

CITY OF SHELLEY
COUNCIL MEETING
MINUTES

NOVEMBER 25, 2008

PRESENT: Mayor Eric Christensen
Council Members: Lorin Croft, Steve Cederberg, John Lent, Charlotte
Fredrickson
Police Chief: Alan Dial
Public Wks Dir: Rick Anderson (absent)
Recreation Dir.: Dawn Lloyd
City Clerk: Sandy Gaydusek
City Attorney: B.J. Driscoll
Public Wrks. Foreman: Chuck Lloyd

PLEDGE OF ALLEGIANCE: Sandy Gaydusek

PRAYER: Steve Cederberg

Steve moved, Lorin seconded to approve the following consent agenda:

Minutes of November 11, 2008 Council Meeting
Approval of October 2008 Expenditures
Approval of October 2008 Overall Budget & Treasurer's Rpt.
Building Permits:
Dallen Worthington - demolition

A roll call vote was called for: Steve – aye, John – aye, Charlotte – aye, Lorin - aye. Approved unanimously.

Mayor Christensen turned the time over to BJ Driscoll to conduct a public hearing regarding the rezone of some parcels of property known as Kelley Acres upon annexation into the city limits. BJ explained the document that was given to anyone wishing to give testimony. By signing this document, you are sworn in so testimony can be given. BJ read the names of those that filled out the paperwork to give testimony. He asked if anyone else wished to participate, to please fill out the document that was being circulated. BJ imposed a five minute time limit on anyone giving testimony. Brian Anderson stated he would need fifteen minutes, and Rodney Hatton stated he would need ten minutes, which requests were granted. No one else requested additional time to address the council.

Robin Dunn, P.O Box 277, Rigby, the attorney representing the property owners of Kelley Acres recognized the matter of annexation a difficult task. Mr. Dunn discussed the various categories of annexation, and stated the council was lead to believe this was a Category A annexation, however he does not agree with this and feels this annexation should be classified as a Category B. A Category B annexation has many more requirements than a Category A. Mr. Dunn said the city does not have written consent of the property owners for annexation. He said the city believes there is implied consent if water or city services are utilized. Mr. Dunn said the residents of Kelley Acres gave written notice of non-consent, and utilities must have been accessed after a certain date. Mr. Dunn said the property proposed to be annexed is not contiguous with the current city limits and the city's Comprehensive Plan does not designate the area for potential annexation. Mr. Dunn said he felt Category B annexation must be followed. He said at the hearing on September 23, 2008, the council did not give expressed reasons for

annexation, as well as at the meeting on October 28, 2008. Mr. Dunn said there are ten points why Kelley Acres should not be annexed into the city. 1. 62% property tax increase. 2. The Kelley Acres residents prefer snow removal done by Bingham County. 3. They prefer private sanitation collection. 4. Animals are wanted on the property. 5. The lots in the subdivision were never designed to be city lots. 6. The infrastructure is already in place in the subdivision. 7. The Residents of Kelley Acres like the rural setting they now have. 8. There is no written annexation plan. 9. No sewer services are available. 10. All residents are opposed to annexation. Mr. Dunn said why not allow this to be a majority vote, as the residents of Kelley Acres do not want to be annexed. BJ received a letter dated November 19, 2008 from Mr. Dunn, and a list of those opposed to annexation. He made these documents a part of the record, as well as the written email response back to Mr. Dunn. BJ asked Mr. Dunn to list any lots that may not be considered contiguous. Mr. Dunn said the properties cannot be contiguous by a shoe string. He said the Snake River Valley Irrigation District was contacted, and they stated the canal is not contiguous to the city. Mr. Dunn's five minutes expired, but Elwood Christensen offered his time to Mr. Dunn, which Mr. Dunn accepted and then completed his remarks.

Brenda Price Inns, 1212 N. 825 E. said she was opposed to annexation for many reasons. She said she probably would use a lot more water if she was not metered. Mrs. Inns said currently she uses city water, as well as irrigation water to irrigate her property. She said she was insulted by the comments from the council in previous council meetings, and asked for respect in the future. Mrs. Inns said there are hard feelings that have come about because of this matter, and she would like to see those hard feelings go away. She said this matter has made their neighborhood come together closer.

Jess Dye, 1212 N. 815 E. said he is opposed to annexation. He said he cannot qualify for the home owner's exemption and his property taxes would raise substantially. Mr. Dye said he was offended by the statements in the newspaper stating the city was tired of paying for those in Kelley Acres. He said they pay for their water they use. Mr. Dye said he left the last council meeting feeling the city did not want the residents of Kelley Acres to support the city.

Pamela Hatton, 1205 N. 815 E. said she is opposed to annexation. She said she has a rental house and the property taxes would go up substantially. Mrs. Hatton said she took the minutes from the previous meeting and went to some of the surrounding homes explaining this annexation. She said these residents were inside the city limits, and they signed a petition stating they felt Kelley Acres should not be annexed into the city limits. Mrs. Hatton said she contacted GPOD and they never stated they wanted to be annexed, but they wanted to explore annexation for future growth. BJ asked Mrs. Hatton for her list of those that signed the above stated petition. This document was submitted into the record.

Tricia Nelson, 1210 N. 815 E. stated she does not consent to annexation. She said she is concerned about the retail value of her property. She said she does not want to have an animal on her property right now, but may in the future. Ms. Nelson said she is worried about needing to sell her property with the right to have animals, and not being able to. She said the annexation

of her property takes away these choices, and she wants the option to have animals in the future. Ms. Nelson said she does not like the increase in taxes either.

Rod Hatton, 1205 N. 815 E. said he is opposed to annexation. He feels this is a one sided win-lose issue. Mr. Hatton said the figures of a 62% increase came from the figures they were given previously. He said he presently enjoys good snow removal by the county. Mr. Hatton said the city has problems with snow removal, and adding extra streets to be cleaned could be more of a burden. He said they want their own sanitation services, and not be limited to using the city sanitation service. Mr. Hatton said he is also worried about the property values if no animals are allowed. He said the lots in their subdivision were not designed for city lots, and he is concerned that they may be ordered to install sidewalk, curb, and gutter, and street lights in the future. Mr. Hatton said their infrastructure is already in place. He said at the meeting on October 14, 2008, the city attorney stated that water was just one of the many reasons for annexation, however the annexation of Kelley Acres will have no impact on the city's water right application. Mr. Hatton said he feels the city is gaining extra taxation without any effort on the city's side. He said presently they believe that the residents of Kelley Acres will not be metered if they are annexed. However, this is counter productive due to their large lots where it is obvious that they will use more water. Mr. Hatton said large lots produce more waste for Spring and Fall Clean Up also. In conclusion, Mr. Hatton said he could see a need for orderly growth, however the annexation of Kelley Acres is not orderly due to the mentioned reasons. He said there has not been any growth around their subdivision in the last ten years. Mr. Hatton said the Idaho code states that a Category B annexation should be for the orderly growth of the city. He said he hope this matter does not come down to a Judicial Review.

Rod Shaw, 846 E. 1430 N. declined testifying, however gave his allotted time to Brian Anderson.

Jim Dufur, 1214 N. 825 E. stated he is opposed to annexation. He stated the money issues and the animal issues are the main reasons.

Elwood Christensen, 1220 N. 825 E. said he moved to his property in 1962. He said he went to Bingham County for a well permit, but they suggested he approach the city about accessing their water. Mr. Christensen said he was told by the city to pay for a hook up fee and install a meter, which he did. He said he feels they are fine they way they currently are, and doesn't want to be annexed. Mr. Christensen said he researched this matter, and said there is no growth in the area. He said they are only contiguous by Alan Dial's property. John asked Mr. Christensen how much his commercial property taxes would increase if he were annexed. Mr. Christensen said probably about \$2000 annually. He said he obtained a variance for a machine shop from Bingham County. Mr. Christensen said there was no opposition from the neighbors regarding his machine shop.

John Johnson, 1216 N. 825 E. said he is opposed to annexation. He said this is because of their right to have animals. He said he does not have a full acre of land and can not have animals.

Mr. Johnson said he was told he would have to go through Planning and Zoning to obtain a special use permit to have animals.

Brian Anderson, 1226 N. 825 E. said at the hearing held on October 28, 2008, a councilman gave the reason for annexation is that it should have been done twenty five years ago. When he was asked why, no answer was given. Mr. Anderson said the council stated if the economy is good, the city should grow. He said the economy is not good, and this is not the time to make these changes to the city. Mr. Anderson discussed the petition of non-consent that was submitted at a previous meeting. He submitted a copy of this petition presented previously at the February 26, 2008, meeting again for a matter of record. Mr. Anderson said no written consent has been provided. He also circulated a petition to residents within the city limits regarding this annexation. Mr. Anderson said he talked to 26 residents, and the majority, which was 25 out of 26 of those residents was strongly opposed to this annexation. He submitted this petition as a matter of record. Mr. Anderson said at the meeting on February 26, 2008, after testimony was given regarding annexation, none of the council members were interested in pursuing annexation. He asked the council why now are they again being considered for annexation. The council stated nothing had changed. Mr. Anderson discussed the comprehensive plan of the city. He said the plan indicates it should be reviewed on an annual basis and this has not been done. He said nothing in the plan indicated to expand the city to the south or the east. Mr. Anderson stated that the council previously stated that there were no intentions to grow to the east or the south. He said the Area of Impact has been defined for two years now, and the Comprehensive Plan has not been updated to reflect any proposal to grow in that area. Mr. Anderson said he does not believe this annexation meets the intent of the law. He said in the past the city has discussed an annexation plan, however when he asked to see the plan, he was told one was not required. Mr. Anderson said just because a plan is not required doesn't mean the city should not plan for the future. He said at the October 28, 2008, hearing the city was asked about future issues for street lights, sewer service, sidewalk, curb, and gutters, etc. He said the Mayor stated they did not have a crystal ball to look into. Mr. Anderson said in conclusion he feels pursuing this proposal is a mistake. He said the city has failed to properly plan and has provided misleading and contradicting statements. Mr. Anderson said he feels this annexation would be wrong and illegal, and feels the city need to provide a plan. John said the city is in the process of updating the city's Comprehensive Plan, however this is a long process.

Roger Steele, 816 E. 1200 N. said most of the stuff has been covered tonight. He said he is very opposed to this annexation. Mr. Steele said his property is not even listed as Kelley Acres.

Alan Muir, 814 E. 1200 N. said in an effort to solidify things, he has no ill feelings. He thanked the Mayor and Council for the opportunity to be heard. Mr. Muir said they have a very diverse group in their neighborhood. He said some of the residents are young, retired, have college kids, etc. Mr. Muir said there would be hardships if property taxes are increased. He said he is very thankful for his neighbors. Mr. Muir said he and his wife are opposed to annexation.

BJ said the city received a letter dated October 13, 2008, from Bruce and Peggy Cook, 810 E. 1200 N. In the letter Mr. and Mrs. Cook asked for the city to discontinue their desires to annex Kelley Acres. Mr. and Mrs. Cook stated they see no advantage to themselves or their neighbors to be annexed. The letter was made a matter of record.

BJ said there was no other documentation received, and closed the part of the hearing for testimony. BJ turned the time over to the council for deliberations. BJ discussed the need for expressed finding regarding this hearing with the council.

John asked about the water usage and rates. Sandy said the base rate is \$22.50 for the first 10,000 gallons. She said she has never figured an average water usage rate for Kelley Acres, but would guess that in the summer months it ranges between \$30 and \$50. The Council asked about animals being allowed in a Residential Agricultural zone. Sandy said depending on the type of animal, a certain number of animals are allowed on one acre of property. She said for instance, two cows or horses are allowed on one acre. Sandy read the ordinance for Bingham County regarding animals. She said they have a similar ordinance to the city's. Sandy said a resident must have at least one acre of property to have animals in the county. She said animals would not be allowed on their property less than one acre in the county unless they had some received grandfather rights.

Steve discussed sidewalk, curb and gutter, and said the city did not have intentions of ordering the construction. A resident said the Mayor previously said it would be appropriate to install sidewalk, curb and gutter in the future. Lorin said he would be opposed to asking the resident to install sidewalk, curb and gutter at this time.

Charlotte asked if Category A was correct for this annexation. BJ said he is confident that this is a Category A annexation. He said the statute changed as of July 1, 2008, and there is no implied consent if access to city services occurred after this date. BJ said some of the residents feel the implied consent has been revoked by stating they have not given written consent, however before consent can be revoked, implied consent must be removed, by not utilizing city services. BJ said the property is contiguous based on case law. He felt the separation of the property by a ditch or canal is not enough to make the property not contiguous.

Lorin said there will be a tax increase, however he does not believe the resale value of the property in Kelley Acres will decrease because they are in city limits. He said he feels this annexation is part of orderly development. Lorin said the city discussed the right to shut the water off outside of city limits, but did not intend to do so. He said they will annex the property instead.

Mayor Christensen discussed the comment about looking into a crystal ball. He said what he meant by that comment was that they do not know what a future council may do, and cannot predict the future for them.

Lorin moved, Steve seconded to approve the annexation of the property known as Kelley Acres based on the city's Comprehensive Plan, the proximity of the proposed property, the increase of resale value to the property owners, and the use of city services with a zoning designated as RA (residential agricultural). Lorin said he has served on the council with four different Mayors since 1988, and all of the previous boards felt Kelley Acres should be annexed. Mayor Christensen called for a roll call vote. Lorin – aye, Steve – aye, John – aye, and Charlotte – aye. Approved unanimously.

BJ asked for clarification on the Council's Finding of Fact for the annexation with a RA zoning designation. Lorin said there is implied consent based on water usage, annexation will increase their property values, and annexation is necessary for orderly development. Steve said the separation of a canal is not much of a reason to consider the property non-contiguous. He said Shelley is a great little town, and feels Kelley Acres is contiguous as law requires. He also feels annexation is necessary for orderly development. John said the property is contiguous and fits into the long term planning of the city out in the Sugar Factory Road area. He said in the future the city may possibly review the RA zoning to accommodate the problems better. Charlotte said she feels bad about losing friends tonight. She feels we need to work on our city to help our water situation, and to help the community grow. Charlotte said a 62% increase in property taxes is high, but possibly when it is re-evaluated it won't be that high. BJ will draft an ordinance to be adopted at the next meeting. He concluded the hearing and turned the time back over to Mayor Christensen.

Sandy said she received a written appeal for a setback variance requested by Kong Khamone for a porch at his property at 190 E. Pine Street. Sandy said the Planning and Zoning Commission denied Mr. Khamone's request because they felt the reason for the variance which is an ice issue could be addressed in a different manner. The council set a hearing to discuss the appeal by Mr. Khamone for December 9, 2008, at 7:30 p.m. At this time they will review the minutes of the P&Z meeting and the other documentation so a determination can be made.

Sandy said she received a request from Mark Cowley for a contribution of \$1000 for the Youth Coalition. The council reviewed Mr. Cowley's letter and asked that he be invited to the next council meeting for further information.

Alan said the Angel Tree Committee would like the city to donate the bikes that the police department has found to be re-furbished for the less fortunate children. Lorin moved, Steve seconded to donate the following bicycles that were recovered by the police department and unclaimed to the Angel Tree Charity. Approved unanimously.

Oasis Magna #95TD514745

Silver Scooter (no number)

Pacific Cycle Mountain Bike #SNSFD06115460

Next Megalight #D14040100752

Schwinn Frontier #PATF51489

Huffy Stalker #9155216H1592

Pink Barbie Bike #525888158

Huffy Red Rocket #HEJ05b75600, HEJ07A77996

Silver Scooter with yellow wheels (no number)

Alan said he telephoned the council regarding the advancement of 80 hours of personal leave for Officer Jed Lewis. He said Officer Lewis had to have additional surgery for a dog bite he received while aiding another officer. Lorin moved, John seconded to advance Officer Jed Lewis 80 hours of personal leave due to additional surgery after a dog bite. Approved unanimously.

Lorin moved, John seconded to approve a dance license and waive the annual fee for the Senior Citizens Center for 2008. Approved unanimously.

Lorin moved, Steve seconded to approve a Second Hand Sales Business License to Hidden Treasures I, Hidden Treasures II, and George Siems. Approved unanimously.

BJ discussed the pending water application. He said the next available date that the hearing can be rescheduled would be sometime in January. BJ said some concerns of the Irrigation District had to be worked out before the hearing. He said Rob Harris filed a Summary Judgment that was denied by the Hearing Officer. He has filed a motion for reconsideration.

Sandy presented a plat for a two lot subdivision in Bingham County. The location is in the Woodville area. John recommended that the lots consider accessing the regional sewer line.

Sandy said the transfer approval notice was received from IDWR regarding the city's diversion points. She said all of the diversion points have been converted into one point which means the city can pump from as many wells as they want, but they cannot exceed our allowed volume. Sandy said Dave Noel will be at the next council meeting to discuss the specifications for the new proposed well.

John moved, Lorin seconded to cancel the council meeting scheduled for December 23, 2008, due to the holidays. Approved unanimously.

John moved, Lorin seconded to allow the city employees to take a day of Personal Leave and close the city office on the day after Christmas. Approved unanimously.

Sandy said Rick has been in the hospital due to heart failure. She said he will be in the hospital until Friday or Saturday.

Dawn said she is done drafting basketball for Kindergarten through Sixth Grade. She said she is down two teams this year and feels it is due to the economy. Dawn said they will be starting practice on Monday.

Alan expressed appreciation for the Council approval to advance Personal Leave to Officer Lewis.

John said there will be a Tree Lighting Ceremony this Friday. He said there will be a parade of lights and a Chili Cook Off. John encouraged everyone to attend this event.

John said he had the opportunity to tour Ag Parts last week. He said they also have a business that designs and constructs theme beds and playhouses. John encouraged all to go and tour their facility. He said it is a very neat business, and they would like to eventually expand. John said this business is an asset to the community. He said their furniture business is a national business.

Steve said he felt there will be some negative feedback regarding the annexation that was done tonight. He said he will try and keep his comments positive. Charlotte suggested that no negative feelings regarding the public hearing tonight be discussed. Steve said he felt the council's decision was right, and he stands by it. Alan said when his property was appraised he was told by being in the city limits his value increased by \$20,000. Lorin commended the council for their decision that was made tonight.

Lorin said he is opposed to having the new school built in the County. He said the city should continue with annexation of the northern boundaries. Steve said he would rather not review the boundaries tonight.

Mayor Christensen commended the council for the weighty decision that was made tonight. He said that the unanimous decision by the council was greatly appreciated.

Adjourned: 10:07 p.m.

ATTEST:

Sandy Gagnon APPROVE: Emi R. Christensen

NOVEMBER CLAIMS

<u>DATE</u>		<u>AMOUNT</u>	<u>CHECK #</u>
7-Nov-08	Petty Cash	58.82	32370
7-Nov-08	Teton Steel	3,073.82	32371
12-Nov-08	United Mail Direct	989.52	32372
17-Nov-08	A&B Transmission	1,138.92	32373
17-Nov-08	AAA Giles Cleaning and Restoration	675.00	32374
17-Nov-08	All American Sports	15.75	32375
17-Nov-08	Alltel	162.49	32376
17-Nov-08	American Linen	899.28	32377
17-Nov-08	BMC West	287.82	32378
17-Nov-08	Broulim's	17.37	32379
17-Nov-08	Central Transfer Station	60.00	32380
17-Nov-08	CXT Inc	13,616.02	32381
17-Nov-08	Daniel Acevedo	3,300.00	32382
17-Nov-08	Doug Keele	305.07	32383
17-Nov-08	Eagle Rock Sanitation	3,694.24	32384
17-Nov-08	Edwin Gaynor Corp	87.02	32385
17-Nov-08	Electrical Wholesale Supply Co Inc	36.87	32386
17-Nov-08	First American Title Co	200.00	32387
17-Nov-08	First Responders	257.48	32388
17-Nov-08	Forsgren Associates/P.A.	75.00	32389
17-Nov-08	H-K Contractors Inc.	154.68	32390
17-Nov-08	Hammon Teton Delivery	54.00	32391
17-Nov-08	IAS-Envirochem	392.00	32392
17-Nov-08	Idaho Business Systems	35.52	32393
17-Nov-08	Idaho Chiefs of Police Assoc.	150.00	32394
17-Nov-08	Idaho Falls Peterbilt	962.20	32395
17-Nov-08	Kings No.21	5.39	32396
17-Nov-08	Mountainland Communications Inc	185.00	32397
17-Nov-08	OK Trailer Sales	3.40	32398
17-Nov-08	Pool Cleaner Services LLC	27.00	32399
17-Nov-08	Qwest	45.22	32400
17-Nov-08	Rocky Mountain Power	7,160.56	32401
17-Nov-08	RUD Chain Inc	812.30	32402
17-Nov-08	Russ's Overhead Doors	1,148.72	32403
17-Nov-08	Shelley Pioneer	285.03	32404
17-Nov-08	Shelley/Firth Rural Fire District	5,033.00	32405
17-Nov-08	Siems Enterprises	48.85	32406
17-Nov-08	Snake River Valley Irrigation	650.50	32407
17-Nov-08	Sportsmans Warehouse	29.98	32408
17-Nov-08	Town and Country Gardens	165.37	32409
17-Nov-08	United States Welding Inc	79.30	32410
17-Nov-08	Vern Johnson	21.00	32411
17-Nov-08	Watson Roto Rooter/Thayne Watson	75.00	32412
17-Nov-08	RSCI	650,768.00	32413
30-Nov-08	US Post Office	345.33	32414
30-Nov-08	Airgas Intermountain Inc	115.62	32415
30-Nov-08	Alltel	150.53	32416
30-Nov-08	Arts Muffler and Brake Center	163.59	32417
30-Nov-08	Auto Trim	259.00	32418
30-Nov-08	Bingham Groundwater District	3,480.33	32419
30-Nov-08	Brian Crezee Contractor	375.00	32420
30-Nov-08	Buisness Phone Specialists Inc	66.50	32421
30-Nov-08	Cable One	164.95	32422
30-Nov-08	CATE-Idaho Equipment Co	9.38	32423
30-Nov-08	Circular Butte Landfill	6,243.60	32424
30-Nov-08	Curtis Thompson	13.75	32425
30-Nov-08	DBS Inc	1,962.55	32426
30-Nov-08	Electrical Wholesale Supply Co Inc	233.61	32427
30-Nov-08	Exxonmobil Fleet/GECC	191.43	32428
30-Nov-08	Hunter Upholstering	117.00	32429
30-Nov-08	IAS-Envirochem	172.00	32430
30-Nov-08	Idaho Transportation Dept	23.00	32431
30-Nov-08	Imperial Asphalt	12,881.25	32432
30-Nov-08	Intermountain Gas Co	327.37	32433
30-Nov-08	Tax Collector Janice Lawes	1.48	32434
30-Nov-08	Kirkham Auto Parts Service Co. #8	542.46	32435
30-Nov-08	Les Schwab Tire Center	127.75	32436

30-Nov-08	Liz Lathrop	50.00	32437
30-Nov-08	Maintenance Engineering	581.58	32438
30-Nov-08	Metroquip Inc	31.27	32439
30-Nov-08	Oldcastle Precast Inc	732.00	32440
30-Nov-08	PAETEC	478.92	32441
30-Nov-08	Phillips 66 Co	1,050.86	32442
30-Nov-08	Polk Directories	370.00	32443
30-Nov-08	Pro Rentals and Sales Inc	81.60	32444
30-Nov-08	Qwest	87.78	32445
30-Nov-08	R & S Distributing	37.99	32446
30-Nov-08	Shelley School District	761.26	32447
30-Nov-08	Skyview Electric Inc	2,900.00	32448
30-Nov-08	Staples Credit Plan	428.64	32449
30-Nov-08	Stephenson Computer Consulting	37.50	32450
30-Nov-08	Steve's Radiator Shop	175.00	32451
30-Nov-08	Teton Steel	184.84	32452
30-Nov-08	Utah Jazz Youth Basketball	4,438.00	32453
30-Nov-08	Zee Medical Service	114.92	32454
14-Nov-08	City of Shelley Payroll	48,198.55	
21-Nov-08	City of Shelley Payroll	19,031.16	
26-Nov-08	City of Shelley Payroll	50,463.09	
	Total	855,444.95	