

CITY OF SHELLEY  
COUNCIL MEETING  
MINUTES

OCTOBER 28, 2008

PRESENT: Mayor Eric Christensen  
Council Members: Lorin Croft, Steve Cederberg , John Lent (absent), 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: Alan Dial

PRAYER: Charlotte Fredrickson

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

Minutes of October 14, 2008 Council Meeting with one correction

Building Permits:

Jon Bradley	- fence
James Moore	- fence
Odell Young	- sign
Stacy Pascoe	- commercial building
Jim Danielson	- shop
Tanya Bush	- move-on house

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

Jane Call was not present, due to a family matter. Sandy said Mrs. Call and her husband was applying for a special use permit to sell autos at 149 S. Emerson. She clarified that the location of the vehicles would be between the chain link fence and Emerson Avenue and not between the chain link fence and the city parking lot. The Mayor and Council did not see any problem with this. This matter will be considered at a public hearing by the Planning and Zoning Commission in November.

Sandy said the Planning and Zoning Commission held a public hearing to consider rezoning parcels of property known as Kelley Acres to RA (residential agricultural) conditional upon annexation. The Planning and Zoning Board recommend approval of RA zoning if the Council annexes the property. Sandy said another public hearing is needed, and the earliest date available is November 25, 2008. Steve moved, Lorin seconded to call for a public hearing to consider rezoning property known as Kelley Acres as RA upon annexation to be held on November 25, 2008, at 7:30 p.m. at the Shelley City Hall. Approved three in favor, one absent.

BJ discussed due process regarding open meeting laws. He said he could see there are a lot of property owners from Kelley Acres in attendance tonight. BJ said this is not a public hearing and testimony cannot be accepted until November 25, 2008, however if anyone has any questions they may ask them. He again stressed that this was not the appropriate time for comment or testimony regarding the zoning and annexation of Kelley Acres.

Woody Christensen said there are some properties in Kelley Acres that have less than one acre, he wondered if those properties would still be able to keep animals if they are annexed into the city. BJ said the RA zoning allows animals to be kept on one acre or more; if there are properties less than one acre that currently has animals they would be considered grandfathered in.

Michelle Anderson said the Pioneer had an article that discussed the measures the city is taking to manage their water by annexing Kelley Acres; she wondered what other measures the city is taking. BJ said the city is requiring new subdivisions to have secondary irrigation systems, and also providing mitigation plans for new water rights.

Brian Anderson asked what the plans for city water meters are. Mayor Christensen said the city engineer has recommended that the installation of water meters is one way to mitigate for water rights. He said the major hold up for installing water meters is the cost of 1.3 million. Lorin said he just attended a SICOG meeting and the City of Lava just installed meters and it cost them 3.2 million.

Pam Hatton asked why the Grover Subdivision does not use irrigation water to irrigate their yards. She asked why not have them use irrigation water for that purpose if there is a water problem. There was not as large of a problem with the city water at the time that the West River Subdivision (Grover Subdivision) was constructed. The plat was approved by Bingham County and grandfathered into the city with county regulations being followed. Mrs. Hatton asked why the projection for city meters is so expensive. She said she bought a meter on eBay for \$30.

There was a question from the audience asking if Kelley Acres would be kept on meters if they are annexed. The Council said no, they will be charged in the same manner of other city residents which at this time is non-metered.

Brian Anderson asked what has changed since last February when the council decided there was no interest in annexing Kelley Acres. Lorin said because this should have been done twenty five years ago. Steve said in February the council should not have backed down. He said there were idol threats made that were just that, idol threats. Steve said Shelley is a great community, and this is just part of growth. Mayor Christensen said the council's thinking has changed since February and they have decided not to back away from this annexation. Brian Anderson felt there is something not being told to the residents. Mayor Christensen said there are no secret meetings being held, and there is nothing secretive about this issue. Lorin said a lot of people have come to the city requesting annexation so they can use city services. He said they are being turned away because there is not enough water to provide for them. Lorin said Kelley Acres have city water and should be part of the city. BJ said rational land use planning and water management are some of the reasons for annexation.

Justin Baron, 274 N. Milton Avenue said he received a ticket for parking in his driveway and covering the sidewalk. He said he owns a sixteen foot van and there is only thirteen feet between

his house and his sidewalk. Sandy said there was a variance granted for the front and side setback when the home was originally constructed. She said then Mr. Baron chose to convert his garage into a photography studio. Mr. Baron said he would like to come up with a solution so he can park his van in his driveway. He proposed to extend his sidewalk around the driveway where his van would sit. Mr. Baron presented pictures to the Mayor and Council. He asked the city to fund the extension of his sidewalk. BJ said the use of city funds would not be appropriate in this matter since the city did not create the problem. Mr. Baron said the city approved the original set back variance. There was a comment from an audience member stating that businesses such as OK Trailer are always blocking the sidewalks. The Council determined if some of Mr. Baron's sidewalk was removed during his project, the project would qualify for the sidewalk replacement program where the city would fund half of the cost of the replacement sidewalk. Mr. Baron was told to work with Rick on this matter.

Janet Putnam, Hallmark Estates wanted to know why the city wants to annex Kelley Acres and Hallmark Estates. Mayor Christensen said it is the intentions of the council to annex Hallmark Estates to become contiguous to the property the new school will be located on. BJ said the proposed annexation of Kelley Acres is a policy decision, good planning, water situation, etc. Mrs. Putnam asked if there is a benefit to the current residents to have the proposed properties annexed. Mayor Christensen said it is a benefit to the school for the area including Hallmark Estates to be annexed. Regarding Kelley Acres it is good planning, fair, and helps the water situation.

Jeff Schiever, Hallmark Estates said right now he is self sufficient in regards to water, sewer, sanitation, etc. He asked if the city can require developers to set aside latecomer fees for those who may access the city line in the future. Also, can the council restrict marketing from one developer to another. BJ said the council could set standards and any commitments in a development agreement.

Rod Shaw, Hallmark Estates asked what city services are provided to Kelley Acres. Kelley Acres is receiving water services. Mr. Shaw asked why the city could not provide water service to the school without having the school property within city limits. BJ said that is a possibility, but there are some other drawbacks. It was asked if Ball Development has committed to paying money to help the city with their water problems. BJ said no, Ball Development has not offered money to the city.

Kurt Wells said Sandy stated in a previous council meeting that he could not be annexed without consent since he owned five acres of property. He said it is on record in the minutes and now he is being annexed. Sandy said "I was wrong and I am sorry", and I have told you that several times. She said she has found out since that previous meeting that the statute states any property more than five acres cannot be annexed without consent. Sandy said so if the property is 5.0 acres it can be annexed without consent, but if it is 5.01 it cannot. She again stated "I was wrong". Mr. Wells asked why he did not receive a letter from the city regarding annexation. Sandy said, because his parcels of property are not over five acres each. Mr. Wells said now that

annexation proceedings have began he cannot even combine his parcels of property into one parcel. Sandy said only names and addresses have been obtained from the County Assessor's office, and she has no knowledge that he could not combine his property into one parcel.

A resident of Hallmark Estates asked if water from the city will be provided if wells go dry, and if so won't that contribute to the existing water problems. BJ said the city is currently trying to mitigate for a new well.

Brian Anderson asked if annexing Kelley Acres would benefit our current application with IDWR. BJ said no, not with Kelley Acres, but with the school it will. He said if the school can utilize city water they will not be mandated to drill an additional well for fire suppression.

Kyle Jorgensen asked if a street will still run through the Ball Development. Sandy said Bingham County currently has an application with a plat for a special use permit. She said it shows a street running east from New Sweden Highway. Sandy presented a copy of the drawing for the residents to review. Any development at this time will be considered for approval by Bingham County since the property is not in city limits.

Michelle Anderson asked if being annexed into the city limits would make her happier, make her volunteer more, or participate in the community more. Mayor Christensen said he would hope she would continue volunteering and participating in the community if she was annexed.

Brenda Inns asked who will plow the road. Rick said the city will plow it and they have been plowing it in the past.

Mike Carter, Fire Chief of the Shelley/Firth Rural Fire District addressed the council to discuss the annexation of the City into the Fire District. Mike introduced Norm Mecham, and Scott Searle, members of the Fire District Board, and Bubba Ricker and Randy Adams, Assistant Fire Chiefs. Mike said they would like to annex the city into the Fire District. He said the city is currently billed by the Fire District and they levy taxes for the service the Fire District provides, however when areas are annexed into the city it creates additional paperwork to try and keep up with the adjustments. Mike said he met with Sandy and asked BJ to review the State Statutes to see what the procedures were to annex the city into the Fire District. Sandy said the city currently pays \$60,300 for fire protection which means if the budget decreased by that amount, it would equal approximately \$55 per \$100,000 of property valuation. Mike said the county would levy approximately \$51 per \$100,000. Sandy said the city has currently levied for those taxes, and wasn't sure if the annexation occurs now how that would effect the levy. She said she would contact the County Clerk for that information. BJ said the annexation into the Fire District is a policy decision and a simple procedure. He said there is no case law on this matter, and the statute is written clearly. BJ said if the City Council and the Board adopts an ordinance or resolution the annexation could occur, and it could be withdrawn in the same manner. Steve moved, Lorin seconded to annex the city limits into the Shelley/Firth Fire District, and instructed BJ to draft the appropriate ordinance or resolution to be annexed contingent upon the County

information that Sandy receives regarding when the change of property taxes would occur. Approved three in favor, one absent. Charlotte expressed her appreciation to the Fire Department.

BJ presented a proposed ordinance for residential windmill regulations. This ordinance has been reviewed by the P&Z Board and the City Council on several occasions. Steve moved, Lorin seconded to suspend the reading of ordinance #522 on three different days and read the title of ordinance #522 once. Approved three in favor, one absent. Sandy read the title of Ordinance #522. Steve moved, Lorin seconded to adopt Ordinance #522 relating to wind energy conversion and residential windmill regulations. Approved three in favor, one absent. Sandy will publish this ordinance.

BJ said he received some email from Ken Harwood of AIC regarding a new federal law requiring all city's to adopt a Red Flag Program. The program develops a policy for fraud and identity protection. Sandy said she will obtain a sample policy from AIC and work with BJ on a policy for the city.

BJ said he attended an Attorney General workshop regarding the open meeting law and public records. BJ said he will put together a report and discuss this matter with Sandy.

Sandy said Bingham County sent three requests for comments for various County P&Z matters. She said BV Copper Meadows is requesting a special use permit to locate a school in an Agricultural zone. The Council asked Sandy to notify the County that all city regulations should be followed due to the proximity and the likeliness that they will be eventually utilizing city water. Sandy said William Watts in Hallmark Estates has requested a special use permit to have a home laser ink business. Sandy said the city allows home occupations. The Council had no concerns regarding this matter. Sandy presented a preliminary plat for West Riverview Estates proposed outside of city limits. The Council had no concerns regarding this matter.

Rick said Fall Clean Up is almost done.

Charlotte said she attended a Kiwanis meeting today. She said a scout will be working on a gazebo at Kiwanis Park as an Eagle Project.

Steve said he received notification that the restroom vault will be delivered to Brinkman Park tomorrow. He said the city crew will be digging the hole for the vault first thing in the morning.

Lorin said there was a Scout Food Drive held Saturday. He said a lot of food was delivered to the Food Bank.

Mayor Christensen said the 2<sup>nd</sup> Southeast Annual Pumpkin Walk is a great program. The Pumpkin Walk will be open now until Friday from 9:00 a.m. until 9:00 p.m. Mayor Christensen said he received a letter thanking him for attending the opening of the Pumpkin Walk and since

the Blackfoot and Shelley Mayors were the only Mayors in attendance, the food that is donated will be distributed between the Blackfoot and Shelley Food Banks.

Lorin said Steve Bair would like to attend the water hearing on November 10, 2008, at IDWR. Mayor Christensen said he will contact Senator Bair and let him know the time of the hearing.

Adjourned 9:48 p.m.

ATTEST: Sandy Wapalak APPROVE: Eric R. Christensen