

**MINUTES OF THE CITY OF HEPPNER CITY COUNCIL MEETING
HEPPNER CITY HALL, 111 N. MAIN STREET, HEPPNER, OREGON
7:00 PM, April 13, 2009**

NOTE: Where stated "Motion Carried" is considered unanimous, unless otherwise stated.

ATTENDEES:

**Mayor, Les Paustian
Samarra Van Doorn
Judy Buschke
JoAnn Burluson
John Bowles
Cindi Doherty**

**Dave De Mayo, City Manager
Brian Harmon, Public Works Director
Sgt Randy Rayburn, Morrow County Sheriff's Department
Judy Eckman, City Treasurer
Anne Spicer, City Attorney
Rusty Estes, Fire Chief**

Absent: Keith Lewis, Council Member

Members of the Public in Attendance

**David Sykes, Heppner Gazette
Sharon Inskeep
Margaret Flaherty
Nancy Gochnauer
Nancy Snider
Tom Fritz
Susan Mecham
Pam Schmide
Debbi Howard
Ed Struthers
JoyceKay Hollomon**

1. GENERAL BUSINESS.

A. Call to Order. The April 13, 2009 meeting of the City of Heppner City Council was called to order at 7:00 PM by Mayor Paustian.

B. Pledge of Allegiance. Mayor Paustian led Council members and audience in the Pledge of Allegiance to the Flag.

C. Announcements – Agenda additions and deletions.

Mr. De Mayo announced that the zoning variance application for Nella Britt has been cancelled. According to the City Attorney, the current ordinances do not allow the requests to go directly to the City Council. The ordinances require that these actions go before the Planning Commission and then to the Council. According to Mr. Paustian, the City does not have a current Planning Commission since most of the members resigned due to the State ethics requirements. A new commission can be appointed after April 15. According to Mrs. Spicer, if a planning commission cannot be appointed within a reasonable time, the City will need to investigate amending its ordinances

D. Correspondence. None.

E. Public Comment. None.

2. COMMUNICATIONS FROM THE PUBLIC.

A. Request for Animal Permit – 2 4-H Sheep, John Qualls, 735 Shobe Street.

Action: Motion by Mrs. Burleson to approve the request, subject to compliance with City regulations. Seconded by Mrs. Buschke. Motion Carried.

3. CONSENT AGENDA

A. Minutes of City Council Meeting, March 9, 2009.

B. Resolution No. 740-09 Resolution Approving Accounts Payable for Payment.

C. Monthly Financial Statement.

Action: Motion by Mrs. Burleson to approve the consent agenda as submitted. Seconded by Mrs. Buschke. Motion Carried.

4. REPORTS.

A. Fire Chief.

Chief Estes reported the following for March 2009: March was a slow month.

There were no page-outs over St. Patrick's Day.

2 Secure Landing Zone

1 MVA

1 Propane leak

1 Flu Fire

1 Ambulance Assist

29 Chief Calls

B. Morrow County Sheriff's Department.

Sgt Rayburn Reported the following for March 2009:

There was not much activity in March. Sgt Rayburn commended the help that Chad Doherty, Public Works, provided over St. Patrick's. There was one spin-out during the Cruz-In. The individual was cited.

C. Housing Authority.

Mrs. Buschke reported the following:

The project is moving along. The outside work is being done and the debris has been cleaned up. Completion date has been extended to May 20, 2009. Mayor Paustian commented that the building is looking good.

D. Public Works.

Mr. Harmon reported the following:

The ODOT project is proceeding very well. The Public Works crew has spent quite a bit of time on the sewer lines. Some of the lines from the 1954 as-builts were inaccurate. As-builts of the current project will be furnished when the project is complete. Mr. Harmon stated that the contractor is doing an excellent job and easy to work with.

Mrs. Van Doorn asked if the front of the court house will be closed for the entire project. According to Mr. Harmon, he believes it will be. According to Mr. Harmon, the rock will be done in phases with the utilities installed first, then the retaining wall, and the paving will be done.

There have been no problems with residents in the area.

Mr. Harmon received the quote for replacing water lines. The main on Willow Street was quoted at \$17,800. According to Mr. Harmon, if the City does the work, the cost should be approximately \$3,000. The other main is the one from the tennis court to the school. ODOT should cover this.

E. City Manager's Report.

Mr. De Mayo reported that most of the issues in his report will be covered under new business.

The cost of living for the coming fiscal year will be 3.3% which is the Local Government Personnel Institute average over the last year.

The Hager Park restroom will have to be cancelled due to an unexpected engineering bill from Ferguson Engineering. This will have to be paid out of community development. Funds for Hager Park are not available for this year.

5. PUBLIC HEARINGS. None.

6. COUNCIL ACTION.

A. Zoning Various. Council action on the variance application cannot be taken at this time.

B. OLD BUSINESS. None.

C. NEW BUSINESS.

1) Appoint Jackie Allstott to fill Budget Committee Position 6, Term 3 years, April 2009 through December 31, 2011.

Discussion: This will complete the membership of the Budget Committee.

Action: Motion by Mrs. Buschke to appoint Jackie Allstott to fill Budget Committee Position No. 6. Seconded by Mrs. Burleson. Motion Carried.

2) Insurance Issues – Wheatland Insurance (Nancy Snider, CCIS).

a. Vendors – Farmers Market, Etc.

Discussion: Mrs. Snider reported that she has discussed insurance issues with the City Attorney. Mr. De Mayo stated that all vendors setting up on city property are required to furnish proof of insurance. Mr. De Mayo has notified Mrs. Flaherty, current chairperson of the Farmer's Market, of this. A policy needs to be in place to cover this. According to Mrs. Snider, anyone who uses city property needs a certificate of insurance. The city needs to make its own policy on who and what liability limits are required. The park is public, but family reunions, etc., need to provide liability insurance. This could be as simple as coverage under individual homeowners policies. The policy should be consistent. The Council needs to make a decision and provide guidelines. According to Mrs. Spicer, most of the commercial organizations have insurance.

Mrs. Spicer stated that there is an Oregon Farmers Market organization that provides some insurance and this could be researched. This may be a blanket policy. Heppner's farmers market would be individual citizens selling their produce and not commercial vendors. Some of the specific liabilities could be salmonella outbreaks.

Mrs. Snider stated that this would be an individual decision on insurance requirements. According to Mrs. Flaherty, the farmers market would be individuals selling home grown or home made products and crafts, not commercially prepared foods. .

Mr. Paustian asked if the city had liability coverage for the parks in general. According to Mrs. Snider, the city is required to have this. However, the City's policy does not cover individuals selling their products. Most homeowner's policies have coverage and this possibly would be an

option for each individual. This would need to be a Council decision. The amount of liability insurance would need to be set.

Mr. Paustian asked if a general policy for the farmers market would be an option.

Mrs. Flaherty will provide information to Mrs. Snider so that she can supply general information. Waivers could also be an option. Mrs. Burluson suspects that the state Farmers Market organization may have an umbrella policy

The first Farmers Market is scheduled for the first Friday in June.

Mrs. Snider feels it is better to be proactive.

Mr. Harmon suggested having a CCIS agent come to Heppner and go through the parks.

b. St. Patrick's Senior Center.

Discussion: Mr. Paustian announced that the Senior Apartments is now under an agreement with Cascade Management to manage the apartments. The St. Pat's Senior Apartments have been covered through the City's insurance in the past and a decision is needed on whether this will continue upon Cascade's assumption of the management.

Mr. De Mayo reported that there are two options: One is that the City has had to pay the flood insurance in the past which was necessary to get the loan from the Bank of Eastern Oregon and meet other requirements. Option 1: At this time, there is the option of continuing the City's insurance until it expires. At that time, Cascade Management would assume the responsibility. There have been concerns that if the City continues their insurance and an incident occurs, the City's insurance premiums would increase. Option 2: This option is to drop the insurance and force Cascade Management to pick it up as soon as possible. Mr. Paustian commented that the City is no longer involved in the Housing Authority and Cascade Management is under contract for a certain amount of time. If they neglect to renew or if the Housing Authority elects not to continue with them, insurance would have to be obtained, possibly at a higher premium. If the insurance is continued through the City, the Housing Authority could pay the premium to reimburse the City. If this would be the case, Mr. Paustian would like to see a stipulation that if there is a claim from the Housing Authority that they pick up the deductible which might raise the rates so that the City is not out the funds for this.

According to Mrs. Snider, there have been several conversations regarding this issue. She requested questions from the Council. She has learned from CCIS that there are a number of cities in the state of Oregon that have housing authorities. These cities insure the housing authorities. They also have the ability to insure a housing authority as part of the city as long as the city is continually insured with CCIS. There are some questions that need answers from the City Attorney and the underwriting department before a decision can be made. One of the major concerns is the liability issue—what is the City's liability if the building and housing authority continues to be on their policy. This question will need to be answered.

She would like to ensure that all concerns are clear for both sides. Mrs. Spicer could provide the legal answers. Mrs. Snider will question CCIS on the liability issues.

According to Mr. Paustian, there are questions on the ownership of the building. According to Mrs. Spicer, the Housing Authority is the actual owner of the building. The Housing Authority is appointed by the City. Mr. Paustian's opinion is that since the City does not own the building, it would be up to the Housing Authority to furnish the insurance or compensate the City. His personal feeling is that the City has the responsibility to help with the insurance part since the premium may be more expensive on a separate policy. According to Mrs. Snider, Cascade has obtained insurance quotes which were more expensive.

Mrs. Hollomon asked if the former flooding problem had raised the insurance rates. According to Mrs. Snider, the City's premium went down at that time due to the market. The City's insurance costs have not increased for 3-4 years. Property values have increased, but the rates have not gone up, even though there have been a number of claims. The housing authority has to meet statutory requirements. In the other cities, the housing authorities own the property but their insurance is through the city's policy.

According to Mrs. Spicer, there are a set of statutes that govern housing authorities. The housing authorities are actually an independent municipal body even though the board is appointed by the city. CCIS could continue to insure the property unless the housing authority becomes its own 501-C-3.

The housing authority's contract with Cascade Management is for three years. According to Mrs. Eckman, the housing authority does not have funds to be billed for the insurance. Mrs. Buschke stated that the premium will come from the grant as a cost of the loan.

According to Mrs. Hollomon, the housing authority has always reimbursed the city for insurance.

Mr. Paustian would like a firm agreement in writing on the guidelines on payment of the insurance and agreed to by all parties. In Cascade's agreement, it states that the insurance is to be provided by the housing authority. Insurance coverage has to be in place. According to Mrs. Buschke, Cascade will pay all the bills. Mrs. Spicer stated that Cascade is managing the property for the housing authority. Mrs. Snider stated if there is claim on the senior building, this could raise the premiums on the city's insurance. According to Mrs. Spicer, the housing authority is responsible for the insurance. The policy is due by July 1, 2009, so a decision needs to be made by then. Mr. Paustian recommends keeping the policy local.

According to Mrs. Snider, Cascade will need a certificate of insurance. According to Mr. Bowles, this would be the preferable way to go.

According to Mrs. Snider, the best information she has to date is that this is how it is handled by CCIS.

Mrs. Eckman asked Mrs. Spicer if the housing authority was created by resolution and will this remain the same. According to Mrs. Spicer, the housing authority was created under the statutes

as a corporate body, public, and politic and will remain. According to Mrs. Snider, housing authorities exist as an extension of the city.

Mr. Harmon asked if Public Works will be installing the air conditioners or will Cascade Management. According to Mrs. Buschke, the city workers will not be responsible for this. Currently, the old air conditioners will be used, but the city workers will not be responsible for installation and maintenance.

Mrs. Snider will pursue the insurance issue to resolve all issues and report back to the city.

3) Gaming Ordinance.

Discussion: A draft ordinance prepared by the City Attorney is included in the packet. This was developed from working with OSP, Department of Justice, and AG's opinions. Mrs. Spicer recommends this ordinance. Part of the ordinance is part of the Oregon Revised Statutes. This ordinance eliminates the ability to play 21 and other games where there is a card dealer representing "the house."

Mrs. Gochnauer, owner of Bucknum's Bar & Grill, John's Place Restaurant, Bucknum's Catering, and The Video Store, had questions about some of the items in the draft ordinance:

1) Page 2, para 4.I. This paragraph governs the dollar amount of bets. Mrs. Gochnauer has concerns about the limit. Council members felt this irrelevant. This is a suggestion. Mrs. Gochnauer also wondered if raffles would fall under this. According to Mrs. Spicer, these are done for charities only. The Chamber covers the casino event under state regulations. Bingo at the Senior Center is controlled under the charitable games.

2) Page 3, para 6.3. The amount of the permit application of \$300.00 was questioned. Council members agreed that a \$100.00 annual fee was adequate, and individuals would pay for their own background check and fingerprinting.

Players do not have to be fingerprinted and have a background check. Business owners would be required to do this as well as employees in supervisory authority over the social games. The supervising authority would have to be present during the time the games are going on. Cribbage and bunco would be considered social games.

A separate license would not be required for each item.

The City would be required to evaluate the license under the requirements on Page 3, para 7.

Mr. De Mayo does not see any problem monitoring this. Mr. Bowles' opinion is that a \$100.00 fee is acceptable.

Mrs. Buschke feels that this should be discussed further. According to Mr. Bowles, unless this ordinance is put in effect immediately, any social gaming would be considered a misdemeanor.

Mrs. Buschke has concerns about the Elks' Club and who would require a background check. The Elks is a private club and there are different individuals in charge at various times. According to Mrs. Spicer, this ordinance is drafted to comply with the statutes that came into effect with the Lottery inception.

As regards the Elks club and who should be designated as a responsible party, it should be the officers and possibly the bartender.

This ordinance would not affect the Sheriff's Department patrols. Sgt Rayburn has informed Mrs. Spicer that he thinks he can work the background check issue. According to Mrs. Spicer, a supervisory person would need to be on site while the gaming is taking place. This could be the bartender.

Action: Motion by Mr. Bowles to adopt ordinance with corrections:

Page 2, para 4.I: Delete.

Page 3, para 6C: The license fee be lowered to \$100.00 annually and the person/business will pay the fee for the fingerprinting and background checks. The City's cost would be to obtain the results. No Second. Motion denied.

Action: Motion by Mrs. Buschke to table the issue at this time. Seconded by Mrs. Burleson. Motion carried.

According to Mrs. Spicer, social gaming is currently illegal in Heppner until an ordinance is in effect.

4) Personnel Issues.

a. On Call pay.

Discussion: Mr. De Mayo reported that in the previous decision made by the Council, the amounts were not correct. Originally, the amount was listed as \$10.00 per week and \$15.00 on weekends when personnel are on call. The intent was \$20.00 for a week and \$25.00 for the weekend. This would amount to \$2,340 per year.

Action: Motion by Mrs. Buschke to accept the correction to the original amount. \$20.00 per week and \$25.00 per weekend. Seconded by Mrs. Burleson.

Motion Carried, Mrs. Doherty abstained due to conflict of interest.

b. Treasurers Position.

Mr. De Mayo reported that he has options to discuss with the personnel committee on this issue. The reason that this issue is being discussed is that the work load for the treasurer is quite large and the person is unable to handle all the tasks that need to be completed. In most cities of

comparable size, the position is normally covered by two people. This causes personnel stress on the individual. Changing this to two positions, would be a benefit to the city. According to Mr. Paustian, the person in the position is reluctant to take time off and having two people would allow the city to run more efficiently. Mr. De Mayo has options to consider before making a permanent proposal. Mr. De Mayo would like to investigate this further and discuss with the personnel committee and then make a presentation to the council for consideration. One of the pertinent issues is the changeover of the utility billing system.

Additionally, the Public Works director needs to be paid for his certifications. They are also looking at creating an assistant public works director position.

The meeting of the personnel committee is dependent on the budget preparation. Mr. De Mayo would like the personnel committee meeting to be scheduled for the last week in April or the first week in May.

8. REPORT FROM THE CITY ATTORNEY. None.

9. REPORT FROM MAYOR/CITY COUNCILORS.

A. Mrs. Burleson had a concern from a pet owner regarding the “doggie bag dispensers” at the parks. There are no bags in the dispensers. According to Mr. Harmon, there has been a problem with people taking the bags for other uses and depleting the supply.

B. The Elder Street bridge will have cold mix applied this year due to funding shortages. Paving will eventually be done, as funding allows. Mr. Harmon stated that they appreciated the assistance from Knife River and ODOT for engineering assistance on the project.

10. ADJOURNMENT. Meeting adjourned at 9:15 PM.