

CITY OF SHELLEY
COUNCIL MEETING
MINUTES

MAY 13, 2008

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

PLEDGE OF ALLEGIANCE: Scout Daren Cole

PRAYER: John Lent

Mayor Christensen recognized Lieutenant Brent Beck for returning from his second tour in Iraq serving in the United States Air force. Lieutenant Beck received a standing ovation.

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

Minutes of April 22, 2008 Council Meeting
Approval of April 2008 Expenditures
Approval of April 2008 Overall Budget & Treasurer's Rpt.
Approval of Building Permits:

Raymond Preston	- addition
Catholic Community Church	- sign
Mark Nelson	- shed
Lynn Beck	- shop
Javier Hernandez	- re-roof
Larry Schorzman	- fence
Ada Christensen	- fence
Bryan Borsella	- re-roof

A roll call vote was called for: Steve – aye, Charlotte – aye, John - aye. Approved three in favor, one absent.

Ted Hendricks discussed the PCA Agreement with the Army Corp of Engineers to help the City of Shelley and the City of Ammon fund the construction of the waste water treatment plant. He said the agreement is for funding in the amount of 1.5 million dollars that will need to be used by September and there should be another 3 to 4 million available next year. John moved, Charlotte seconded to approve the PCA Agreement for congressional funding through the Army Corp of Engineers. Approved three in favor, one absent.

Ted Hendricks discussed the bids that were received to construct the new waste water treatment plant. RCSI out of the Boise area was low bid at approximately 21 million dollars. John moved, Steve seconded to award the bid to RCSI in the amount of 21 million dollars conditional upon DEQ approval of funding. Approved three in favor, one absent.

Ted Hendricks, ECIPDA said he has been helping to facilitate the treatment plant project without a contract. He presented a contract for administration of the project in the amount of \$197,800.

John moved, Steve seconded to approve the contract with ECIPDA for administration of the wastewater treatment plant construction project in the amount of \$197,800 conditional upon DEQ approval of funding. Approved three in favor, one absent.

Ted Hendricks presented a contract with Moore, Buxton and Smith out of the Boise to facilitate the judicial confirmation for the extra 2 million dollars needed for the construction of the wastewater treatment plant due to the reduction of interest by DEQ for their loan. John moved, Charlotte seconded to approve the execution of the contract with Moore, Buxton and Smith to facilitate judicial confirmation for the additional 2 million dollars in funding the waste water treatment plant. Approved three in favor, one absent.

Mayor Christensen turned the time over to BJ to conduct a public hearing to consider annexation and rezone of three parcels of property. Two of the parcels are owned by Ball Development who are requesting annexation and rezone to Multiple Family Dwelling (RM) and Single Family Dwelling (R1). The other parcel is owned by Merlin Dial who is requesting annexation and rezone to Agricultural (A). BJ explained the hearing procedure to everyone present, and stated the Planning and Zoning Commission has held a public hearing on these matters and recommended approval of annexation and rezone of all parcels as requested conditional upon the city water issues being resolved. BJ said the issue tonight is for the Mayor and Council to consider annexation of the properties and what the zoning should be. He said other issues such as platting issues will be considered at a public hearing at a later date. BJ asked the applicant or representative for Ball Development and Merlin Dial to give his testimony.

Rob Harris the attorney for Ball Development was sworn in by BJ. Mr. Harris gave a summary of what has taken place over the past several months regarding this matter. He said Ball Development has been trying to help the city obtain water rights to drill a new well by presenting a mitigation plan, however the Protestants rejected the plan. Mr. Harris said the matter of the water right application will be sent to hearing on May 28, 2008, at the IDWR office. Mr. Harris presented a proposed annexation agreement between the city and Ball Ventures. He said they would like to proceed with the annexation and rezoning since the school is under time constraints to utilize their bond funding. Mr. Harris said the reasons for the R1 and RM zoning has been discussed in prior meetings. BJ said there are three issues in the annexation agreement that he feels the council needs to consider. 1) Unconditionally allows one water connection for a model home. 2) Unconditionally commits potable water and fire suppression water for the school whether the water rights the city has applied for are approved or not. 3) There is one section that refers to the city's remedies if the developer defaults in any of the stages of development. In other words, if the developer has a problem in one area, the city cannot shut down the whole project, but only the area of the portion of the development that is effected. Mr. Harris discussed the new well the city has planned and how many connections it will serve. He said the city engineers have estimated that a new well pumping 1500 gallons per minute will provide 570 new connections. Mr. Harris said the development the developer is proposing tonight will need service to 125 connections. He said the city plans to drill the new well on the south end of the city and not on Ball Development's property. Sandy explained the procedure that will take place

during the platting process of this development. Many questions were asked of the applicant regarding the RM zoning, and what would be placed in that zone. The platting process will identify the accesses to the development, the lot size, the layout of the streets, the placement of the school, etc.

BJ asked for testimony in opposition of the annexation and rezoning for Ball Development and Merlin Dial properties.

Steven Cruz, 853 E. 1425 N. was sworn in by BJ. Mr. Cruz presented a petition regarding the concerns he and some of the residents of Hallmark Estates have that could not be in attendance tonight. The petition states that the residents of Hallmark Estates are opposed to the RM zoning and feels the developer could put in more than just Multiple Family Dwellings. Also stated is that the residents of Hallmark Estates are strongly opposed to the connection of their subdivision with the new proposed subdivision. Mr. Cruz said they want a separation between the two developments. BJ said the road placement and a proposed bridge will be discussed during the platting phase.

Kyle Jorgenson, 832 E. 1425 N. was sworn in by BJ. Mr. Jorgenson said he is opposed to the proposed development because as a county resident he would lose control. He said the county residents would not have a voice in this matter since the development would be within the city limits. Mr. Jorgenson said he also felt this proposed development would decrease his property value.

Jeff Strucken, 839 E. 1425 N. was sworn in by BJ. Mr. Strucken said he is neutral to the annexation issue, however he is opposed to the RM zoning. He said once RM zoning is granted, the developer could add other multiple family developments around this phase which would invite the opportunity for other items such as mobile home parks. Mr. Strucken feels R1 should be required for the entire plat.

Gary Dial, 1448 N. 800 E. was sworn in by BJ. Mr. Dial said his father, Merlin Dial does not have any development plans for his property at the present. He said he lives in the area and feels that growth is going to occur, but he is opposed to RM zoning. Mr. Dial felt that once the RM designation occurs the developer would be able to get whatever they want.

Steven Cruz, still under oath stated that good people live in apartments however as you get more and more population, you get more and more traffic and crime.

Paul Landon, 839 E. 1415 N. was sworn in by BJ. Mr. Landon said he is concerned about the number of homes that would be put in the area. He feels the Board should consider the feelings of those who already live there, and not just those who may move into the area. Mr. Landon said he is concerned that this new development will affect their streets, water, etc.

Mayor Christensen asked for a break in the public hearing to honor Brad Dial who was nominated as "Coach of the Year". Mayor Christensen presented a plaque in appreciation of Brad Dial for his dedication to Youth Basketball.

The public hearing was re-opened for opposing testimony.

Kristine Warner, 849 E. 1430 N. was sworn in by BJ. Ms. Warner said Hallmark Estates is in very close proximity to the proposed development. She said she is concerned about annexation occurring on all sides of Hallmark Estates, and then eventually Hallmark Estates being annexed into the city. Ms. Warner worried that if that annexation occurs the residents of Hallmark Estates will be forced to access city water and sewer. She asked who was going to pay for it. Ms. Warner asked for any guarantees that Hallmark Estates will not be annexed. Husk Crowther, the engineer for the City and the Regional Authority said nobody is required to access the regional sewer line immediately, however they are required to access the line when it becomes available, and when the currently used septic system fails.

Kent Peterson, 846 E. 1415 N. was sworn in by BJ. Mr. Peterson said he is opposed to RM zoning due to seeing other subdivisions that have nice berms and landscaping, yet need to be managed. He said the council should keep the interest of the city in mind and not just the developer's interests.

Rod Shaw, 846 E. 1430 N. was sworn in by BJ. He said he felt the same as everyone else and is opposed to the annexation and rezone of the proposed property. Mr. Shaw asked why the Rockwell property had not been developed. Sandy stated the property was not fully platted, and was up for sale.

Kurt Hanson, 843 E. 1425 N. was sworn in by BJ. Mr. Hanson said he is not opposed to the annexation of these properties, however he is opposed to the RM zoning since a school is planned to be built in that area. He felt apartments may bring in some transients and may pose a danger to the school.

Jay Davis, 1472 N. 800 E. was sworn in by BJ. Mr. Davis said he believes once this property is annex and rezoned that Ball Development could sell the property to anyone and only the lowest guidelines would be followed. He said he has submitted several letters to the city asking the subdivision regulations be amended to be more specific. Mr. Davis said the school could be built in an RA zone which requires one acre lots for single family dwellings. He feels R1 zoning is not compatible to the area.

Bill Watts, 834 E 1430 N. was sworn in by BJ. Mr. Watts agreed with everyone's statements in opposition to the annexation and rezone of the proposed development. He said it also came to his attention that a pedophile lives in the county to close to where the school is proposed to be built.

BJ asked if there was anyone who wished to give further testimony in opposition or in favor. There was none, and the public testimony portion of the hearing was closed.

BJ asked Mr. Harris if he would like to give a rebuttal of further testimony.

Mr. Harris, still under oath said people are obviously concerned about what Ball Development is planning for the area. He said the quality of development can be seen at Taylor's crossing in Idaho Falls, or by looking at a Kartchner Home Subdivision. Mr. Harris said the portion of the development being requested as RM zoning is 15% of the entire 80 acres. He felt RM zoning is well placed near the New Sweden Highway as a buffer to the R1 zoning. Mr. Harris said if Single Family Homes are placed near a highway such as the New Sweden Highway, the first thing that happens is a fence goes up and the property behind the fence is not maintained. He said with RM zoning a nice berm is landscaped with a fence and the lot is well maintained. Mr. Harris said Ball Development wants to do this development right and will address platting issues during that phase of the development.

Mayor Christensen said he has heard comments and concerns from friends and neighbors and now a weighty decision must be made. He called on each of the council members for their comments.

Charlotte said the city will continue to grow and progress will be made. She said she lived in the county at one time and enjoyed it, however sometimes you can't live there forever.

John said growing up he would go and shoot pheasants where Hallmark Estates is not. He said even county residents have some of the benefits of the city without residing within city limits, such as the recreation programs, use of the swimming pool, etc. John said the city is growing in that direction and feels it would be more beneficial to have this development as a city subdivision rather than a county subdivision. He said a city subdivision has sidewalks, curb and gutter, street lights, police protection, etc. He said with the sewer transmission line coming from Ammon there is going to be growth in that area, and wants the development to be as nice as possible. John said he feels Ball Development does first class subdivisions. He said he values the input received from the community tonight.

Steve said he is envious of those who live in Hallmark Estates. He said the homes and lots are all very well taken care of. He said he is in favor of nice homes, but not four-plexes. Steve felt the city should take care of what is proposed and what is already there.

Mayor Christensen said even though Hallmark Estates is not part of the city, they are still a valuable part of the community. He said the present council has not ever forced annexation on anybody even though the opportunity is there.

BJ explained what the regulations are if changes are made to the recommendation the Planning and Zoning have made, such as denying RM and designating an R1 or other zone. He said state

code requires that if the council considers a material change from the P&Z recommendation then notice of hearing shall be given before adopting any zoning amendment. He said the council basically has three options; 1) deny the annexation and rezoning request. 2) Approve the annexation and rezoning request. 3) Publish for a new hearing to consider a material change from the Planning and Zoning's recommendation to approve annexation with R1, RM, and A zoning. BJ said the council could also table this issue until the next council meeting.

John said he would like to address the possibility of amending the zoning to R1 or R1A (town homes) which could be considered at the next council meeting. John moved, Steve seconded to consider a material change from the Planning and Zoning Board's recommendation of annexation and rezone to R1A where RM zoning is being requested by Ball Development (Dial Properties LLC) and set the matter for further notice and hearing at the council meeting on June 10, 2008. Approved three in favor, one absent. There was no further discussion regarding the request for annexation and rezone to Agricultural by Merlin Dial.

Brent Clark said Arbor Day will be held May 17, 2008 and begin at the corner of Dawn Lloyd Fields at 9:00 a.m.. He said there will be a program, and the festivities will move to the triangular park where trees will be planted. John said the Mayor and Council were telephone polled for approval to name the park "Anderson Park".

Bruce Jolley said he is interested in purchasing the property at 1222 N. 900 E. which is on top of the Butte. He said the bank currently owns this property due to foreclosure. Mr. Jolley said the property has a well located on it, but there have been numerous problems with the sand caving in and burning up the pump. Mr. Jolley asked permission to access municipal water if he purchases the property. The Council asked if city water would be used for irrigation purposes. Mr. Jolley said yes, because there is no irrigation water available to the property. Sandy said all property outside city limits that uses city water is metered. Steve moved, John seconded to approve municipal water access to 1222 N. 900 E. conditional upon Mr. Jolley purchasing the property. Permission is granted exclusively to Mr. Jolley. Approved three in favor, one absent. Sandy said Mr. Jolley will be required to sign a water service agreement, pay the tap fee of \$2600, and install a meter.

Donavan Herrington introduced himself to the Mayor and Council. He is running for Seat #2 in the County Commissioner race.

Charlotte moved, Steve seconded to ratify the approval of naming the triangular park at the corner of North Park Avenue and Anderson Road, "Anderson Park". Approved three in favor, one absent.

John presented the names to consider for appointment to the Comprehensive Planning Committee. He said he would like to add three or four more names to the list to add diversity, but at this time he would recommended the following be appointed to the committee: Kirk Dooley, Brent Clark, Diane Mickelsen, Joyce Killpack, Brian Covert, Bruce Rudd, Jeff Kelley

and John Lent. John moved, Charlotte seconded to appoint Kirk Dooley, Brent Clark, Diane Mickelsen, Joyce Killpack, Brian Covert, Bruce Rudd, Jeff Kelley, and John Lent to the Comprehensive Planning Committee with the condition of adding more names in the future. Approved three in favor, one absent.

Alan said he would like to recommend that the city's vicious dog ordinance be amended. He said our current ordinance classifies a vicious dog as a dog that bites someone without being provoked. Alan said he would like to amend the ordinance to define a vicious dog as a dog that appears to be aggressive. BJ said he would draft an ordinance to meet the city's needs.

Rick said he would like to recommend that Jim Brinhault be hired for the public works job opening. Steve moved, John seconded to hire Jim Brinhault at entry level with a six month probationary period for the public works department. Approved three in favor, one absent.

Sandy said the bathrooms have been installed downstairs. She said janitorial services would be needed throughout the entire building now. The Mayor and Council directed Sandy to have the janitorial services re-bid, and place an ad in the newspaper as such.

Dawn recommended that Jennifer Burton be hired as a returning pool manager this season. John moved, Steve seconded to hire Jennifer Burton as Pool Manager for the summer of 2008. Approved three in favor, one absent.

Dawn said the pool was closed early last year due to a boiler problem. She said the boiler needs to be replaced this year and felt it might be beneficial to have the boiler on the main level instead of in the pit. Dawn said Kenny Williams quoted \$12000 for the new boiler including freight, and Keith Davies bid \$8000 plus freight. She said she would proceed with this project so the pool could be opened in a timely manner.

Steve moved, Charlotte seconded to approve a Second Hand Store Business License for George Siems for 2008. Two in favor, John opposed, one absent, motion carried.

Steve moved, John seconded to approve an Ice Cream Mobile Vendor License for Linda Phillips for 2008. Approved three in favor, one absent.

BJ said he reviewed the Base Engineering Service contract that Forsgren submitted to the city. He said there are a few items he would like to talk to Husk about. John moved, Charlotte seconded to approve the Base Engineering Contract for Forsgren Engineering conditional upon BJ's approval. Approved three in favor, one absent.

BJ presented a copy of the employee agreement for Rob Harris to represent the city at the IDWR water hearing regarding the city's water rights application on May 28, 2008. The Mayor will need to execute the agreement.

Mayor Christensen was chosen as the voting delegate for the AIC Conference in Boise in June, and Steve was chosen to be the alternate voting delegate. Sandy will notify AIC.

Husk presented copies of the Water Facility Planning Study for the Mayor and Council's review. He said the Study will also be presented to DEQ for their approval.

Dawn presented an award to the City from the American Red Cross to show their appreciation to the city for hosting quarterly blood drives.

Dawn said Tom Bean and Mike Ball were nominated for "Coach of the Year" and Brittany Stommel was nominated for "Official of the Year".

Charlotte said she attended the Kiwanis meeting today. At the meeting student scholarships were discussed; three scholarships were given to Shelley students and two scholarships were given to Firth students.

Charlotte said she had the opportunity to watch some of the dredging being done at the sewer lagoon. Rick said the dredgers were almost done with one cell.

John said Riverfest will be held June 6th and 7th at Brinkman Park. He said the city will have a booth staffed by Tree City and other committee members.

Steve said he sits on the Bingham County Economic Development Board. He said he was informed last week that Iogen may not be locating in the Shelley area. The company is securing land in Canada.

Mayor Christensen said last week he, Rick and Steve attended a meeting with the Bingham County Commissioners to discuss creating a road from the existing road to the lagoon on the west side of the property. He said the city would like the county to provide the materials and the city will construct the road.

Mayor Christensen said he appreciates the city crew during the "Spring Clean Up" efforts.

ATTEST: Sandy Husk APPROVE: Eric R. Christensen