sections of Title 6, Chapter 4, Animal  
Control, of the Pocatello Municipal Code,  
which revisions are proposed on Section 6.04.010 Definitions;  
Section 6.04.030 Nuisances Prohibited; Section 6.04.050 Vicious  
Conduct by Animals Prohibited-Penalties; Section 6.04.060 Restraint  
and Care of Vicious or Dangerous Animals; Section 6.04.120 Proper  
Care of Animals; and 6.04.170 Multiple Animal Housing Licenses.

Mayor Blad opened the public hearing.

Barbara Stone, Animal Shelter Advisory Board Chair Person, gave a brief history of the public meetings that have been held and the resources used to draft the animal control ordinance. Ms. Stone stated that the section regarding kennel permits in the draft ordinance had been pulled to allow for more investigation and review by the Board.

In response to a question from Council, Ms. Stone stated that only the proposed changes for the section regarding kennel permits was being pulled and not the entire section.

Mayor Blad announced that written correspondences were received from Sallee Gasser in support of the proposed changes and Steve Wallace who expressed concerns about increasing the number of dogs that are allowed before a kennel permit is required.

Nancy Greco, 442 South Garfield, thanked the Council for the opportunity to speak. Ms. Greco feels the Board has done a very good job to hear the interests and concerns of citizens. She really appreciates the difficulty that the shelter is put under with these types of situations. Ms. Greco noted that she walks a lot and often comes face-to-face with dogs. She feels that leash laws should be enforced so she can be less concerned with where she walks.

Beatrice Brailsford, 217 South Johnson, stated that she is a pet owner and feels the animal shelter and the City has done a lot of research regarding this issue. Ms. Brailsford emphasized the fact that we must all live together and need to respect each other's needs. She feels the proposed code has taken some proactive steps to address the care of pets and protection of citizens.

Susan Roper, 1550 Yellowstone #150, stated that she thought she was a responsible animal owner. However, over the past year, she discovered that she has not been a responsible owner. Ms. Roper reported that her dog is now enrolled in an obedience class and she feels that others should take similar steps to promote responsible pet ownership. Their group, Voices For Animals, would like to work together with Animal Control to find a resolution on the ordinance. She announced that a spokesperson for their group will speak on their behalf during the public hearing.

In response to a question from Council, Ms. Roper stated that their group is supportive of changes to the current ordinance but not all of the changes as drafted.

It was clarified that the opportunity to speak in an open forum is part of the public hearing process.

Kathy Seibert, 1665 Pocatello Creek Road, stated that she would like to give her 3 minutes to speak to the spokesperson for Voices For Animals.

Jane Guidinger, 723 Randolph, stated that she loves to train dogs and does not see anything written in the ordinance about rehabilitating dogs that have been in trouble. She would like to see such wording in the ordinance. Ms. Guidinger feels that some people do not understand that training dogs is just as important as feeding and training their pets. She added that dogs are predators and pack animals and need to be trained. Ms. Guidinger offered her services to help train animals at no cost and thanked the Animal Advisory Board for the work they have done.

In response to a question from Council, Ms. Guidinger stated that even trained dogs must be contained in order to keep them from running at large and possibly being run over by a vehicle.

Chuck Heisler, 98 Cedar Hills Drive, argued that their group has not been given unlimited opportunity to provide testimony. Mr. Heisler disagrees with the current ordinance and feels the draft ordinance is more complicated. He also feels that four dog owners have been put into a difficult situation because of the current ordinance. Consequently, Mr. Heisler stated that he would like the Council to suspend taking action on the section in the ordinance relating to vicious dogs until more review can be done.

Jim Morphey, 95 Cedar Hills Drive, stated that he was speaking on behalf of the Voices For Animals group. Mr. Morphey gave a public apology to Barbara Stone for comments made after a previous meeting. Mr. Morphey asked the Council to withhold any action on the ordinance until more information and dialog between both parties can take place. He suggested that the Council watch a DVD from an Animal Shelter Advisory Board meeting to know their group's concerns. Mr. Morphey also suggested that the Council go on the Idaho State Journal blog site to see comments from citizens regarding the vicious dog issue.

Mr. Morphey proceeded to convey that their group feels that a dog can be subjectively labeled as vicious and this label should not be easily given. Their group would like the City to adopt a tiered classification system similar to the one used by City of Idaho Falls. The group feels this would reduce costs and the frustration people feel with the current process. Mr. Morphey visited the Idaho Falls Animal Shelter to view their facility and spoke to the director. He then proceeded to report his experience at the shelter and offered more suggestions for change. In conclusion, their group would like the ordinance process to be delayed until their group can get with the Animal Shelter Advisory Board to go over these issues and consider an ordinance similar to the City of Idaho Falls.

In response to questions from Council, Mr. Morphey stated that Idaho Falls Animal Control staff determines which category a dog would be placed in. He added that if the dog owner disagrees with the determination, then the owner can appeal the decision. After 18 months the dog can be re-evaluated.

Council reviewed the suggestion that the dog be evaluated by a qualified behaviorist for animals. Discussion continued regarding the benefits and challenges of finding an animal behaviorist to determine a dog's personality. It was noted that one of the people who testified already stated that dogs are predators. Therefore, the Council must protect the public safety while determining whether or not an animal is vicious.

Mr. Bray stated that there are many people that are supportive of the current ordinance. However, these individuals are intimidated and will not speak out because of some of the dialog that has taken place. He added that a citizen has the right to walk down the street and not be fearful of being knocked down by a playful dog.

Discussion continued on how to develop a process to have dogs evaluated and then judged by a qualified professional while promoting responsible pet ownership.

Mary Remer, Animal Control Director, stated that she did research about animal behaviorists, and outlined the strict qualifications a behaviorist must meet. She reported that an internet search for local behaviorists resulted in locating one in Sun Valley and the others were out of state.

Additional discussion was held about the different training methods for dogs and qualifications for Animal Control officers in both Pocatello and Idaho Falls. It was determined that the Animal Shelter Advisory Board and Voices For Animals should work together in a more constructive atmosphere to resolve the differences.

Mike Seibert, 1665 Pocatello Creek Road, stated that he has watched the vicious animal issue. He feels that the current ordinance is not flexible enough to allow for abnormal circumstances. Mr. Seibert reviewed some of the items from the Idaho Falls ordinance.

Trudi Morphey, 95 Cedar Hills, stated that during previous meetings the group asked that certain words be omitted and other language added. She feels that the draft vicious dog ordinance is worse than the current ordinance and would like a Judge to determine what should be done to a dog. Mrs. Morphey shared highlights of her personal experience with their own dog running at large. She noted that for this reason, she is asking that the proposed ordinance be changed.

In response to a question from Council, Mr. Morphey, stated that he did not realize that their group could get their information to the Council in a different way beside an open forum. The Voices For Animals Group has been frustrated because City Code does not allow public comments in City Advisory Board meetings. He feels this may have caused everyone to take a defensive posture and the situation has digressed. The group is now ready to sit down with the Animal Shelter Advisory Board and consider other ideas.

Council had additional discussion outlining what each side of the population would like regarding the ordinance. As a result, it was the consensus of the Council to keep the Public Hearing open to allow more comments and information to be gathered before making a decision.

In response to questions from Council, Dean Tranmer, City Attorney, suggested different options in order to keep the public hearing open so it would not need to be advertised again.

Council talked about the suggestion of hiring a mediator that can bring both groups together to discuss their thoughts for the ordinance.

Mr. Moore noted that in the past, a Council member has met with a small group of representatives to discuss issues and to get their feedback. In turn, that feedback was brought back to the Council for consideration.

It was recommended that Mr. Frasure meet with representatives from Voices For Animals and the Animal Shelter Advisory Board to gather information and report his findings back to the Council. Mr. Frasure accepted the recommendation and agreed to meet with representatives to help resolve the impasse.

Council suggested that during the mediation meetings the representatives consider the following issues: a) support the professionalism of the animal control staff and go through the ordinance process; b) have the Voices For Animals group take the time to go through the existing proposal and re-write the proposal as a starting place; and c) both sides should come together to discuss areas they feel strongly about while keeping an open and constructive mindset.

A motion was made by Mr. Bray, seconded by Mr. Cooper, to extend the hearing to May 6, 2010, and that Mr. Frasure mediate the issue with representatives from both sides.

Mr. Tranmer clarified that the hearing will continue to May 6, 2010, at which time a mediated proposal will be the subject of the public hearing. He noted that the current ordinance remains in full force and affect.

More discussion was held listing suggested guidelines for the group's goals and measuring outcomes. Mrs. Nye offered to assist Mr. Frasure with the group. Mr. Frasure accepted her offer.

Mr. Bray's motion was voted upon at this time. Upon roll call, those voting in favor were Bray, Cooper, Frasure, Moore, Nye, and Underwood.

Mr. Frasure announced that individuals who wished to participate in the discussion regarding the ordinance submit their name and contact information to Mary Remer at the Animal Shelter. He did not want anyone to come back in 60 days and claim that they did not have an opportunity to let their voice be heard.

There being no further business, Mayor Blad adjourned the meeting at 8:21 PM.

APPROVED BY:

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BRIAN C. BLAD, MAYOR

ATTEST:

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RHONDA L. JOHNSON, MMC, CITY CLERK

PREPARED BY:

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RUTH E. WHITWORTH, CMC, DEPUTY CLERK