

CITY OF SHELLEY
COUNCIL MEETING
MINUTES

April 25, 2023

PRESENT: Mayor Stacy Pascoe (Zoom)

Council Members: Leif Watson (Conducting), Adam French, Jeff Kelley,

Absent Council Members: Kim Westergard

Police Chief: Chad Purser
P.W. Director: Justin Johnson (Absent)
Park and Rec Director: Mikel Anderson
City Attorney: B.J. Driscoll (Absent)
City Building Insp/Plan: Jordan Johnson
City Clerk/Treasure: Sandy Gaydusek (Absent)
Deputy City Clerk: Lisa Ybarra

PLEDGE OF ALLEGIANCE: Chief Chad Purser

PRAYER: Adam French

The meeting was opened at 7:34 p.m.

Adam moved, Jeff seconded to approve the following consent agenda:

Approval of the Minutes of Council Meeting on April 11, 2023

Approval of March Expenditures

Approval of Overall Budget & Treasurer's Report

Acceptance of the 2nd Quarter Finance Report

Approval of Building Permits:

IF Signs LLC - Signs
Iron Ridge Builders – Single Family
Iron Ridge Builders – Single Family
Sunlight Electric – Solar
Sunlight Electric – Solar
Sunlight Electric – Solar
Blue Raven Solar - Solar

A roll call to vote was taken: Adam – aye, Jeff – aye, Leif - aye

Approved unanimously.

Jose Gonzalez-Vacate Alleyway between 448 and 446 W Pine St

Jose went to the office in Blackfoot to obtain the quit claim deed. He was told by the secretary that the neighbors have nothing to do with the situation and that it only between himself and the City of Shelley. Jose would like to build a garage but cannot because there is not enough room currently. Adam asked who Paul Clayson, listed on the quit claim deed is. Jose mentioned he was the previous owner. Leif said that we would need to get the quit claim deed information and Sandy would need to get ahold of the assessor's office and start the proceeding to have it vacated to get to the next step. Also mentioned to Jose that there are a couple of other steps. The quit claim deed shows that the city owns that property still and for Jose to get what he needs we would need to vacate it which then will be his property and he (Jose) will be notified and neighbors will be notified. Jeff mentioned we would get with the attorney and figure it out and would work with Sandy about getting it vacated.

Robert Nichols 541 Moonlight Dr. Idaho Falls/Sunlight Electric-Building Permit fees for Solar Panels

COUNCIL MEETING MINUTES – April 25, 2023

He is an electrical contractor and has been an electrician for 21 years. His business is an electric company which began about 1 ½ years ago. His company is not a salesman, they are electricians and 12 employees are all licensed. He mentioned that the permits are structural and would like for the council to entertain the thought process of possibly doing a flat rate for a project. He compared the following cities with the solar projects:

Ammon	\$123.60
Idaho Falls	\$30.18
Blackfoot	\$606.47 State Permit
Chubbuck	\$100.00 flat rate
Pocatello	\$850.00
Iona	\$82.90
Shelley	\$1,136.22

Mentioned that he was not aware that Shelley had a building department. He asked Jordan why are the structural permits so expensive for here. Leif asked if he sold or if he is just the installer. Robert said he was strictly the installer. Robert mentioned that they have different agreements with the sellers and when they sell, they will contact Robert/Sunlight Electric to install. Adam asked Robert if he knew what the customers were being told by the buyers about the permitting. Robert mentioned that he guesses the littlest as possible. Would like to have the Council entertain the thought of having a flat fee which is the fee currently based on the total project cost. Leif mentioned that he was glad Robert brought this to our attention because we have an issue for those that those selling that they need to have a permit to sell. Also mentioned that being a licensed registered and done this forever, it should have been the first thing to call the city and say he had a project coming up and what it was. Jordan was asked by Leif, if would it be easier in the long run for him to set a flat fee. Jordan mentioned that right now we have a tier based on the valuation of the project. As far as a flat fee making it easier, it won't make a difference. Jordan mentioned that Robert did apply for two other permits but he (Jordan) was slammed that week and Robert ended up doing all three projects without permits. The first project did not have a red tag fee. They had everything straightened out. The other two, Robert applied for the permits and Jordan noticed that they were working on the project prior to getting the permits. Those two projects did have the red tag fees applied. Mr. Nicolas stated that his work is done in one day. Adam mentioned that he is not opposed to a set fee. Jordan mentioned that he would be open to the valuation of the project and not include the battery and the electrical and do the valuation on the solar panels. Leif mentioned putting this on the agenda for the opportunity to discuss the fee schedule. Adam mentioned that he also thinks it should be on the agenda to take a look at a few things. Robert asked if he needed to be here for the next meeting or if would someone let him know. He was told that someone would let him know.

Kimberly Pine Subdivision Final Plat & Development Agreement Approval

Mike Robbins resides at 985 N 575 N, here to talk about the final plat. Everyone has reviewed it, he reviewed it, Jordan, Forsgren, Harper Levitt. Adam asked if Jordan was good with the plat. Jordan mentioned that Forsgren reviewed the final plat and development drawing. On the construction drawings and the development drawings, after the final plat is recorded, we just need the record number on the development drawing which cannot be done until the final plat is done. Jeff motioned to approve Kimberly Pine Subdivision Final Plat; Adam seconded. All in favor, Adam – aye, Jeff – aye, Leif – aye, one absent.

Jenna Layton-Child Craft Fair at the City Park

Mikel said that Jenna couldn't make it and he was going to talk a little about what Jenna was looking for. Jenna would like to have local kids make paintings; bracelets have a craft fair. She would like to do like a kid's farmers market. They would like to see if the City will allow them to use the shelter. She would like to see how it will go a couple of times and then if there is a charge then she would be able to pass on the fee to the kids. Leif mentioned that it seems it is something she is trying to teach the kids, how to become entrepreneurs. Adam mentioned he is not opposed to the idea. Mayor did mention that she would have to provide her own insurance, the city cannot be liable. Mikel mentioned that if they needed more information then Jenna

could provide it at the next meeting. Adam would like to see more information. Leif tabled this until the next meeting to get more information. Adam moved to table the child craft fair at the city park until the next meeting. Jeff seconded the motion. Three in favor.

Cat Control – Animal Ordinance Amendment

Mayor said we don't want to do anything unless we can enforce it. Leif asked if we amend it to be something enforceable or do we leave it in the status quo. Jeff mentioned that if we are going to do anything, we need to have public awareness and public involvement because we do not have an animal control officer. If we want to attack this like we want too, we need to by having a neuter program involved. Leif asked if this is something that you, Jeff, would want to have changed or added to the ordinance. Jeff said yes but it would require some innovation on our part. Mayor mentioned that he is against it because to the taxpayer it will cost them to take care of cats. Leif mentioned that there would be costs associated with taking care of the cat. Mayor mentioned that if an officer takes care of the cat and have the Vet do it, then the taxpayer is paying for that. Jeff mentioned that the taxpayer would not be paying for the cats. We would give a voucher for free neutering for Southeast Idaho Spade. The public would have to go out and we provide the cages to the public and they will go out and catch the cat and take it to the Vet on the voucher system and then bring the cat back. Adam agrees with the Mayor and doesn't think the taxpayers should have to pay for the cats. Leif asked Jeff what we are saying is that we would get the voucher and keep them here, city hall, and if he caught a cat that he thought was Ferrel then he would go to Lisa get the voucher and then he would have to take care of it. Jeff said yes and we would hold the traps. Leif mentioned that we would still have a Ferrel cat running around. Jeff said but the cat will not be breeding. Mayor mentioned that we would have a cat that is not breeding but would still get into the garbage. Adam and Leif said that if Jeff wanted to come up with a program, they can all look at it. Jeff said he would put together a program and present it.

Public Comments

Becky Quick, 1256 N 590 E. Becky thanked the Council for letting them speak tonight. She hoped that the Council received the paperwork they had sent and went on to say that they do not live in the City of Shelley, but the city had changed their lives over the past 2 weeks as the city had increased their previously 3-foot-wide irrigation ditch to an 11- to 13-foot-wide irrigation ditch/canal along their property line. Damaged their back gate and ruined the back driveway and destroyed forever a beautiful waterfall that once carried irrigation water to the Shelley pond. Becky mentioned that this was done to accommodate the greater amount of water needed for the city's field along the south side of West River Road. Becky stated that they learned a lot about the process and learned that there was a lack of communication. First, Becky stated that the city council was never given the information of the full extent of the project. Second, and according to the mayor, the contractor had contacted them several months ago before the start of the project but in reality, they had heard a rumor of the project 2 weeks ago and they were the ones that had to contact the contractor. They also know that EIRSD gave permission for the portion of work to be done on their property. They, the Quicks, were not asked permission for work to be done on their property instead they were told by the contractor what was going to happen. The Mayor had told us during a phone conversation yesterday that the contractor told him that he would use a small, mini excavator to clear the ditch. Becky said that instead of what the Mayor was told, the contractor used an excavator with a 5' wide bucket with 3' foot wide tread on both sides. Becky asked a few questions-why would the city council not know of an expensive use of the city funds? Why would the contract between the contractor and the Mayor be verbal and not written? How did the contractor receive the bid? Was there a bid for the full project or was the project broken down into smaller amounts to avoid the process? Is there a conflict of interest because the contractor is the one who farms the city field will be irrigated by the water? Did the city go through the proper channels with the irrigation district, the owners of the easement because the head of the irrigation district did not know of the project past the irrigation pond. Becky mentioned that there was a lack of planning and no impact study was done for their property or no written plan discussed with them. There was no engineer that was contacted to plan what to do where there are exposed side walls of dirt and sand over 7' tall.

Gary Quick-1256 N 590 E. As Becky said, there was no plan, no engineering. We looked at the new exit culvert which will dump water that is 4' from the base of our largest tree and its going to create a pool there and it basically destroy the tree. They asked the contractor what will be done to prevent erosion, they said that rocks should be put in place for protection. He, the contractor, answered that maybe we'll throw in a few rocks or chunks of cement. Gary also mentioned that there was a lack of integrity. Gary said he would think a contractor would have immediately noticed that his excavator is sinking up to 2' into the ground on either side while he is digging. How do we, how do you trust a contractor who then continues to drive 350' down my property line, our property line to do dig a 5' ditch? The equipment was too big for the job and the ground was too soft to work on without causing extensive damage and it was done anyway, he didn't stop. Gary also mentioned that there was a lack of common sense. The culvert under the road to our subdivision is still the original 24" - 2' in diameter and it has not been replaced. We are downstream from that culvert and water must go through that culvert before it enters a portion of that ditch on our side so the actual volume cannot physically be increased beyond that 24". Gary mentioned that they asked the contractor if the culvert under the road is still the 2' wide which is the same size it has always been. The contractor answered was that "we are waiting to see how it will work." Gary said then why did you not wait to see how it would work before you destroyed out yard? Gary said that they were out of town all last week when this work was being done, if we were in town, we would not have let this happen. 14' of this huge ditch that was uncovered and unprotected is on the along the Shelley pathway. There is a walking path and a school bus and that is a safety issue. We are in the process of trying to sell our home and there is nothing that sells a house better than an unsightly slumping 11' plus irrigation ditch that potential buyers' children can drown in. Gary stated that this construction project was not done correctly from its inception, they did not give permission for what happened to their yard, there was no plan and now there is a completely irreplaceable mess, the mess is and will cost them time and money and a loss of property value. He went on to mention that the only ones that are benefitting from this project are the city and the contractor and the only way to make the ditch safe and effective and acceptable is to bury a 24" culvert, plant grass on it, repair their back gate and driveway including new sand or gravel and replace the exit culvert with a 24" culvert and make the exit end of the culvert safe and attractive once more. Thank you.

Brent McLane 1255 N 950 E. Brent mentioned that they live across the street from the Quicks. He is here to talk about the same issue. His property was also severely damaged in the process. Brent wanted to talk about more of the process that the city has gone through with the process. Based on his experience and knowledge as a city employee and he knows the right process of procurement and the city did not follow the process that is set of state statute to do this work of this nature. There has been project that is substantial which includes an irrigation pump crossing a roadway down a couple miles of irrigation ditched that has been piped and changed and a reservoir being build that is well over \$50,000.00 which is the threshold based in state statute where it does not have to go out to bid. He doesn't care if you think you can divide that into different little projects, that is not allowed. Gary went on to read the statute that he says the city has violated. In the violation of this section for an official of any political subdivision or the state itself to knowingly or willingly avoid compliance with procurement or competitive building or willfully or knowingly split or separate purchases or work projects with the intent to avoid compliance with such statutes. If any officer or employee of any public entity, willfully or knowingly violates this section, the public entity that this officer or employee serves shall be liable for civil penalties not exceed \$5000.00 for each event and such each penalty shall be payable to reimburse the regional expense of the competitive bidding and procurement. After reading the statute, Brent said that the city had violated the state statute to procure this project, and dividing it up into little projects is a violation of law and is illegal. The proper procedure for a project of over \$50,000.00 is to create a solicitation of RFP or some project that are publicly noticed and sent out for bid and should obtain at least 3 bids. He pointed out that we know that we have done other projects. Brent also wanted to talk about the fact that the contractor hired for this project did not have a contract which is illegal and he

not even a licensed contractor to do public work in the state of Idaho. He looked on the state database for his business and he is not listed as a licensed public work contractor and he should not be doing any of this work. He submitted a request for information regarding this project and the city has 72 hours to respond. He wants to know everything that the city has on the project. Brent also wanted to mention his property. He has a 12-foot irrigation easement and he is okay with work being done on the irrigation but the work that has been done has gone at least 10 feet beyond that irrigation easement. His sod, his sprinkler system, all his landscaping has been destroyed and cannot be replaced. It has to be fixed and replaced and its thousands of dollars, this is not a cheap little fix. The contractor has been irresponsible, he is not qualified to do the work and it is not a farm, this is his, Brent, private property. The contractor does not have the right to go on the property and destroy it regardless of what he thinks is his ability to go onto that easement. They talked to Mr. Christensen and they know there is no design plan, he has no plan for what is supposed to happen. A responsible city in this kind of project would have an engineer design that would be then fully executed and inspected and Mr. Christensen is just winging it. Brent is really quite upset about this and will not stop until it's corrected. What has happened is illegal and this project has been done wrong from the get-go and now they are suffering for it and he is not going to stand for it.

Ashlie McLane 1255 N 950 E. Ashlie said that there is a there is a process for these things. When a project such as upsizing, the irrigation needs to be undertaken the prescribed course of action would be for the public works department to initiate and design the project and then submit a request to public viewing. The best practice would have been to obtain at least three bids to have a reasonable price for the project and then it should have been reviewed by the city attorney before it was signed by the Mayor and the contractor and notarized. Mayor Pascoe totally should have circumvented his public works department and city attorney to orchestrate the project. Ashlie and her husband submitted a records request for documents related to this project and by state statute, the city has 72 hours to comply with this request. Ashlie suspects that no documents will be forthcoming because the contractor, Brent Christensen, had already confirmed what they had already suspected, there was never a written contract as there should have been and the project was never opened up for public bidding as it should have been. Ashlie went on to say that some of you would excuse this behavior because this is a small town but it is precisely because this is a small town of hard-working people that every dollar counts especially tax dollars that makes it essential that city funds be handled thoughtfully and appropriately. This project has been the opposite of thoughtful and appropriate. We find that there was no planning or forethought, no communication by the city with affected property owners prior to commencement, no contracts, no documentation. The tax-paying citizens of Shelley and those of us in the area of impact deserve far better than underhanded backroom deals by the good old boys' club. She finds its highly suspect that the person contracted to oversee this project is the same one farming the city property who benefits from the outside system, again this matched strongly of shady backroom deals, especially in the absence of appropriate contracts. So, to address accountability, Mayor Pascoe chose to circumvent the appropriate process and hire an incompetent contractor with a conflict of interest and a history of shawdy work for the city. Then when the project reached its current disastrous state, Mayor Pascoe contacted our household not only to take personal accountability as he should have but only to throw the blame back at his hired contractor. Ashlie went on to say that if Mayor Pascoe chose not to follow the appropriate course to find qualified contractors and the blame for your contractor's careless and incompetent work. Seems like she believes the city should find competent contractors for city projects. Ashlie and her husband demand that damage to their property extending far beyond the easement be fully rectified in a timely fashion. The only acceptable remedy is to pipe the remainder of the ditch and cover it with topsoil and grass. For any future work that needs to be done, we will not allow any work to be done or handled in any way by Mr. Christensen. They ask that the city follow the process as it should have been done in the beginning to hire a competent contractor through a public bidding process and the work be done to a standard mutually agreed upon by them and the city and it be overseen by public works as it should have been. They truly appreciate the city council members and staff who

have gone out to walk the property and see the extent of the damage and assure us that their desire to have this fully rectified. They hope and trust the city of Shelley will follow through to remedy this. If not, they will not hesitate to take appropriate legal action.

Ed Porter 1060 W Fir St. Ed mentioned that he cannot believe that the city allowed this to happen to the Quicks and McLane's property. He is new to the city and he is standing talking is that this is a pattern in this city. There is another project which is two properties to the east of him that the city undertook and is within city limits which remains unfinished years after the project was started. He doesn't know why that is. It is on the Winder's property. There was a water line that was increased for irrigation and a fire hydrant was put in the dirt work was never finished and the fire hydrant was never protected and someone can run into it. Leif mentioned that they are aware of the project but Justin is not present but they would check with him on that. Leif also thanked them for the comments and appreciate them being brought to their attention. The records request has been received and will be answered.

New Council Business

Improvements to Tennis Courts – Mikel mentioned that they have two bids and are waiting for more bids to come in. Just need to know what we want to know if asphalt or concrete. We are waiting for more bids and asked to have it broken down as a demo price and asphalt price. And it can be discussed if we want to rip out everything or just over.

Consider Movies for Movie in the Park – Justin mentioned for them to take a look at the options and decide what movies we would like in the park.

Consider Business License – Community Pioneer, Kelley Real Estate Appraisal, Laser and Design LLC.

Adam moved to approve the business licenses; Jeff seconded. Three in favor.

Old Council Business

Consider Liquor by the Drink Ordinance – Adam would like to have BJ present to tell us what he did.

Adam motioned to table the Liquor by the Drink Ordinance for the next meeting. Jeff seconded, all in favor. Three in favor.

Recreation Department Reports

Mikel said that he has the pool drained and is getting it cleaned now. He is having some people go tomorrow to give some bids to plaster. Soccer games start next week. Baseball draft is this week. He will be working on the fields at the city park. Mikel thanked the city crew for helping him with the city pool. He also has a young lady, Madison, who has gotten into a little trouble at the school and has 20 hours of community service that she needs to do. Mikel wants to make sure the Council is okay for him to give her some hours to help her out.

Zachary reached out about a project that he and his partner would like to do to raise money for food bank. He would like to set up at the skate park with a lemonade stand and all donations would go to the food bank.

Building Inspector Reports

Jordon has been attending the EIRSD meetings. He got more information on updates on projects. Project one should break ground in July and be completed in the fall of 2024 which will allow an additional 1000 ERUs.

In the mid of May, they are hoping to replace the membrane. There are approx. 250 ERU available out of the 500 since last fall. Leif asked how many outstanding permits he has. Jordon said right now he is doing fine because we are issuing them as we get them because they are first come first serve off of building permits but as far as the new subdivision, met with DEQ

two weeks ago in Blackfoot. We are concerned with the status of the plant. DEQ is no longer will accept a will-serve letter. They want to set up a commitment to serve letter and let the developers submit development drawings, DEQ will approve the development drawing and the design of them and let construction begin but the final plat cannot be signed until after they receive the second will serve letter saying there is capacity. Without the final plat being signed, they cannot sell lots which if you go back to our ordinance, it is exactly what it states. What this is going to do is not allow us in a development agreement to make exceptions because we will have to be in line with DEQ, ERISD, and other entities. It will put us all in the same group.

Public Works Department Reports

No comment

Police Department Reports

Chief Purser said it has been busy training, from a couple weeks ago to June they have a lot of training.

Right now, Officer Dannehl and himself are in ICRMP training for leadership training and will go through the rest of this week. Officer Ballesteros is in Boise for the field sobriety test instructor training and will finish up on Friday and we won't have to go to other agency to certify our guys. Officer Pacheco and Kaleb will be in Kimberly tomorrow for the free training through FEMA that goes over how to interact with media and press releases and things that can be shared. The Jensen's graduate through post on May 1st.

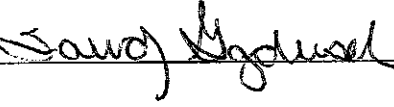
A couple of weeks ago, Officer Dannehl, Officer Ballesteros and Chief went to the safety summit. Cannot promise anything but a grant submission that was made looked pretty good according to people at the summit and if granted it would pay 2000 regular hours and 200 overtime.

Finished the Task Force April 15th. The last thing is the D.A.R.E. graduation was last Wednesday. Officer Hayman put together a great program. There were 209 kids that graduated and 202 kids and families showed up.

Council Reports

No reports

The meeting was adjourned at 9:13 p.m.

ATTEST:  APPROVE: 