

CITY OF SHELLEY
COUNCIL MEETING
MINUTES

DECEMBER 14, 2004

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

PLEDGE OF ALLEGIANCE: Sandy Gaydusek
PRAYER: BJ Driscoll

Steve moved, John seconded to approve the consent agenda as follows:

Approval of the minutes of November 23, 2004 Council meeting
Approval of the November 2004 Expenditures
Approval of the November 2004 Overall Budget & Treasurer's Rpt.
Approval of the following building permits:
Odell Young - addition
Richard Ottley - addition
Ryan Murdoch - new home

Approved unanimously.

Mayor Christensen welcomed everyone to the public hearing scheduled tonight to discuss the rezoning of two parcels of property from Two Family Dwelling (R2) to Heavy Commercial (HC) for the purpose of constructing a "Family Dollar" store. He turned the time over to the city attorney, BJ Driscoll. BJ discussed the guidelines and procedures for a public hearing. He said Councilman Lent has expressed a conflict of interest regarding this matter, and will not be participating in the deliberations or the vote.

Christian Forsyth, 595 W. 885 S., Brigham City, Utah is one of the partners of Leading Technology Development and was sworn in to give testimony by BJ. Mr. Forsyth said his firm was selected to pursue a site at approximately 446 W. Fir Street to construct a Family Dollar store. He said there are 6000 Family Dollar stores nationwide. Mr. Forsyth said they have just completed stores in Blackfoot, Soda Springs, Preston, and Aberdeen. He said Family Dollar has chosen Shelley as a site they would like to locate. Mr. Forsyth presented several photos of what other Family Dollar stores have looked like. He said the average traffic is seven cars at a time. Mr. Forsyth said Family Dollar likes to keep their prices low and grow systematically. He said there were thirty-five people that live in close proximity to the proposed construction site that contacted him. Mr. Forsyth said out of the thirty-five people, five were business owners who live in Idaho Falls. He said he spoke with twenty-six homeowners and there were nine in support of the development, eleven were opposed, and six were undecided. Mr. Forsythe listed some of the comments made by the property owners who were in support, and also those opposed to the development. Mr. Forsythe submitted a petition that had been circulated

throughout the city. There were 362 signatures of those in favor of having a Family Dollar store constructed in the city. Mr. Forsyth said he is sensitive to those who are in close proximity of the development, but he has to look at several factors; the location is already in a commercial area, it is located next to a main artery into the city, a school is built near the area, etc. He said the demographics and several other factors were studied before a site was selected for the construction of the development. Mr. Forsythe said his attorney has looked at the application to rezone the properties, and feel all of the requirements of our city code have been met. Lorin asked how big the proposed store will be. Mr. Lund said the square footage of the building is 9180, and the parking lot will have 28 stalls. Mr. Forsyth said they have purchased the property under a contract contingent upon the zone change taking place. He said other property has been looked at, but Family Dollar representatives choose the actual location. Mr. Forsythe presented a petition of 27 pages consisting of 362 signatures. BJ said the city received a letter from Lula Meikle stating she signed the first petition that was circulated by mistake, and requested her name be removed from it.

BJ swore in Donald E. Kirby, 485 W. Fir Street to give testimony. Mr. Kirby said most of the people in the city would like to see a dollar store in our community, however they do not want a dollar store to move into a residential area and devalue their property. Also, the home next to the proposed development has several small children, and he did not feel it would be safe to have a business so close to it. Mr. Kirby said there are enough commercial areas in the city that are available for this type of business, and felt it should be located elsewhere. He said there are a lot of signatures on Mr. Forsyth's petition, however he felt those who signed it do not live in close proximity of the proposed development. Mr. Kirby said Broulim's faces State Street and if Fir Street is opened up to commercial business it will be invading residential areas. He asked the Mayor and Council to please consider his comments to oppose the rezoning of this property.

BJ swore in Quinn Mortensen, 460 W. Fir Street to give testimony. Mr. Mortensen said he owns the home right next to the proposed development location, and has four small children. He said he purchased the home about one year ago because he liked the Shelley area and wanted to raise his children here. Mr. Mortensen said he spoke with the previous owners, and they said once they placed their home on the market, a development company approached them about their property, but never bought their home. He said at the Planning and Zoning meeting, Leading Technology stated there would be a six foot chain link fence installed. Mr. Mortensen said they would be looking at their parking lot from his back door. He said he is very opposed to this property being rezoned.

BJ swore in Jeff Weaver, 430 W. Fir Street to give testimony. Mr. Weaver said his children's bedroom is about four feet from the parking lot of the proposed business, and he felt that is too close.

BJ swore in Kurt Lund of Leading Technology Developments to give testimony. Mr. Lund said a six foot high sight obscuring vinyl fence will be installed between the residential and commercial properties.

BJ swore in Eddie Pincock, the Realtor for Leading Technology Developments to give testimony. Mr. Pincock said the size of the lot is roughly ¾ of an acre. Mr. Forsyth said the proposed building fits on the lot and meets all of the setbacks required by city code. Mr. Weaver said there should be a buffer zone between commercial and residential uses, and Lorin agreed.

BJ swore in Mora Sayer, 437 W. Pine Street to give testimony. Mrs. Sayer said she agrees with everything said in opposition to the development. She said she lives directly across the street from the proposed site, and she is concerned that she and her family may not be able to access the highway with the additional traffic that may be created.

BJ swore in Dawn Lloyd, 667 Holley Street to give testimony. Mrs. Lloyd said she is concerned about the frontage to the proposed development property. She said the driveway exists between two residential homes, and she wondered how people will even know a store is there. Mr. Forsyth said the store will be advertised and have a sign out front. Mrs. Lloyd said she is also concerned about the additional traffic that may be created. She said the traffic on Holley Street is horrible at the present. Mrs. Lloyd said you cannot even go onto Robald Street, and the additional traffic will cause the traffic to be worse.

BJ swore in Marie Long, 590 Holley Street to give testimony. Mrs. Long said she is concerned about the traffic problem on Holley Street, and feels a new store will even make it worse. She said the Planning and Zoning Commission have already denied this request once, and wondered why it is being considered again. BJ said the Planning and Zoning Commission give recommendation to the City Council, they do not make the final decision on a rezone matter.

A question was asked about the ability to rezone a small lot to a commercial zone. Mr. Lund said there are two lots of this property that are contiguous with Heavy Commercial zoned property. He said he did not feel this would be considered spot zoning. John said there is a strip of property that is zoned Heavy Commercial adjacent with the residential properties that has been bought by some of the home owners that will not be developed. He felt there were other locations in the city that would be better suited for a dollar store.

BJ swore in Norma Heilsen, 523 Holley Street to give testimony. Mrs. Heilsen said her back yard fence is next to the proposed property location. She said the building would be right next to her fence. Mrs. Heilsen said she already suffers from the lights and noise of being near a business district, and the construction of another store at this location would just make it worse.

BJ swore in Barbara Wells, 396 Shelley Avenue to give testimony. Mrs. Wells said she is concerned about the children that ride the bus to the corner of Hansen Avenue. She said there are no walkways there presently. Mrs. Wells asked if walkways will be installed if this store is built. The Council felt there may be a need to install the walkways later. Mrs. Wells said she is worried about the additional traffic and hazards to pedestrians, children, etc. She asked why the person bringing the petition around was not from this area. Mr. Lund said they asked an

independent person with no emotional concerns about the issue to bring the petition around for signatures.

BJ swore in Carol Harker, 1260 North 550 East, Shelley to give testimony. Ms. Harker discussed how 17th Street in Idaho Falls has become so commercialized, and how terrible the traffic has become. She said she can see why this property location would be desirable to Family Dollar, but also understands why the neighborhood wants to keep the area residential. Ms. Harker said she does not live in the area, but there is a home that is of sentimental value to her there.

BJ swore in John Lent, 175 Kirkham Circle to give testimony. Mr. Lent said he does not want to inhibit business in the city, but he feels the residents live very close to the proposed site. He said he grew up in this area, and he discussed this issue with about fifty of the residents. Mr. Lent said the majority of the people he spoke with were against the rezoning of this property. He said he would suggest that this rezoning request be denied, and he would be willing to help the developers try and find another location for their development. Mr. Lent said that there are family homes with small children located on both sides of the proposed development, and he feels this is a problem waiting to happen.

Charlotte asked what the business operating hours of Family Dollar Store are. Mr. Lund said the store is open seven days a week from 8 a.m. until 8:00 p.m. Mr. Kirby asked that the large number of people that signed the petition in favor of the development not sway the council. He felt the majority of those people live across town and not in the area of the proposed location. Mr. Forsyth said the signatures are from Shelley residents. He said he respects John Lents desire to protect the residents in his former neighborhood. However, he said he is here to ask the council to do what is best for the entire community, whether they live in close proximity to the proposed location or not. Mr. Lund said he respects all the comments that have been said tonight. He said they try to build in communities and they respect the neighborhoods. Mr. Lund said they are willing to control the lighting, and to put up a sight obscuring fence to help buffer the residential properties next to the site. He said they build in residential areas all over the nation. Mr. Forsyth reiterated that on the first petition there were 11 in opposition, and 9 in favor of rezoning the property. He also said there were 362 signatures in favor of building a Family Dollar store on the second petition. Mr. Forsyth said they respect not only the people that are in attendance at this meeting tonight, as well as the entire community. He said they are willing to do their best to build a development that is neighborhood friendly.

BJ ended the public testimony, and reviewed the items that the council should keep in mind when reviewing the application for rezoning the property. BJ read a section from the City's Comprehensive Plan regarding land uses. He then turned the time over to the Mayor for deliberations.

Mayor Christensen asked Charlotte to give comments on this rezoning request. Charlotte said she does not feel this is a good location to build a store. She said we need new businesses in

Shelley, but this just is not a good location. Charlotte said the city needs to consider the children that reside in the area also. She feels a safety hazard would be created if they rezone the property to heavy commercial so a store could be built. Steve said he also hated to see any opportunity for a new business to locate in the city turned down. However, he does not want to see people's lives disrupted. Steve said he would like to see a new store built in Shelley, but not at this location. He felt there are other locations in the city that are better suited for a business of this type. Steve said whereas there are two family homes, one located on each side of the proposed business that it just doesn't seem safe. Lorin said he is not in favor of the zone change. He said he would like to see Family Dollar store come into the city, however not at the proposed location. He said it is too close to the residential area adjacent to the proposed site. Lorin said he intends to support the Planning and Zoning's recommendation to deny the rezoning request. Steve moved, Charlotte seconded to deny the request by Leading Technology Development to rezone two parcels of property from R2 (two family dwelling) to HC (heavy commercial) for the purpose of constructing a Family Dollar store. Motion approved three in favor, with Councilman Lent abstaining from the vote. BJ said a written decision will be drafted regarding this public hearing, and sent to Leading Technology Development.

Sandy said since the city code was changed in July which now requires landlords/property owners to be responsible for the city service invoices, a landlord has requested services to be turned off for non-payment of rent. She said the utility billing was not necessarily delinquent, but the landlord had not been paid for the rent. Sandy said the landlord was charged \$25 per rental to have the water shut off. Chitta Lynch, 570 South Park Avenue said she owns ten rentals in the Shelley area. She said she is concerned about paying for the tenant's city services, and then not being able to collect the rent. Ms. Lynch said the landlord should be able to request that the services be turned off at anytime. She felt that the tenant legally has the right to these services and the city may have some liability. Ms. Lynch said the tenant should be responsible for the city service usage. She said she has enough responsibilities as a landlord, and should not have to take on another family's responsibilities. Sandy explained why the city code was changed in July. She said the city does not have the capability to choose the renters the way a landlord does, and for some reason there are rentals in the city that have habitual delinquencies. John said the city writes off thousands of dollars each year as uncollectible. He said the city is a non-profit organization, and Ms. Lynch is actually running a business for a profit. John said if the city spends the time to go turn off water anytime a landlord requests it, then the entire community is paying for the city crew's time to do this. He said the landlord should be responsible to pay this fee. Ms. Lynch said she is concerned about paying for her tenant's services and paying for the turn off fee. BJ said before the council makes any decision in this matter, he would like to research what liability the city may have in this issue. Mayor Christensen recommended that this matter be tabled until BJ has done the research. Rick said he feels that the landlord may be able to use the city as a wedge to collect the rent, and his crew may be running around shutting off water on a daily basis. He said it is also very hard to shut someone's water off during the winter because the ground is frozen, and it could cause the lines to break. Neil said as a landlord he feels good about paying for his tenant's utility services. He

said there are other avenues to take to collect the rent as a landlord other than shutting off the water.

Sandy said the Ordinance regarding an alley vacation for the school in 1962 was addressed at the last council meeting, and determined that the ordinance should be recorded so the title could be cleared. She said the title company contacted her and they said they needed quit claim deeds to be issued to the land owners on each side of the alley to complete the transaction. BJ presented two quit claim deeds that give ownership to the LDS Church and the Shelley School District. Lorin moved, Steve seconded to approved the quit claim deeds and authorize Mayor Christensen to execute the documents that will vacate the alley running through the property north of West Center. Approved unanimously.

Charlotte moved, Steve seconded to close city hall on December 23, 2004 at noon to celebrate the holiday. Approved unanimously.

At the last council meeting the final plat was approved with some minor corrections for the Wind River Estates Subdivision. There were two items that Sandy telephone polled the council on regarding the plat. Lorin moved, John seconded to ratify the decision that no crosswalks would be needed in the subdivision and no pedestrian walkway will be needed to the east of the retention pond area. The retention area park will be accessed through the front entrance or the back entrance off of the alleyway. Approved unanimously.

Sandy said as of January 1, 2005, all gas inspections will need to be done under the mechanical code by a certified inspector. She said the State will take this matter over, unless the city wants to enforce the entire mechanical code. The Mayor and Council determined all gas inspections should be handled by the State of Idaho and the city will no longer require gas permits.

Sandy said at the meeting held on September 28, 2004, she was absent, and it appeared that a proposed transportation plan was discussed. She said the city received a \$50,000 grant for this project, and Husk from Forsgren discussed what the city would need in a plan. Sandy said she did not see in the minutes where it was approved to proceed with the engineering of this plan. She said she received a contract from Forsgren, and for a matter of record this should be approved for the Mayor to execute it. BJ said he had not had time to review the entire contract, and would like some time to look at it. Steve moved, Charlotte seconded to approve the contract and allow the Mayor to execute it conditional upon BJ's approval once he has had time to review it. Approved unanimously.

Sandy presented the changes that BJ has drafted to the policy manual regarding education reimbursements as it was discussed in the last meeting. She said the amendments would allow employee's to be reimbursed for educational expenses on a case by case basis as approved by the Mayor and Council. Steve moved, John seconded to approve the amendment to the city policy manual as presented. Approved unanimously.

BJ said he drafted a letter to Terry Taylor regarding the payment for the sidewalk project on South Park Avenue. He said the letter stated that the payment must be received by December 30, 2004.

BJ said he is working on some issues regarding the Lefevre property with the Title Company. He said Leading Technology Development may have some interest in purchasing this property to locate their Family Dollar Store. BJ said he will keep them posted on the progress. Mr. Forsyth asked if the city would be willing to help developed a blighted area in the city or other alternate sites for their development. Steve said he is a member of the Bingham County Economic Development Committee, and felt this is a good idea and should be reviewed further. Steve said he will contact Brandon Bird/BCEDC tomorrow for further information. Neil said the Urban Development Committee is meeting Thursday night, and Kathleen Lewis of SICOG may have some ideas regarding this matter. John said he will contact Alex Creek and see if he is interested in selling some of his property so a Family Dollar Store could be constructed.

The following 2005 business licenses were discussed:

Broulims - Steve moved, Lorin seconded to approve a carry out only beer license and a carry out only wine license for Broulim's for 2005. Approved unanimously

Madrigal's Mexican Restaurant – John moved, Lorin seconded to approve a consumed on premises Beer License for Madrigal's Mexican Restaurant for 2005. Approved unanimously.

Shelley Exxon – Charlotte moved, Lorin seconded to approve a carry out only beer license and a carry out only wine license for Shelley Exxon for 2005. Approved unanimously.

Hardtime's II and Food Plaza – Steve moved, Charlotte seconded to approve a carry out only beer license for Hardtime's II and Food Plaza for 2005. Approved unanimously.

Hidden Treasure's – Lorin moved, Steve seconded to approve a second hand goods license for Hidden Treasure's for 2005. Approved unanimously.

Senior Citizens – John moved, Steve seconded to approve a dance license for the Senior Citizen's Center for 2005 and to waive the \$75 fee. Approved unanimously.

Kathreen Butchart – John moved, Steve seconded to approve a Commercial Kennel License for Kathreen Butchart for 2005 since Mrs. Butchart was grand fathered in from the county with a license. Approved unanimously.

Blue Mule Auctions – Lorin moved, Steve seconded to approve an Auctioneer's license for Blue Mule Auctions for 2005. Approved unanimously.

Summer Snax – Steve moved, Lorin seconded to approve a mobile food vendor license for Summer Snax for 2005. Approved unanimously.

Sandy said she received a notice from Sara Staub the Bingham County Clerk stating there was a judgment regarding a claim that Idaho Power and Qwest filed with the Assessor's office. She said a total amount of \$2888.75 will be deducted from the January ad valorem taxes since this amount must be repaid to Idaho Power and Qwest per the courts.

Sandy said Jay spoke with her, and he has decided he will not be retiring in April as he once thought. Steve said he will review this matter further.

Sandy invited everyone to attend the Christmas celebration on December 23, 2004, at noon.

Dawn said there will be a blood drive at city hall on December 28, 2004 from 9:00 a.m. until 1:00 p.m.

Dawn said she will have a Hoop Shoot contest on December 29, 2004 at Hobbs Middle School.

Rick said he will be having back surgery on Monday, December 20, 2004, and is expected to be off work for four to six weeks.

Alan said Stan Petersen raised over \$1500 in donations from the Shelley businesses for the Shop With A Cop program this year. He said Officer Petersen and two other officers participated with the children during their shopping time.

Charlotte said she will be visiting with the School Board on Thursday to update the school on the city's activities.

John said the Kiwanis need donations for the Goodfellow's Food Baskets. He also commented that the turn out for the City Lighting Ceremony was outstanding.

Steve said BJ emailed his recommendations regarding the impact area agreement to him, and he delivered the changes to Sue Betty, the Bingham County Planning and Zoning Administrator. He said Sue Betty should be scheduling a public hearing to consider the new impact area soon.

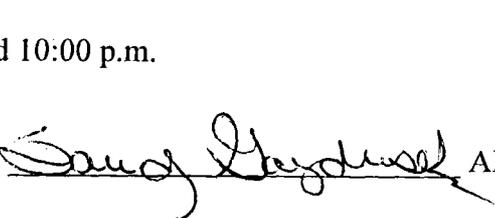
Steve said it has been great working with the city, and he complimented the Department Heads and their staff.

Lorin said everyone should take a look at making some goals for the upcoming New Year, and discuss these goals with their Department Heads.

Mayor Christensen said he will be absent at the next city council meeting on January 11, 2005. He wished everyone a Merry Christmas and a Happy New Year.

Adjourned 10:00 p.m.

ATTEST:



APPROVE:

