

CITY OF SHELLEY  
COUNCIL MEETING  
MINUTES

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JUNE 24, 2008

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

PLEDGE OF ALLEGIANCE: Lorin Croft

PRAYER: Mayor Christensen

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

Minutes of June 10, 2008 Council Meeting  
Approval of Building Permits:  
Gables Management – sign  
LNE LLC – new dentist office  
Iola Syverson – re-roof  
Bingham County Road & Bridge – re-roof

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

BJ opened the public hearing to discuss the Water Facility Planning Study (FPS). Husk, the city engineer stated a public hearing is required for funding from DEQ. He said the FPS reviews the entire water system, looks at the current situation and what demands the city may need presently and in the future. Wes Cook, Forsgren said the City of Shelley has a great water system, however it is their job to foresee any deficiencies. He discussed the city's current population and their projected future growth. Wes said there are several components that are studied for current and future needs; water rights, quality, storage, the distribution system, and pumping capacity. He recommended that the city adopt an ordinance specifying what color the city's fire hydrants should be. He also recommended that the city amend their current ordinance to require that all backflow devices that are installed be tested annually. Wes also recommended the following items are improved: Acquire additional water rights for future growth. Create additional diversion points on the current water rights. Install water meters. Rehab Well #1 to accommodate the capacity of Wells #1 and #2. Drill Well #5 to comply with the requirements for a "firm capacity" well able to pump 2500 g.p.m. Improve mainline on West Fir if the existing new well site is used to be able to accommodate the additional flow. Drill a new well to accommodate future growth pumping at least 1100 g.p.m. near the city's transfer station. Add or rebuild a new water storage tank. Complete a sixteen mainline loop around the city. Install a ten inch mainline on State Street. Install new fire hydrants. Compliance with TCR and GWR. The total costs for these recommended improvements are 5.6 million dollars, or 5.1 million dollars excluding the purchase of water rights. Wes said if water revenue is used to pay for the improvements the current monthly water rates would need to be increased to \$27.30 for a

residential rate and \$3000 for a water connection fee. He said if the city experiences more growth; the user fee could decrease. Husk said they would now accept questions from the audience: 1) How do you project the growth for the city? You look at the historical growth and the growth rate. 2) Where are the new wells going to be located? The new well site is located near the West River Subdivision on the southwest end of the city. 3) What are the procedures for land to be annexed and to access the water distribution system? The applicant must apply for annexation to the city, and there is a computer water model that is available to determine if water can accommodate growth in a particular area, or what improvements may be needed to accommodate that growth. 4) Where would the sixteen-inch line loop around the city? From the existing water tanks on the Butte, running west down Baseline Road, running north up Hanson Avenue, east across Meadowlark Lane and looping back to the water tanks. 5) Has the development proposed by Ball Development been included in these current study figures? No, the development was proposed after the study had been done, however a computer model with be ran to determine the appropriate flow for the development. Husk, said this can be evaluated, however at this point the development is not part of the city. 6) Are there state requirements for new wells? Yes, the applicant has to apply through the Idaho Department of Water Resources and then the Department of Environmental Quality reviews the application to see if under EPA regulations safe drinking water can be provided. 7) In the growth curve, was there a sudden spike in the last two to three years compared to the last ten years? Growth is in the number of lots that are approved, more so than the number of building permits that are issued. 8) Are there water rights available for purchase? Yes, but not a lot due to the market conditions right now, however there are mitigation plans that can be reviewed to provide ground water recharge, etc. 9) What are the current water fees? The water connection fee is \$1300 inside the city limits, and \$2600 outside the city limits. Wes presented documents to the audience and asked for written comment regarding the FPS. BJ asked if there was anyone who wished to give public verbal comment at this time. There was no one. Wes said the full Water Facility Planning Study will be available at City Hall for anyone wishing to review the document, and additional comment sheets will also be available at City Hall. BJ thanked those in attendance for their participation and thanked Wes and Husk for their presentation.

BJ said a public hearing was scheduled to consider annexation for property owned by Merlin Dial and Ball Development, however just before the start of tonight's meeting, Merlin Dial withdrew his request for annexation. BJ said this affects the eligibility for Ball Development to annex their property since the Dial property makes their property contiguous to the city. Cortney Liddiard, Ball Development said with extreme regret he withdraws their application for annexation into the city. He said he is very disappointed in the city and its residents. Mr. Liddiard said he understands people have difficulty accepting growth, however Ball Development always takes the approach to give back to the community. He said part of the main focus of being part of the city was to help resolve the city's water issue. Mr. Liddiard said had the city acted at the previous meeting, we would not have a problem tonight. He said Ball Development wanted to help with the water issue, and has a solid case with a pilot program to get water rights after being protested. Mr. Liddiard said Mr. Dial withdrew his application due to the pressure of his neighbors. He said he gave his word to the School District to help them

with their new building site, and he will continue to do everything in their power to help them. Mr. Liddiard said he understands that people were concerned with the small lots proposed for a portion of the development, however everyone needs to look at long term planning. He said he has worked with the city for two years and spent thousands of dollars; he said what's going on here is a huge mistake. Mr. Liddiard said they have spent a lot of dollars to help change the water rights issue in Southeastern Idaho. He again expressed his disappointment in the city and its residents.

Rob Harris, the attorney for Ball Development said the city was just given the opportunity for a hearing on their water rights and mitigation plan. He said a pre-conference hearing has already been held, and a counter proposal was made by the Protestants. Mr. Harris said a number of communities was watching this water issue because they have similar projects. He said he is not sure where this leads us due to tonight's development, since now there is no source of mitigation water. He said the city may need to look elsewhere. Mr. Harris said he is not sure of the comments of the Eastern Groundwater Coalition. He said he is very disappointed because they had made progress towards obtaining these water rights. Mr. Harris said he appreciates working with the city and BJ. BJ said a written letter withdrawing his request to annex has been received by Mr. Dial, and Ball Development has also withdrawn their request to annex. He said the hearing has been concluded. A few residents of Hallmark Estates made comment.

Sid Page addressed the Council to discuss a variance he has obtained through the P&Z Board. Sandy said the city currently has an ordinance that mandates that any new construction, move on homes, or manufactured homes be at least 1000 square feet in size and have either an attached or detached garage. She said the P&Z Board approved Mr. Page's and his partner, Jerry Johnson's variance application to construct an 880 square foot home without a garage on the corner lot in the Rowley Subdivision. Sandy said the application filed was signed by Jerry Johnson, not the current property owner, Alva Harris (At the time the applicant was contacted regarding this matter, the property was still owned by Alva Harris). She said city code requires all adjacent property owners be notified of the consideration of a variance at least seven days before the meeting, and these time constraints were not met. Sandy said Mr. Page was made aware of the time constraints and was willing to take that risk. He presented a petition that the surrounding property owners of the proposed lot had signed giving their approval of the variance. However, one property owner is Union Pacific Railroad that had not signed the petition. Mr. Page had proof that he had emailed them, but there was no response. Sandy said she could not see where a hardship was presented either. She said the ordinance states that a variance should not be granted just for the convenience or profit of the applicant. Sandy said she discussed these matters with BJ regarding the city's liability and he suggested that the variance applicants be asked to come into the council meeting to discuss this matter further. BJ said if this variance is ever challenged, it would probably be over turned. He suggested that this matter possibly go back before the P&Z Board so they can make appropriate findings and facts, and proper notice can be given. BJ said the city does have the option to appeal this decision made by the P&Z Board for this variance. He said anyone who feels effected by this action can challenge this, but must qualify as an aggrieved person. BJ said procedurally the variance has been granted unless

an appeal comes before the city council. Mr. Page said he was aware of the risk, but he felt it was a small risk and they were willing to take that risk. He was not aware that the city would have any liability. BJ said the city's liability would be defending the P&Z Board's decision. Mr. Page said this particular piece of property has a long history of trying to get something built. He said it would be nice to have a nice stick built home on it and not just a lot with weeds on it. Mr. Page said he proceeded with his option to purchase and now has a signed deed for the property. He said it would now be a hardship because they have purchased the land and may not be able to build. He said since the property is adjacent to the railroad he did not feel they could build a larger home with a garage because it would not be able to be sold due to the location. Rick said if they do not build a garage, where will the residents park. Mr. Page said there will be a parking pad, and they will be able to park on the street. Steve said the way the city is going he felt we have ordinances and they need to be followed. Lorin said in the past fifteen years there has not been anyone allowed to construct without a garage. He asked Mr. Page what would be done with the other three lots that are adjacent to his along the railroad. Mr. Page said probably the same as what would be done with his lot. BJ disclosed that he has done a small amount of legal work for Mr. Page on issues unrelated to this variance issue. He said the council can appeal the decision of the P&Z Board or the applicants can go back before the Board and present their case once again and establish a hardship. BJ said variances have a very high standard. Steve said he would like to appeal the P&Z Board's decision. He said we have set standards that need to be followed. Steve moved, John seconded to appeal the Planning and Zoning Boards decision of granting a variance for Sid Page and Jerry Johnson to construct a home smaller than 1000 square feet without a garage. Approved three in favor, Charlotte opposed. Mayor Christensen stated that the council has made a hard decision tonight. He said when the home where built in the Rowley Subdivision adjacent to the proposed lot, there were held to the city standards.

Mr. Wallace Swenson addressed the council to ask for clarification regarding the parking ordinances. He said he is concerned about the article in the Shelley Pioneer stating that someone's driver's license could be pulled by a police officer for not complying with the parking ordinances. The council clarified that an officer could not pull a drivers license for a parking violation. Mr. Swenson said he has a pickup truck that he uses frequently, but it may not be moved every forty-eight hours. He said he studied the city's ordinance and felt the city could charge very high fees for a violation. Mr. Swenson said a fine could be charged every hour that a vehicle is left on the street resulting in a \$960 fine for one day. He wondered why the city is taking this kind of stance. Sandy said the ordinance allows a maximum of a \$40 fine for a parking violation. The citation that is being left on vehicles charges \$40 for a handicap parking violation, and \$30 for any other type of violation. She said the owner of the vehicle has ninety-six hours to pay the fine at a reduced rate of \$20. Mayor Christensen said the city has always had this ordinance in place, however the police officer used to have to wait for the owner of the vehicle and deliver the citation in person. Now the officer has the capability of leaving a ticket on the vehicle instead of waiting for the owner. The Council felt it is not the intention of the officers to drive around and write citations for every vehicle that is in violation of the ordinance, but to write citations based on habitual violations, or when complaints are received.

Greg Nelson said he recently resigned from the P&Z Board. He said there are a lot of frustrations he experienced while serving on the Board. Mr. Nelson said the Board is made up of volunteers who try to act professionally. He said people come before the P&Z with unprofessional drawings and plans or no plans at all, then when they go before the city council, they present great drawings and plans. Mr. Nelson felt the applicant should be fully prepared to show their plans. He said the Board also suffered a great deal when the council liaison quit coming to the meetings. Mr. Nelson felt the liaison should be there to advise and give comments. He said he is a resident of Hallmark Estates and was not opposed to growth, but he did have a few concerns regarding the Ball Development. Mr. Nelson felt they could not get their questions answered in a timely manner. He said he they could have had community meetings to address the various concerns it probably would have taken care of the issues with the Ball Development. Steve Cruz said they did not want to stop the development, they just had some concerns.

Sandy said she telephone polled the council regarding the purchase of a new police vehicle prior to the beginning of the new fiscal year. She said an opportunity arose to allow the city to save approximately \$3500 by purchasing the vehicle now. However, the funds will need to be expended from the General Fund Emergency Line Item since the State Revenue Sharing contingency funds have been appropriated to the treatment plant project. She said the emergency funds will be replaced after the first State Revenue Fund wire is received for the new fiscal year. Steve moved, Lorin seconded to ratify the purchase of a 2008 Chevy Impala police vehicle at \$16,000 with General Fund emergency funds. Approved unanimously.

Sandy said she telephone polled the council regarding two fireworks permits that were received by the city after the last council meeting. Lorin moved, Charlotte seconded to ratify the approval for fireworks permits for Broulims and Kings for the 2008 season. Approved three in favor, Steve opposed. Motion carried.

John said there is one vacancy that needs to be filled on the P&Z Board. He recommended appointing Ty Swenson as a new member. John moved, Charlotte seconded to appoint Ty Swenson as a member of the Planning and Zoning Commission. Approved unanimously.

John said he would like to add three more members to the Comprehensive Planning Committee. John moved, Steve seconded to appoint Diane Mickelson, Mike Balmforth, and Lou Jensen pending verbal confirmation to the Comprehensive Planning Committee. Approved unanimously.

Lorin said he would like discuss establishing an ordinance for residential windmills. He said he is concerned about the climbing energy costs. Information and a model ordinance was presented to the council for their review. Jake Johnson, a vendor of residential windmills said Bingham County is having problems with commercial windmills, however residential windmills are different. He said they range between 33 and 60 feet in height. The cost is typically \$12,000 to \$15,000, and the savings in energy costs would pay for the windmill in approximately 7 years.

The council will review the information Lorin provided. BJ said he reviewed the information and the concept is great. The council felt residential windmills are a great idea, and felt the city should proceed with establishing an ordinance.

Mayor Christensen was appointed as a representative to meet with the other entities of the Regional Authority to discuss the adoption of uniform sewer regulations.

BJ expressed some planning and zoning concerns. He said he understands the frustration Gregg Nelson experienced on the Board. BJ said he feels what items are presented to the Planning and Zoning Board should be final and nothing extra should be submitted to the council during their review. Sandy said the Planning and Zoning Board received exactly the same documents as the City Council in regards to Ball Development. She said this issue was an annexation and a rezone where the only items to be reviewed are maps showing the proposed property. Sandy said the P&Z had maps for both the Dial property and the Ball property, the same as the council reviewed. BJ said in regards to John's attendance at the meetings; he felt that is why training was given to the P&Z Board members. He said he tried to give them tools to help them do their job. He said he understands they are volunteers and they play a vital role in the community. BJ said they do a good job.

BJ said since Merlin Dial withdrew his request for annexation, he is unsure if the city can still pursue its water right application. He said he will talk to Rob Harris and do a little research on the matter. BJ said it may be possible to put another mitigation plan together again. Sandy said Merlin was very torn about his decision. Sandy said she spoke with him three different times today and he did not want to upset his neighbors, and he was concerned about the Nematode issue. He felt a lot of questions were left unanswered.

Sandy said the Shelley Pioneer is putting together a North Bingham County Guide. They would like to know if the city would like to place an ad that will be used for new residents and businesses in the area. The cost is \$435 for a full page color ad. Sandy said the city could place a number of items in the advertisement, such as what new projects are being done, city hall information, council member information, etc. The council gave permission to place a full page ad in the guide. Sandy will work with the Pioneer on this project.

Dawn said she received the new boiler today, and wasn't expecting it quite so soon. She said it is being stored until the city crew has time to construct the area it will be placed.

Lorin discussed facilitating a Little League tournament during Riverfest next year. Dawn said the success of organizing one really depends what time of year it is, but she will work with Diane on this matter.

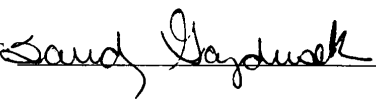
Rick said DEQ inspected the sewer lagoon today. He said everything is in order and went very well.

Sandy said there will be a pre-construction meeting for the wastewater treatment plant at City Hall on July 3, 2008, at 10:00 a.m.

John asked what he could discuss with the P&Z Board during Planning and Zoning meetings. He said it may be beneficial to have Sandy prepare the Board prior to their meetings, or to have Beth more informed. BJ suggested that the P&Z members ask the applicant questions, and if they feel they do not have sufficient information to make a decision, the item should be tabled until sufficient information is presented by the applicant. He said the P&Z Board should follow the law, follow the comprehensive plan, etc. when making their decisions. Steve said if the P&Z Board feel they can not make a decision, they should pass the issue onto the city council for review. John asked Sandy to prepare of list of what is acceptable to discuss with the P&Z. Sandy offered to attend the P&Z meetings as needed. She said files are presented to the Board and packets are mailed out to them for review if a preliminary plat is being reviewed. BJ discussed the applications that are used for variances, special use permits, etc. Sandy said the information the applicant must fill out is taken directly out of the city ordinances. John asked Sandy to work on the applications to make them more understandable. Sandy agreed.

Adjourned: 10:30 p.m.

ATTEST:



APPROVE:

