MINUTES
PAYETTE CITY COUNCIL
REGULAR MEETING
July 6, 2009

6:00 PM Public Hearing

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

A. **A request by Gerald & Jane Young to be de-annexed for property at 2875 Center Avenue, 35-9-5, portion of N1/2E1/2E1/2SWNE. The property is zoned A-Residential.**

Jane & Gerald Young – 2875 Center Ave; Payette, ID 83661

Mrs. Young stated that she had sent a letter to the Council and hopes they have read it. As stated in our letter no annexation regulations follow. Code 18.01.050 has not been done. No date of completion has been given. 18.01.090 has had a negative impact on citizens, and no development has been started which was the reason for our de-annexation. Developer Gene Lancaster informed us and other neighbors after the planning and zoning meeting on 5/28/09 that it was going to be at least 10 years or more before development would reach our area. We have had to write letters, phone calls, attend meeting and argue with the Council for over two years now, and still nothing is completed. Plus, the City will not plow all the way out to our property in the winter. We are retired and moved here to enjoy our retirement and that has not happened needless to say. How do you expect to offer your city for an expansion, when you treat new residents how you have treated us? Again, the two properties were excluded when we were annexed, four were discriminated against, and that is not fair. The City Attorney's response to our letter was too bad so sad, more or less. All expenses are on our backs including garbage and taxes. As stated before no city services, no development and your excuse was that it was not feasible years ago. We are requesting de-annexation at least until development reaches within 150 foot of our property line and not a year sooner, no change of developer's plans. The Planning and Zoning Committee agreed with our request and we will assume we will have a non-bias and non-personal decision from the Council.

Aaron Sobers – 2855 Center Ave; Payette, ID 83661

Mr. Sobers stated that he would have to agree with Jane everything that she said is true. We do not have anything from the City, and especially for them. They live quite a ways down and say you were going to put in a sewer system, it is going to cost a fortune to put in a sewer system all the way from the city street to their house. I just feel like they should be de-annexed and I would like to be de-annexed myself, but with their case I do feel for them. The things that we've talked about regarding Lancaster, he said that within 6 months to a year things were going to happen, and he told someone else that it would be five years to 10 years because of the economy. We also ask about the taxes. Me and Mr. And Mrs. Young pay city taxes, but our neighbor just down the road does not. If Mr. Lancaster is not going to develop for 5-10 years then why can't we pay our taxes then?

Alice Finicum Nicholson – 901 River St; Payette, ID 83661

Mrs. Nicholson stated that the City has been working on annexing her for the past 20 years. It seems like the people should have some say on whether property gets annexed or not. I am just throwing my lot in with the spare ones that are here.

Public hearing ended at 6:10 PM.

6:30 PM – PUBLIC HEARING

B. **The American Recovery and Reinvestment Act of 2009 was signed into law by President Obama on February 17, 2009. The Recovery Act provides funding for grants to assist state and local law enforcement to improve the functioning of the criminal justice system. The Payette Police Department has applied for these funds through the OJP to improve the department current law enforcement mission. The funds will be used to upgrade current technology and equipment. As a requirement of the application process, the Payette Police Department is making our application public for review and comment.**

No comments from the public were hears.

Public hearing ended at 6:32 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; Dave Platt, Police Captain; Alice Nicholson; Aaron Sobers; Nancy Sobers; Chad Boren; Barbara Choate

PLEDGE

Mayor Henderson led the Pledge of Allegiance.

APPROVAL OF MINUTES

Heleker moved and Mussell seconded a motion to approve the meeting minutes of 06/15/09 as written.

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

APPROVAL OF BILLS & PAYROLL

A motion was made by Williams and seconded by Hanigan to approve the City Bills & Payroll in the amount of $398,178.22

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. 5/28/09 Regular Meeting Minutes

OLD BUSINESS
None Heard.

NEW BUSINESS

A. Ordinance 1305 – An Ordinance of the City of Payette, Idaho, Authorizing and Providing for the Issuance of a Parity Lien Sewer Revenue Bond, Series 2010, in the Amount of $1,335,000, for the Purpose of Financing the Acquisition, Construction and Installation of Improvements to the Sanitary Sewer System of the City of Payette, Payette County, Idaho; Describing the Bond; Providing for the Collection and Disposition of Revenues; Providing for the Payment of the Principal and of Interest on the Bond; Establishing Funds and Accounts; Providing Covenants Relating to the Bond; Providing for the Sale of the Bond to the United States of America; Providing for Related Matters; and Providing an Effective Date
   ~ First Reading

Mussell moved and Cochran seconded a motion to suspend the rules and introduce Ordinance 1305 by title only.

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

Mayor Henderson stated that Ordinance 1305 will authorize the issuing of bonds for the purpose of the construction of the new clarifier that we passed in the bond election about a 1 ½ years ago. Councilor Williams asked if the Ordinance was drafted by our bond attorney, and was it reviewed by our City Attorney. Councilor Williams asked if Clerk Cordova if she feels comfortable that enough eyes have looked at this. Clerk Cordova stated yes we do, and the City Attorney has reviewed the summary form. Councilor Mussell asked why we had to suspend the rules when we are introducing it. Clerk Cordova stated that if we don't suspend the rules to read it by title only you have to read the entire ordinance.

Mussell moved and Cochran seconded a motion to suspend the rules and pass Ordinance 1305 on its first reading.

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

Mussell moved and Heleker seconded a motion that Ordinance 1305 do pass.

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

B. Special Event Permit for Valley Family Health

Hanigan moved and Williams seconded a motion to approve the special event permit application for Valley Family Healthcare.

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

C. Request to Waive All Charges Associated with Garbage Collection - Barbara Choate

Barbara Choate – 735 So 12th St; Payette, ID

I am here to ask you not to charge me for trash service that we don't receive. We purchased our home in 1990 and were in the county at that time and would routinely take our trash to the dump. In 2000 we were annexed and in 2001 our taxes doubled. I live 600 foot off of 12th Street and that is a long ways to drag a 9 gallon cart on a gravel road. Granted it is perhaps laziness on my part, but I have a trash receptacle at my home that I regularly take to the dump. I have never received a ticket for taking anything to the dump, never had it uncovered to receive a penalty or any of those kinds of things. I also have never received any complaints from my neighbors for my trash not property being taken care of. I also understand that when a home is empty you can call and have those fees taken off of your city bill, and they look at your water and sewer usage to see that no one is there. I don't have city water and I don't have city sewer so there is no way for me to prove to you that I am not using those services. So I am asking that you not to charge me those fees and I don't think Hardin Sanitation expects to get paid for services that they are not doing. Also, the city's 12% franchise fee would be on the $13.10 is 40 cents, so I don't think it is a hardship to the city to waive those fees. Mayor Henderson stated that Hardin does not come out to your area is that what you are saying. Mrs. Choate stated that they do not come down her lane; they do come down 12th Street. Mayor Henderson stated that if you did take it down to the end of the lane they would pick it up. Mrs. Choate stated yes that is true. Councilor Mussell asked why we made it to where people cannot opt out on that. Mayor Henderson stated that the main reason that most cities do it is just because if you open this box you will have people in here every two weeks to opt out of this service. The main reason to have people do this is if someone has an issue where they have code violation of trash in their yard or whatever we can say universally everyone has trash collection and so there is really no excuse for that to happen. Councilor Mussell stated that he does see the point and if they are not using water and sewer and in her case having to drag it down the lane that is a hardship that she shouldn't have to put up with.

Mayor Henderson stated that he would caution you that if you do make a motion to do this to make sure in the motion you say something along the lines of if they don't have

water and sewer, and we don't want this to be something that you widely consider. Councilor Mussell stated that he could see how it could get out of hand. Councilor Mussell stated that water and sewer aside, if we are going to look at doing this we need to be careful about showing the hardship of distance from where they pick it up, because if we don't we are going to have a lot of people coming in saying that they have to take a certain distance also. I understand that this kind of an extreme case, but there is going to be a lot of people saying they don't come right to my curb and I have to take it 50 feet and I don't want to do it. Mayor Henderson stated that Mrs. Choate hauls her garbage to the dump every week, but we are going to have someone else who wants opt out that think they can pile it in their four dead pickups in their back yard until they are all full, and then it is time to take it to the dump.

Councilor Hanigan asked Clerk Cordova if there is any way to find out if there are any other communities that have mandatory garbage service and what type of requirements they have. Clerk Cordova stated that the admin staff would be more than happy to research that and bring it back to the Council. Councilor Williams stated that he feels for Mrs. Choate, but at the same time you could sell your property some day and someone else moves in there and they could be our worst nightmare. Mrs. Choate stated that should I start receiving complaints or not properly covering my trash on the way to the dump and I receive those tickets for such, then I would have violated my responsibility as a citizen in the City of Payette. I do think that I have an obligation to keep my property clean and I agree with that, that portion of your statement is correct. I just don't think its right that I have to pay for service that I don't currently receive and I won't receive it. I will continue to take my trash to the dump because I am not going to haul it down to the end of my lane and block the traffic coming down the lane. My lane is not wide enough to put my trash container on my property because all I own is the lane, because I have a flag lot, so I would block the lane unless I put it on someone else's property. Mayor Henderson stated that is fairly common around here for people to set their trash cans on the curb. Mayor Henderson asked Mrs. Choate to explain to him why it is any harder for you to take that trash can out to the curb, than it is for you to take that trash can to the dump. Mrs. Choate stated that she has a back end of a truck as her trash receptacle to put our trash in and we take that to the dump. Councilor Williams stated that if we start something like this I can see people coming in that say well I don't have water to my property why am I getting a sewer bill and they are just going to keep asking and asking. I understand this, but we are setting precedence here tonight. Mayor Henderson stated that a lot of people are going to look at this and ask why it is more difficult to take the trash can out to the road then to haul all the trash to the dump and granted you gave me an explanation. I am just saying that the general public looking at this, I can see this being their attitude. Fire Chief Jeff Sands asked why Darrell Hardin cannot drive down the lane and get it. He could simply drive in get the trash container and back out. Mrs. Choate stated that she asked Hardin Sanitation about that and they stated that they do not like to go onto people's property because it is a liability issue.

Mussell moved and Nelson seconded a motion to waive all charges associated with garbage collection due to a hardship and especially due to not having water and sewer on the property, as well as the long haul of her trash container. It is only for these property owners and it won't transfer if the property sells and if there are any complaints it will be re- visited.

Councilor Williams stated that I'm just afraid that we are opening a problem here. Mayor Henderson stated that he agrees with Councilor Williams and that we may want attach this motion that it is only for these property owners and it does not transfer to any other property owners. Councilor Williams asked if this is one more thing that we add to our Ordinance Officer that they go and check on this

once and a while. I don't think there is going to be a problem, but you are just setting this up. Councilor Mussell stated that he doesn't think the Choate's are that kind of people. Councilor Williams stated that he doesn't think so either on this case.

Clerk Cordova stated that she would have to agree with Councilor Williams and if we decided to do this we are going to have to change our franchise agreement with Hardin's and have to change several spots in our ordinance. Councilor Heleker stated that this situation sounds like it may be legitimate, but we don't want to open the doors to everyone. I would like to have it established what do we consider a hardship. Are we going to listen to everyone, because there are going to be a lot of people that don't have nearly a substantial story as Mrs. Choate does that are going to come in and say that it was waived for them and I want it waived too. I want to be on solid ground, I don't want to say that we will look at every one of these individually, because we are opening a can of worms. Councilor Hanigan stated that I agree that you are very good at keeping of your property clean, but it isn't a situation where you are not receiving garbage service you are choosing not to take advantage of them.

Councilor Williams asked if we need to add anything saying like the only reason we would do this is if the person has appropriate equipment to contain their garbage to haul it to the dump, I just think this needs to have a little more thout into it. Mayor Henderson stated that he agrees 100%. I would prefer if we are going to open this particular can of worms that we do it at least on a contract basis where it is all written down on paper. Mayor Henderson stated that this might be something that we want to table and review with our legal counsel. Councilor Williams asked if we have had any input from our legal counsel. Mayor Henderson stated no.

At the roll call:
Ayes:
Nays*:* Nelson, Heleker, Hanigan, Mussell, Williams, Cochran

The motion FAILED.

Heleker moved and Hanigan seconded a motion to table this topic and take time to seek legal counsel.

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

D. Approval of Findings of Fact and Conclusions of Law for City of Payette Annexation

Hanigan moved and Cochran seconded a motion to approve the finding of fact and conclusions of law for the City of Payette annexation referenced.

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

DEPARTMENTAL REPORTS

A. Payette Police Department Monthly Statistics, May 2009
Councilor Williams asked what the significance was for highlighting the ordinance problems. Clerk Cordova stated that she believed Chief Clark wanted to point out how many ordinance complaints they are taking care of.

B. Payette Fire Department, Monthly Activity Report, June 2009

CITIZENS COMMENTS

Alice Finicum Nicholson – 901 River St; Payette, ID 83661

Mrs. Nicholson stated that she is with Mrs. Choate. I think it should be a choice where you want to receive trash service or not. We pay for the landfill fee on our taxes so we should have that right.

MAYOR'S COMMENTS

- We will be placing the cannon in Central Park in the very near future. We have received the plaque which will be mounted on the cannon. The Street Department is working this week to adjust the mount to accept the new cannon. I will let everyone know when that will be taking place.

A motion was made by Mussell to adjourn to executive session pursuant to provisions of Idaho Code 67-2345, subsection C.

After a unanimous voice vote, the motion CARRIED, and the Council adjourned at 7:28 PM.

At 7:37 the meeting was brought back to regular session per Mayor Douglas E. Henderson.

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 7:40 PM.

Signed this _____day of _____, 2009.

_____
DOUGLAS E. HENDERSON, Mayor

ATTEST:

_____
Mary Cordova, City Clerk