

Council Minutes 4-5-21

CALL TO ORDER Time Stamp 12:15 (49:10 in video)

Mayor Neil Bradshaw called this meeting to order at 4:00 p.m.

Roll Call

Mayor Neil Bradshaw
Courtney Hamilton
Amanda Breen
Jim Slanetz
Michael David

COMMUNICATION FROM MAYOR AND COUNCILORS

Councilors Courtney Hamilton and Jim Slanetz had no comment.

Councilor Amanda Breen spoke with Mrs. Cey's 3rd grade class last week that is doing a unit on municipal government. They did a play of a City Council meeting of whether or not to approve a new skate park which had varying participants such as concerned neighbors and supporters of a skate park. They approved the skate park unanimously. Amanda went on to praise Hemingway Steam School and the 3rd grade class on their interest in municipal government and putting together what they are learning in a practical way. She invited anyone to speak to the 3rd grade class about municipal government. Mayor Neil Bradshaw explained that in the past he and Courtney would go to the school and speak about government but that it has ceased due to COVID. He thanked Councilor Amanda Breen for going and representing the city. She clarified that she appeared to the class via a Zoom meeting.

Councilor Michael David spoke about the housing crisis. Instead of having a slow drip of workers leaving due to the unaffordable prices, it has turned into an exodus. He stated how the workforce has always been the character of Ketchum and how they need to be kept in the forefront of their minds while making decisions.

Mayor Neil Bradshaw sent his condolences to the families and all of those effected by suicide and those who are affected by suicidal thoughts. He reminded everyone that there are local and national resources available. Locally, one can reach out directly to NAMI or the 5B Suicide Alliance team for any support for oneself or for someone you know that may be at risk for suicide.

CONSENT AGENDA - TIME STAMP 17:48 (54:42 in video)

1. Authorization and approval of the payroll register
2. Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills in the total sum of \$1,460,959.72 as present by Shellie Rubel, Interim Treasurer

3. Recommendation to approve Contract #20611 and Purchase Order #20597 for chip seal oil purchase and distributor service – Brian Christiansen, Director of Streets and Facilities
4. Recommendation to approve Purchase Order #20598 for Paint Striping – Brian Christiansen, Director of Streets & Facilities
5. Recommendation to approve Purchase Order #20605 for Aeration Basin diffuser Cleaning – Mick Mummert Wastewater Division Supervisor
6. Recommendation to approve Contract #20614 with Arborcare Resources, Inc. for plant health care services – Juerg Stauffacher, Facilities Maintenance Supervisor
7. Recommendation to authorize the Mayor to sign Agreement #20612 with the Idaho Transportation Department for the HAWK installation at the corner of 4th and Main Streets – Sherri Newland, City Engineer
8. Recommendation to approve Resolution #21-007 and sign Agreement #20613 Adopting Road Relinquishment and Transfer of Ownership for State Highway 75 Spur – Sherri Newland, City Engineer
9. Recommendation to approve Assignment Agreement #20594 and #20615 consenting to the transfer of ownership of KETCH I (100 E. 6th Street) and KETCH II (560 First Avenue).
10. Resolution extending solid waste franchise agreement – Jade Riley, City Administrator
11. Recommendation to appoint Lisa Enourato to the position of Interim City Clerk – Neil Bradshaw, Mayor

Motion to approve the Consent Agenda Items 1-11.

Motion made by Councilor Courtney Hamilton, seconded by Councilor Jim Slanetz

All in Favor

PUBLIC HEARING – Time stamp (55:15 video)

12. ACTION ITEM: Warm Springs Ranch Project

Council President Amanda is recused from discussion and action due to a conflict.

Councilor Courtney mentioned that she received a call March 17th from Mayor of Bellevue Ned Burns who stated that he was concerned over the lack of community housing in this proposal.

Mayor Neil Bradshaw welcomed Bob Brennan and his team. Based on discussion from March 15th, Mayor Bradshaw mentioned there were a number of revisions that were made that were in the public's interest, including

- To reflect 35 lots instead of 36 lots on Block 1

- Language was added in the option agreement in development and rezoning agreement that will be signed by both parties once the development and rezoning agreement is signed
- Language added that the owner has a right to develop lots 32-35 fronting on Warm Springs Road as deed restricted multi-family units that will be at the discretion of the owner and applicant
- Language was added to make permit A to use accessory dwelling units on Block 1 subdivision
- Clarification that the fisherman's and sportsman's access on Block 1 is on both sides of Warm Springs Creek
- Consolidation of lots on Block 1 will be a maximum of 8 lots and a maximum of 2 can be combined at any one time
- The sidewalk along Bald Mountain Road from Warm Springs has been widened from 6 feet to 8 feet
- The number of parking spaces to serve the park has been increased from 20 spaces to 24 spaces
- Within the option agreement language was added to include the existing water rights for blocks 2-8
- A gravel shoulder will be developed from the bus stop on Warm Springs Road to existing residential development

In summary what has been proposed is a downzone on Block 1 to make 36 home sites, an option for the City to purchase blocks 2-8 with a provision that it will remain passive open space. These are independent decisions and should be considered as such.

Bob Brennan, the applicant, thanked the Council for having him. He mentioned spending approximately 6 months working on a daily basis with city staff, particularly Suzanne Frick, trying to come up with a project that would be beneficial to the community. He was looking forward to moving forward with the project. He then asked his council, Ed Lawson, to address some concerns that were raised by the Wood River Land Trust and John Gaeddart.

Ed Lawson, council for the applicant, stated that he's been involved in many meetings involving the Council, City staff, and Planning and Zoning Commission. Public comment letters from Wood River Land Trust and John Gaeddart raised some questions that he wanted to provide some clarification on. Based on the letters, it seemed that there was a misunderstanding. Bob Brennan and Ed Lawson have always viewed the option agreement and subdivision application as separate; one is not dependent on the other. The understanding all along has been that in return for the expeditious approval of the 35 lot subdivision, Bob Brennan would agree to grant the City an option for the acquisition for the 65 acres at a substantial discount from market value. Bob Brennan is willing to work with the City on the permitted uses of the property and the creek restoration programs. He does not want to commit to anything other than the passive recreational use at this juncture because he does have plans for selling the lots and wants to be able to represent what the use will be across the river.

He also hopes to qualify for a tax deduction for a conservation easement. They have made the effort of keeping option and subdivision approval separate and distinct from one another and structuring it so that the current use, the passive recreational use, IE the dog park, is not interfered with while they undertake efforts to help the City to acquire the funds, to exercise the option, and in the process have discussions for permitted uses and reclaiming the stream. Ed Lawson pointed out that his comments point out the misunderstanding that Wood River Land Trust and Mr. Gedderd have. He stated that there should be no reason for the Council to be deterred in granting the subdivision approval based on the concerns raised in the letters.

Mayor Neil Bradshaw turned it over to Council members for questions. No one had any questions.

Mayor Bradshaw opened the meeting for public comment.

Nick Miller, a member of the Board for Wood River Land Trust shared his personal comments. He understands that the option agreement and the subdivision application are considered separate but have been considered in every public proceeding as a joint act. That has had the impact of suppressing the public's ability to talk about and get engaged in the option details. His fear is that there are issues presented by the option agreement that have not been resolved, specifically that Mr. Brennan plans to further negotiate what is acceptable use of this property even after the option agreement has been signed. The option agreement he would hope the city will deal with as a contract negotiation, which is not confined to the quasi-judicial proceedings that the zoning matter is confined to. He recommended the Council to consider separating the option agreement and the subdivision application, dealing with the option agreement until it is in final form and approved as a contract, and then turned to the zoning matter to separate the contractual issues from the zoning issues.

Perry Boyle, President of Affordable Housing Coalition in Ketchum, thanked Mr. Brennan for working with the city for the deed restricted housing. On a personal capacity as a resident of Ketchum he echoed Nick Miller's concerns.

Kristine Hilt, Blaine County Floodplain Manager, encouraged the Council to require that all buildable areas that would be impacted by private residential development be located outside of the floodplain entirely. Aerial imagery from the last flood in 2017 showed quite a bit of flooding even after the water started to recede. Warm Springs Creek peaked before the big Wood River. Excavation in any of the channels after one high water event fill back in with debris. Any fill in the floodplain will have downstream impact to constituents in Blaine County.

Mayor Neil Bradshaw closed public comment.

Bob Brennan, the applicant, was given a chance to address the public comments. He said when he signs the development agreement he will sign the option agreement at the same time. If he does not sign both of them, then the Mayor doesn't have to sign. He emphasized that he tries to keep things simple. He is willing to sign both documents at the same time before the Mayor signs. Regarding the floodplain, Bob stated that they will go by the city standards.

Councilor Jim Slanetz had a question about the language that was added that the owner may permit lots 32-35 as deed restricted units. The question comes to the wording "may" or "will". Mayor Neil Bradshaw clarified that it would be up to the applicant, owner, whether they choose to provide deed restricted units. In the previous version they were all zoned for single family houses. With this change they are zoned for single family houses or could be deed restricted units, aka multi-family units. That would be at the discretion of the owner, applicant. It is not a definite but rather an option should the applicant choose. Councilor Jim Slanetz thanked Mr. Brennan for proposing this to the city as it is getting to a crisis point to what is currently here for housing in town. The wording "may" versus "will" does not hold a lot of weight to it.

Kurt Eggers, representative of Bob Brennan mentioned that affordable housing is not a requirement as part of this project. As the Mayor stated, with the original proposal it would not be possible as it was all single-family lots. The new wording at least gives Mr. Brennan the opportunity should he choose to coordinate with groups in the future that there is a section of property that could potentially become affordable housing.

Mayor Bradshaw clarified that before ADU's weren't permitted, but now they are a possibility with this change. It is up to each individual land owner of the parcels whether they want to put an ADU or not but at least the possibility is prepared without the guarantee of deed restricted homes.

Bob Brennan mentioned that when he first bought the property, he spent time speaking with Mayor Neil Bradshaw about the lack of affordable housing in the area. He knew he was going to do affordable housing on that property or give some money in lieu of affordable housing. He is unable promise anything but there was affordable housing in this project or money in lieu of affordable housing before the decision to preserve a park.

Councilor Courtney Hamilton stated she has been concerned because it seems like they are trading a community park for community housing. She felt Councilor Michael's introductory comments were very apt. She mentioned that businesses are in jeopardy due to lack of employees. She feels like every decision she should be making should involve community housing because it is such a dire crisis currently. She mentioned that is a great opportunity for the community to create open space and to do extreme riparian project for Warm Springs Creek which has a pivotal roll in the community. She went on to mention

that she is thankful for the opportunity, but she wishes that it had community housing. She agrees with Councilor Jim Slanetz comments about the wording of “may” versus “will”. Councilor Hamilton went on to mention that it is clear Mr. Brennan cares for the community but from a pocketbook perspective, the community housing aspect does not stand. She agreed that there is it is an improvement over the agreement discussed previously. She summed up by saying it’s difficult for her to approve a development agreement that doesn’t have any community housing involved but understands that there is community benefit in this process that Mr. Brennan has provided thus far.

Councilor Michael David appreciated the change to make affordable housing a possibility, but it also provides a possibility to build condos. Mayor Neil Bradshaw clarified that the opportunity to build condos on is not available. It will either be single family homes or deed restricted. Councilor Michael David thanked everyone that got the discussion going. He is not overly optimistic about affordable housing being built, due to his experience, but he’s appreciative that it’s now an option and hopes something comes of it.

Councilor Michael David asked City Attorney Matt Johnson to address what Mr. Miller brought up about the quasi-judicial nature of the hearing as opposed to if the option to purchase was being done separate and if there would be differences. Matt stated he doesn’t understand the concerns mentioned by Nick Miller because they are separate agreements. The option agreement was provided in the agenda item with the development agreement for convenience. There is nothing precluding council members from having contact with the constituents about the option agreement if it is isolated to that agreement. If it is a discussion about whether to grant the entitlements, then they’d be in the quasi-judicial realm. By having the public hearing with the matters combined, they are able to receive public comment on the option agreement which they are not required to have on the option agreement itself. A public hearing is only required because of the land use component. The response to Nick Miller would be you can have a conversation with you council member, you can provide public comment, and you can talk to your council member about the option agreement if it is not getting into the land use.

Bob Brennan stated he will sign the option agreement before he signs the development agreement.

Councilor Michael David thanked Bob Brennan. He stated he wanted to have Matt address Nick Miller’s comments and the difference between the two processes. He went on to state that he is happy about the opportunity and thinks that it is a chance to heal the river which will have a positive effect upstream and downstream and to get some open space. He stated that they will need to continue to speak with Bob Brennan about making those lots into affordable housing. He wants to make sure that the Council receive as much input from

the neighbors and other constituents as they move forward to make this as good of a project as possible. The changes he has seen are all positive in nature.

City Attorney Matt Johnson clarified that there is nothing precluding the Council from passing the development agreement at this hearing and tabling the option piece for a later date since they are separate agreements if more time is needed. Councilor Courtney Hamilton asked if that would be an improper order to do. Matt stated that the final signing would be contingent of it being completed but they could table both.

Mayor Neil Bradshaw requested clarification from Director of Planning and Zoning Suzanne Frick regarding the planning and zoning process which he thought City Attorney Matt Johnson was leaving out. Director of Planning and Zoning Suzanne stated as part of the Planning and Zoning review and approval process, the Planning and Zoning Commission were adamant that there was a linkage between the option agreement and the development agreement because they were only willing to approve the project in two phases since there is the option agreement for the potential of the city purchasing that lots 2-8. Otherwise, the Commission wanted to see an entire project and master plan for the entire property. The Planning and Zoning Commission was adamant that the development agreement and the option agreement need to be hand in glove but separate actions and documents but move together.

Mayor Neil Bradshaw reiterated that the option agreement and the development agreement are separate but move together. That was how the Planning and Zoning Commission became comfortable with the project.

Councilor Courtney Hamilton mentioned from a public process standpoint, it is too complicated of a project to do at once. They've been talking about it for 4 weeks and she is still struggling to understand it. She mentioned if they had separated out the deliberations and made the decisions on the same day it would have given the public and Council more time to absorb what the project means, what it means for the community, and all of the downstream effects of those. She does not think that's what they need to do at this point but provided these comments for feedback purposes for future reference should the Council ever encounter a project in a similar scope again.

Mayor Bradshaw asked if Councilor Courtney Hamilton is at a point where she can make a decision. She requested that they walk through four motions and discuss the pros and cons of them from a community perspective and check back in to see if there is public comment on those topics as they are discussed and then move forward instead of talking about it all at once.

Mayor Bradshaw stated that he is happy to go through each item as the meeting had been closed to public comment.

The first motion would be to move to approve and authorize the Mayor to sign Warm Springs Ranch Development and Rezoning Agreement 20609 as recommended. He asked Director of Planning and Building Suzanne Frick to give a summary of this motion. She said the Development Agreement is the most important document because it eliminates the prior approvals that were on the site and allows them to start over. They are keeping the underlining zoning so that it is tourist and recreation. They are changing the underling zoning for Block 1 from tourist to low density residential. This agreement only authorizes development on Block 1 which are the 35 parcels that are part of the subdivision. On Blocks 2-8, no development can occur despite who owns those blocks. Any development that is proposed in the future will have to come back to the City through a Planned Unit Development and a subdivision if the city does not purchase Blocks 2-8.

Councilor Courtney Hamilton asked if the tourist zoning that is within the recreation zoning by the old golf course side of the dog park will remain tourist zoned? Director of Planning and Building Suzanne Frick confirmed the underlining zoning will stay in place. Councilor Courtney Hamilton questioned the difference between the tourist zoning and the GRL zoning and the potential for that area to become a hotel or condos. Director of Planning and Building Suzanne Frick replied that theoretically multifamily development could occur on the tourist zone but they'd have a number of constraints which is why a Planned Unit Development would be required. Through that PUD, Planning and Zoning could change that zoning and work with the property owner to come up with a scheme that may not result in the configuration that was currently displayed. Councilor Courtney Hamilton asked if they should address any zoning changes on that side now or discuss at the later PUD process if necessary? Suzanne Frick suggested to let that happen through the PUD process once they understand what the proposed development would be.

Councilor Courtney Hamilton noted that as part of the development agreement if Mr. Brennan wants to develop blocks 2-8 in the future he has to come back for a PUD agreement. She asked if that it applies to all future owners and not just Mr. Brennan? Director of Planning and Building Suzanne Frick confirmed that it applies to any future owner.

Councilor Courtney Hamilton stated most of the lots the property line looks like it goes across the creek. She asked what that means, how one can own a creek and how that could affect the riparian mitigation efforts in the future. Director of Planning and Building Suzanne Frick stated those are how those lots are currently configured within Block 1. They go on both sides of the creek. The development agreement requires those property owners to participate in any kind of restoration plan so that the city is assured of a plan for the future. Councilor Courtney Hamilton questioned if there is a reason they must go across the creek? Director of Planning and Building Suzanne Frick stated there are several properties in town that go across the river, including some owned by the

City. She stated they own the land but not the water. Councilor Courtney Hamilton pointed out that it is a false square footage they are receiving. Director of Planning and Building Suzanne Frick stated that parcels must have a minimum square footage in a particular zone. Councilor Michael David questioned if the owners can be left with the square footage but have regulations on the area up to a certain point? Mayor Neil Bradshaw stated to follow the code in place for building in those areas. Councilor Michael David asked about the properties that are in violation of those codes if they were grandfathered in? Mayor Bradshaw confirmed there are some that violate but none in recent memory. All of those lots are subject to the setbacks that are required. Councilor Michael David asked if those codes and standards will be enough if they have significant restoration efforts that go forth in the future on this property? Director of Planning and Building Suzanne Frick stated that one of the required items in the development agreement is protecting the riparian zone and providing for future creek restoration. The riparian zone is an easement that is going to be managed by the homeowner's association. By having an HOA, the city will be dealing with one entity as opposed to multiple property owners and that by having an HOA, they are protecting the riparian zone. For creek restoration, they have a provision that those home owners must participate in any kind of plan for a restoration plan. They could not unreasonably deny it. They will be required to allow the city to put improvements on their property associated with that plan.

Councilor Courtney Hamilton stated her concern is that the HOA will be made up with the owners of that area and will try to prevent the city from doing what they need to do with restoration efforts. She wanted to make sure that the City will be able to do what they need to do regarding those efforts. Director of Planning and Building Suzanne Frick stated that a provision was added in the development agreement that states "the owners of lots 1-13 and the owners' association shall participate in the preparation of Warm Springs Creek Restoration Plan for the portion of the creek adjacent to the lots and shall not unreasonably withhold condition approval or delay of such plan." She feels confident that those owners, the ones on the water, will be required to participate in the restoration plan.

Mayor Neil Bradshaw asked Director of Planning and Zoning Suzanne Frick to provide some clarity on the second motion to approve Large Block preliminary Plat (P21-010) for Warm Springs Ranch as recommended and directed staff to return finding of facts. Director of Planning and Zoning Suzanne Frick stated the large block plat is the configuration of all of the parcels of 1-8. They are eliminating the old large block plat that existed that granted certain entitlements and development rights and replacing it with new configuration that was presented. the development agreement sets forth the bigger picture requirements of how Block 1 should be developed. Councilor Courtney Hamilton asked if all it did was change the entitlements, not the geography? Director of Planning and Zoning Suzanne Frick confirmed it.

Mayor Neil Bradshaw asked Director of Planning and Zoning Suzanne Frick to summarize the third motion to approve Permit 21-001, the Block 1 Preliminary Subdivision Plat as recommended and directed staff to return finding of facts. Director of Planning and Zoning stated the Preliminary Plat is the details of how Block 1 be developed. The Preliminary Plat has been reviewed by all of the departments in the City so it reflects their conditions of approval and requirements for new development in addition to the review of the Planning and Zoning Commission. It is a much more detailed schematic of how that area is going to be developed.

Mayor Neil Bradshaw asked Director of Planning and Zoning Suzanne Frick to summarize the final motion to approve and authorize the mayor to sign Option Purchase Agreement 20610 as recommended. Director of Planning and Zoning said this was the agreement that was originally reviewed by the Planning and Zoning Commission who asked for some modifications to allow for additional extensions according to the fund raising milestones. Based upon some public testimony some water rights were added to this. They also clarified the language for future uses so that it addresses the concern that they are not relying upon the property owner to determine what those future uses are.

Councilor Courtney Hamilton stated that there is a statute in the Option Agreement that says that the City is permitted to, other than the passive park usage of the park include additional uses, such as parking and restrooms. Should a clause be added to address maintenance facilities to those additional uses, such as allowing to park a lawn mower on site? Director of Planning and Zoning Suzanne Frick stated there is a sentence that says, "public facilities to improve access, provide sanitation facilities, and to restore Warm Springs Creek in its riparian zone and floodplain shall expressly be permitted." She confirmed a clause could be added that says "public facilities to improve access and maintenance" so that the maintenance element is clear. Mayor Neil Bradshaw asked if that was something the applicant would be willing to add in to the agreement? The applicant, Bob Brennan, confirmed it was something they'd add. Mayor Neil Bradshaw asked Director of Zoning and Planning Suzanne Frick to write in that clause and to repeat it aloud so everyone is clear where that clause would go. She confirmed it would be in Section 5, second sentence and will say "public facilities to improve access and maintenance, provide sanitation facilities, and restore Warm Springs Creek and riparian zone and floodplain shall be expressly permitted." Councilor Courtney Hamilton confirmed that the change addressed her concerns.

Councilor Courtney Hamilton asked Director of Planning and Zoning Suzanne Frick to go over the timeline of the Option Agreement and what will happen if the timeline is not met? Director of Planning and Zoning Suzanne Frick stated the Option Agreement starts once it is signed. The City has a year to come up with the funding of \$9 million provided that they come up with half of the funding, \$4.5 million in the first six months.

Councilor Michael David thanked Councilor Courtney Hamilton for bringing up her concerns confirming it was a significant amount to work through. He thanked all of the staff and the applicant for their hard work regarding the project. He confirmed all of his concerns have been addressed. He stated he felt comfortable that if the City is unable to raise that funds that the new owners would need to go through the PUD process.

Councilor Courtney Hamilton stated another concern of hers is that there is public access to the Creek, including parking, regardless of the future of the project. She wanted to know if that was something that is needs to be included in the Development Agreement, Option Agreement, or if it was something that could be addressed in the PUD process with Phase 2? Director of Planning and Zoning Suzanne Frick stated the key to remember is the only portion of this property that the City is entitling is Block 1. Block 1 will have the fisherman's 10 ft access on both sides of the Creek. She continued to state one would get there through Lopey Lane, which is the bridge. If the city is unsuccessful in purchasing the property, the owner must come back through with the PUD and subdivision. At that time, Planning and Zoning will lock down where the access points would be for future public access on the property.

Councilor Courtney Hamilton mentioned there is a caveat that Lopey Lane is a private street unless the City proceeds with the Option, at which case it will become a public street. She questioned if it could be addressed that the public can utilize Lopey Lane as an access point, as there would be no other way to get there if Phase 2 occurs and it becomes a private street? Mayor Neil Bradshaw confirmed that part of the PUD approval would be for the public be able to access the Creek via Lopey Lane despite it being a private street. Director of Planning and Zoning Suzanne Frick confirmed that Block 1, which is being entitled, gives the access to the fisherman's easement. It will always be there through the Block 1 subdivision. The City has the ability to change it when future development or subdivisions come through. From the Planning and Zoning standpoint, the public access is locked in with the Block 1 approval.

Councilor Courtney Hamilton asked about parking? Director of Planning and Zoning Suzanne Frick stated that there is parking, which is part of Block 1. Parking is locked in with the associated access as part of Block 1, which can be changed part of a future development proposal. The parking requirement is found on Page 7, item 10 in the Exhibit Packet, which states as part of the first phase the owner is required to install the parking lot. Director of Planning and Zoning Suzanne Frick stated that public access is required as well as the parking lot. Councilor Courtney Hamilton asked for confirmation that the Development Agreement requires the parking for the park to be built as a part of this, and if needed, the City can negotiate that some amount of parking stay for the future development? Director of Planning and Zoning Suzanne Frick confirmed it.

Mayor Neil Bradshaw thanked Councilors Courtney Hamilton and Michael David for their comments about the project being a significant amount to take in through a short period of time. He asked if there were any other questions?

Councilor Jim Slanetz stated that he respects the vision and generosity of the applicant. The project has many benefits for the community. He asked how the City and the applicant can go forward with making it the best for the community in the future with respect to the agreement? Mayor Neil Bradshaw stated should the City be able to purchase the property, it will come with a deed restriction which will stay in place unless there is mutual agreement from both parties, the City and the applicant or their estate, to change it. If there is something that comes up that was not foreseen at the time or not permitted, there is an avenue to address those concerns. The HOA would not be involved, but rather the applicant or the applicant's estate.

Councilor Courtney Hamilton gave a scenario if the City wanted to build tennis courts in 30 years, due to community and neighbor support, the applicant or the applicant's estate would be the one to approve that project? City Attorney Matt Johnson stated that in those situations, you'd have to approach the heirs or the originator who has the condition and seek permission because the City would be switching from a passive park space, which is the restriction, to an active park space. If they are unable to do that, there is case law about certain periods of time where those restrictions clear out, but those periods of time are 40-50-year time horizons. He stated ideally, the City will have a continuing person or estate to contact to approach about the changes they wish to have done.

Councilor Courtney Hamilton stated it seemed strange to her that the neighbors wouldn't have a say. Mayor Neil Bradshaw said the bottom line is to make sure everything is in line to ensure that this will be a passive park in perpetuity because that is the vision that is laid out by the applicant and is important to the community. It is why the City is getting an incredible deal. He stated that it is a balancing act.

Councilor Michael David commented that it has been contemplated for decades to have a bike trail next to Warm Springs and Atkinson's Park area, eventually all the way to Run Run. He wants to make sure that dream becomes a reality despite future ownership. He also mentioned the desire for a bike trail will be a large component for fundraising efforts. Mayor Neil Bradshaw responded that it is expressly a permitted use. Riparian restoration, trail systems, and public restrooms are permitted uses. It is not something that can be changed in any way. He stated should they be successful in the purchase of the land, the City will be able to immediately install the trail system.

Councilor Michael David asked if the City is unable to raise the funds, the bike system would potentially be seen as a public benefit that could be looked at for a future PUD on that side? Director of Planning and Zoning Suzanne Frick

confirmed there is a provision in the proposed Development Agreement that the connector trail happens with or without the City owning Blocks 2-8, which was found on page 8, number 13. It is locked into the Development Agreement.

Councilor Courtney Hamilton made a final plea to the applicant, Mr. Brennan, if it was at all possible to build community housing to do so. The hill lots are a great opportunity to build housing that falls within the newly designated community restriction, which is not income restricted but a restriction that someone lives there full time.

Councilor Michael David added that having full time residents provides a great sense of security for the part time residents. He thanked Mr. Brennan and his team for giving the City this opportunity.

Motion to approve and authorize the Mayor to sign Warm Springs Ranch Development and Rezoning Agreement 20609 as recommended.

**Motion made by Councilor Hamilton; seconded by Councilor David.
Amanda Breen Recused
All in Favor**

Motion to approve Permit P21-010, the Large Block Preliminary Plat of Warm Springs Ranch as recommended and direct staff to return with findings of fact and conditions of approval.

**Motion made by Councilor Hamilton; seconded by Councilor Slanetz.
Amanda Breen Recused
All in Favor**

Motion to approve Permit P21-001, the Preliminary Subdivision Plat for Block 1 as recommended and direct staff to return with findings of fact and conditions of approval.

**Motion made by Councilor Hamilton; seconded by Councilor David.
Amanda Breen Recused
All in Favor**

Motion to approve and authorize the Mayor to sign the Option to Purchase Agreement 20610 as recommended and amended to include maintenance.

**Motion made by Councilor Hamilton; seconded by Councilor Slanetz.
Amanda Breen Recused
All in Favor**

Mayor Neil Bradshaw thanked the Councilors for their time and effort on the large packet. He thanked the applicant for spending time and energy to work out

a vision for the community. It was not just time spent with the City but also spent with the community. He looks forward to the development and the bike trail connection between Warm Springs and the town.

The applicant, Bob Brennan, stated this community is incredibly important to him. He feels incredibly fortunate to be able to do this for the community. He appreciates the City's time.

NEW BUSINESS – Time stamp (2:22:52 video)

13. ACTION ITEM: Discussion on current status of COVID-19 and Ketchum Health Order 20-06

Mayor Bradshaw asked Fire Chief Bill Mclaughlin for an update on where the community is at. He stated that we are past the worst of the winter season involving COVID. We are in better condition compared to the winter. They were seeing a downward trend that was happening across the state up to about March 19th. There was an uptick of cases that have largely been due to people traveling here for Spring Break or coming back from traveling for Spring Break. There were only 15 cases last week which is good compared to the high peak. There is still the possibility of catching COVID if you are not vaccinated or following the precautions. Blaine county has the highest vaccination rate in Idaho. 56% of people in Blaine County have had one dose of the vaccine. Another 14% of the county is signed up to get the vaccine. The backlog for the state sign-up is very short which is 10 days to 2 weeks out. If someone wants to get vaccinated the opportunity is there for anyone ages 16+. With the folks that have been vaccinated or are able to get vaccinated within the next 10 days or so, it reaches the 70% herd immunity threshold, not including those who have had COVID. Now is a good time to continue what we are doing until we get past the cases that are currently seen. He believes they will be looking at a different picture a month or so. They are not expecting a major bump once they get through the rest of the colder weather in the spring due to stats from last summer. Last summer, numbers were down. They will be in a much better position in the summer with vaccinated individuals and with people gathering outdoors with open space versus indoors.

Mayor Bradshaw asked if the level of hospitalizations has been manageable despite the numbers increasing slightly due to Spring Break? Fire Chief Bill Mclaughlin confirmed it has been manageable. Mayor Neil Bradshaw asked Fire Chief Bill Mclaughlin, pending positive trend in lack of numbers, would he suggest end of May to expect to back off on some restrictions? Fire Chief Bill Mclaughlin confirmed end of May, they could expect to lack on some of the restrictions in place.

Councilor Amanda Breen asked Fire Chief Bill Mclaughlin if it was true that they are seeing a couple of variants in the area? He confirmed it is true. 15%-20% of the cases they are seeing are a couple of the newer COVID variants,

the UK and Californian variant. Thus far, they have not seen variants that have been proven to be vaccine resistant.

Councilor Jim Slanetz asked if the age demographic has dropped in the cases? Before they were seeing an older demographic and now it seems that there is a younger demographic. Fire Chief Bill McLaughlin stated there are a couple of reasons for this. One is due to the vaccines opening up to the older demographic first. The second is due to the younger demographic relaxing on their restrictions. They are seeing a couple of hospitalizations with the younger demographic but significantly smaller than the older demographic.

Councilor Michael David asked if there has been any definitive word on a timeframe that the vaccine is considered effective? Fire Chief Bill McLaughlin said definitively that is not known due to lack of data. They expect there will be a possibility of another go around with the vaccine but the development of the vaccines will stay ahead of any variations of COVID. He expects it will be similar to the flu shot in the long term, something you'll have to receive once a year.

Councilor Courtney Hamilton stated she is impressed at the high rate of vaccination within Blaine County which has been great and helpful in making decisions, especially moving forward. She understands we are subject to people coming into town despite vaccination efforts but that they do everything they can to keep their community safe. She thinks the combination of the vaccinations and better weather will help crush the latest blip and get them comfortable in lifting some mandates. She wants to assure the public that they are not trying to keep masks forever but rather keep the community safe based on what the professionals are advising. She thinks it would be more harmful to relax on some of the mandates prematurely and then have to reintroduce those mandates versus waiting until the right time to slowly ease them. She is interested in discussing lifting outdoor gathering sizes first, then indoor gathering sizes, and lastly mask mandates in that order.

Councilor Jim Slanetz agreed on the outdoor masking and gathering based off the data available. He would be willing to discuss dropping the mask mandate and gathering sizes outdoors immediately. He would be interested in the outdoor masking taken away immediately as he feels it is detrimental to the community. He feels that everyone has their own personal choice in it, including businesses. He believes enough precautions are available that he would be comfortable in lifting outdoor mask mandates.

Councilor Michael David appreciated hearing everyone's comments. He states that there is an exception to wearing masks outdoors if one can stand _____ amount of distance away from others. He states it does make him sad to see children wearing masks but that he believes it's parents having them wear them outdoors. He believes people are wearing masks in the community not out of fear of getting a fine but rather out of respect for each other. Regardless of the data,

a large percent of the population are scared of contracting COVID. He feels it is important to be cautious about how to proceed. He feels education on the outdoor side of things, making sure that people understand exemptions, that people understand them. He acknowledged other communities are at different points in their mandates, some more lax than others. Due to that, we will be seeing both sides of the spectrum when it comes to tourism into Ketchum. He agreed that everything should be revisited in May.

Councilor Courtney Hamilton added that Sun Valley had doing polls and that visitors stated they were more comfortable due to the mask mandates versus not having them. She believes that people are visiting and doing activities here is because of the mask mandates. She thinks it's something to consider that it may have a different economic effect than people might realize.

Councilor Michael David stated when they first spoke about the mandate they were concerned with business owners not wanting to turn to the police to enforce the mandate. He stated that if they turn too quickly on the mandate, they could potentially put those business owners back in that position where they will not want to turn to the police if they enforce their own rules and a citizen is choosing not to abide by them.

Councilor Amanda Breen stated that she is proud of her community. Everyone wants to help each other out and respect each other. She said there are some issues they will need to work through in the coming weeks. One of the reasons she was a strong supporter of the mask mandates is because many businesses were approaching her about issues they were having with people not wearing masks. She stated it was helpful for the businesses to have that extra explanation of it being a law versus just a personal rule. She stated she would like to know how businesses feel about it now. Regarding outdoor gatherings, she agreed that she would be supportive in the future to changing the limit. She wanted to correct the public record where the CDC study shows that masks and other mandates have a negligible effect has been debunked. That claim by that study has been cited by individuals who are anti-mask and she wanted to clarify that this study has been debunked.

Councilor Amanda Breen had one last concern she wanted to address which is consistency around the valley. She stated that Sun Valley extended their mask mandate into July. Mayor Neil Bradshaw clarified that they did extend their mask mandate into July 1, but everything else is per the Governor's Order. She stated that coordination with the County and other municipalities within the county would help with consistency.

Mayor Neil Bradshaw reiterated the importance for coordination with the other municipalities and the County. He proposed to come back next council meeting with some adjustments on outdoor gathers. He asked Chief Bill

Mclaughlin if it were something he felt they could revisit next council meeting and the May 17th council meeting. He confirmed that.

Councilor Courtney Hamilton said a slow phased approach could confuse the community. She would like more input from the medical community and from the community before moving forward with any decisions.

Councilor Michael David reiterated under the current order, one does not need to wear a mask unless they are unable to social distance.

Councilor Amanda Breen stated that all businesses within the community are willing to make a reasonable accommodation for those that are unable to wear masks.

14. ACTION ITEM: Consideration and approval of special event application for Rotary Brewfest. Time Stamp 3:05:50

Mayor Neil Bradshaw opened by saying this event would happen June 19th, 2021 and would be a large event with approximately 1,200 people. He acknowledged that alcohol and social distance do have its challenges. Mayor Neil Bradshaw asked if this event would not be allowed under the current state order? Public Affairs & Administrative Services Manager Lisa Enurato confirmed this event would not be permitted. She stated that 2 years ago they expected about 900 attendees but they sold 1,800 tickets. The 30% reduction is based off ticket sales from two years prior. Mayor Neil Bradshaw looked to Council members for comment. They concluded that they could permit this event, but that does not mean the state order would let the event occur. They are unable to be less restrictive than the state.

Councilor Michael David wondered why this was presented to the Council at the current time, with the measures that are in place? Public Affairs & Administrative Services Manager Lisa Enurato responded they wanted to present this to the Council as quickly as they could so that they could prepare a lineup of brewers and vendors. Councilor Michael David stated as it stands, they are currently not allowed to have more than 50 people.

Public Affairs & Administrative Services Manager Lisa Enurato stated that she does not know the time frame that they are on, but rather they were anxious to get this on the table to the Council.

Councilor Jim Slanetz stated they should not change their policy based on one event.

Mayor Neil Bradshaw stated the simplest and most straightforward way to handle this is to say they cannot approve this event until the state order allows it at which point they would be asked to come back. His view is to deny it and review it once the state order and local order permits it.

Councilor Jim Slanetz turned to City Attorney Matt Johnson to ask his view on it. Matt responded that the Governor's Order is guidelines.

Mayor Neil Bradshaw stated under the local order they can still say that they cannot approve this event until the local order has been changed. They can expect it to be revisited in May but not any earlier. He suggested they table it until the next meeting.

Councilor Michael David re-iterated that it is important to not change their policy based on one event.

Councilor Courtney Hamilton stated that it is important to look at the size of the event as it is difficult to plan an event with that scope.

Councilor Jim Slanetz agreed that it would not be fair to promise them anything at this point of time.

Mayor Neil Bradshaw suggested to table the discussion for a later time.

Councilor Michael David stated he would like to see some other options presented to the Council by the event holders that would adhere to the Governor's Order. He felt uncomfortable denying an event like this when smaller versions of this event are happening indoors on a regular basis. He thinks there is a way to make this a safe event. Mayor Neil Bradshaw asked him to clarify if he would feel uncomfortable approving this event? He stated that is correct. He is uncomfortable denying or approving this event, at this time.

Mayor Neil Bradshaw tabled this discussion.

15. First quarter report from Sun Valley Economic Development. Time stamp 3:19:00

Harry Griffith provided a summary sheet narrative of things that have been worked on in the most recent month. He highlighted that they were successful in supporting and sponsoring a company to get a tax reimbursement incentive. The company "Project Jester" anticipate moving to the Ketchum area. Over the next 4 years it will create 29 jobs, some of them being here. The target for 2021 is 14 jobs. The company has already started offering good paying jobs to locals. In the short term they are going to do a sublease of the mezzanine area of the Sun Valley Culinary Institute, as they have affinity with the food business.

Councilor Michael David asked what the benefit of getting new business to come considering the housing crisis in town? Harry Griffith responded that the business is aware of the housing difficulty. He has been telling businesses that they need to solve the housing situation themselves to a certain extent. They are also in conversation with private developers for a solution such as building employee housing and using that as an entry point for some of their workers. Regardless, companies will have employees that work remotely.

Harry Griffith addressed the action plan and framework for the next 12 months. He stated the second category is the COVID response. In spite of the fact that businesses are holding up well, there's a fair amount of hand holding. They have weekly meetings with the Blaine County Recovery Committee. Apart from that, housing infrastructure and workforce are part of something they continually work on and continue to help the economy of Ketchum and overall Blaine County. Mayor Neil Bradshaw thanked Harry for his work and presentation.

16. Regulatory Framework Regarding 5G cell towers.

Mayor Neil Bradshaw turned the discussion over to City Attorney Matt Johnson for clarification on what they can do. Matt responded when it comes to small wireless facilities, there are areas where they are preempted by federal law and there are areas where the city retains some jurisdiction. The City does retain some ability to permit and license those types of facilities on locations. Generally those permits need to be based upon siting and design location, on the other hand the City's hands are tied to people's concerns which are alleged health effects. That has been pre-empted by the FCC and their order. The city does not have any ability to retain or restrict based off of those concerns. He mentioned that a model was presented by some concerned citizens. Matt went through that model and the bulk of the model lines up with what the City already has in place. It does stray into the health exposure realm that from the legal front, it has been pre-empted. From the legal side, he is not seeing anything in the existing ordinance that is problematic.

Mayor Neil Bradshaw asked if there was a particular city that is on City Attorney Matt Johnson's radar that the City can piggyback to help lead the City? Matt responded that there is team of cities that are leading those suits on.

Mayor Neil Bradshaw asked if they can put 5G on a city street light? City Attorney Matt Johnson clarified if it goes on a city facility it would go on a facilities use agreement or encroachment agreement. He is comfortable that there is something in place. Encroachment agreements come before Council, so they would see the project. If it's on private property, it would be on a siting type permit approach. It is not a qualified city facility. Regarding collocation, Director of Planning and Zoning Suzanne Frick stated it is covered by zoning ordinance and wireless communication facilities standards. The top priority for granting any of those approvals is they need to be collocated. If they are looking to do a new installation that triggers the master plan and a more comprehensive review by the Planning and Zoning Commission.

Councilor Jim Slanetz asked about how zoning effects this? In the wireless communication ordinance there are particular locations where one can do certain things. In the residential districts, it is constrained on what kind of antennae can be placed in the residential districts versus the commercial districts.

Mayor Neil Bradshaw stated that he is not aware of any 5G networks locally.

City Attorney Matt Johnson stated there is one caveat that the City must comply with the time frame for review and approval. The failure to act within that time frame is deemed an automatic approval. The time frame is approximately 30 days, based on the scope of what is being done. They need to submit all of the information required for that clock to start ticking.

Councilor Jim Slanetz asked about franchising and how it works? City Attorney Matt Johnson stated that he does not think there is anything in federal law that provides for franchise authority. If one puts up one tower, another could come in and put up more towers. Matt stated that is where the FCC comes into the licensing and regulation. Jade stated that the state redid the franchise agreement and adjusted how localities can do video and telecommunications franchise. If you did not have a local franchise agreement it went to a statewide franchise agreement.

Mayor Neil Bradshaw asked if there was a way for 5G to start up without them knowing or if they must always start with their application? Director of Planning and Zoning Suzanne Frick stated that they would know if a provider is doing it on private property, if they are changing out their equipment via permit application. They would know immediately if they were doing it on public property.

Councilor Michael David stated that the loads are heavy on the networks, that it is difficult to access them at times or if they are accessible, the download speeds are too slow. He acknowledged there are some problems but the best way to handle it is to examine the problems.

Mayor Neil Bradshaw acknowledge there are concerns within the community and it would be helpful to bring in an expert. Councilor Jim Slanetz acknowledged the controversy behind 5G but feels it has been pushed by the financial side of things and not necessarily the overall benefit of the community. Mayor Neil Bradshaw asked the Council to continually push on this and to look to City Attorney Matt Johnson and Director of Planning and Zoning Suzanne Frick for council. Councilor Courtney Hamilton agrees that it is good to have discussion and watch what other communities around the nation are doing regarding 5G.

EXECUTIVE SESSION Timestamp 3:49:33

17. 74-206(1)(b)

18. 74-206(1)(f)

Motion to go into executive session pursuant to Enter into Executive Session to Consider Hiring of Personnel pursuant to 74-206(1)(b) and Enter into Executive Session to Communicate with Legal Counsel on litigation pursuant to 74-206(1)(f) made by Councilor Jim Slanetz and seconded by Councilor Amanda Breen. All in favor.

Motion to come out of Executive Session at _____

Motion made by _____; seconded by _____

All in favor

ADJOURNMENT

Motion to adjourn at ____

Motion made by _____; seconded by _____

All in favor

