

CITY COUNCIL REGULAR MEETING

FEBRUARY 12, 2024

203 Broadway Ave N

PRESENT:

Pam McClain	Mayor	Autumn Jones	Treasurer
Michael Higbee	Council President	Jason Scott	Public Works Director
Kelly Peterson by ZOOM	Council Member	Jeremy Engbaum	Police Chief
Amanda Hawkins	Council Member	Scott Bybee	City Engineer
Marla Sisson	Council Member	Andrew Wright	City Attorney
Karen Drown	Clerk	Concerned Citizens	

PLEDGE OF ALLEGIANCE

CONFIRMATION OF QUORUM:

Karen Drown confirmed a quorum.

PUBLIC HEARING:

Karen spoke on behalf of the city detailing the history of the current agreement with Twin Falls County. She stated the current agreement has been in place since October 2007. This update process began in January 2020. The agreement had been discussed and the final agreement was to adhere to Idaho Code as the permitting and enforcement of the city planning and zoning codes has to be done by Twin Falls County in the designated area of impact. Karen added with this agreement Twin Falls County would take the planning and zoning applications and conduct the public hearings required; they would also enforce the city planning and zoning codes. The county would also take, issue, and inspect building permit applications for the area of impact.

Mayor McClain asked if there was any testimony as no one had signed on the sign-up sheet.

Marlene Shepherd, Buhl, ID, testified that she was against it and wants to remain in the county.

Mayor McClain clarified that this was not an annexation into the city. Karen added nothing is being annexed and in addition the area of impact boundaries is not changing. She added with Twin Falls County and the city both looking at their comprehensive plans that could a discussion through that process. Karen noted if a specific property wants to be annexed into the city that application would still come to the city and public notices would be sent and a sign would be placed on that property. Since this hearing was regarding the entire impact area a sign had been placed at the four major entrances to the city and at city hall.

Karen also stated Mark Wasco called this afternoon and stated he is against the agreement.

There was no further testimony.

The hearing was closed at 6:37 PM.

CONSENT AGENDA:

1. Minutes of January 22, 2024 – Working Session
2. Claims for Payment
3. Monthly Department Head Reports – Fire, Engineer, Police, Public Works, Code Services
4. Commission Minutes – Airport, Library, Planning & Zoning
5. Clerk Report
6. Treasurer Report

Michael moved to approve the consent agenda. Amanda seconded the motion. There was no discussion. There was a roll call vote. Amanda voted yes, Kelly voted yes, Marla voted yes and Michael voted yes. The motion passed.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS:

Review and Consideration of Ordinance Identifying and Adopting a Map of the City of Buhl Area of Impact: All members of the City Council having been furnished a copy of the proposed Ordinance No. 2024-2 and being fully apprised of the content and purpose of said Ordinance, Michael moved that the provisions of Idaho Code Section 50-902 which require that said Ordinance to be read on three (3) different days, two (2) readings by Title only and one (1) reading which shall be in full, be dispensed with and that said Ordinance be passed upon one (1) reading by title only. Michael requested a roll call vote on the motion. Marla seconded the motion. There was no discussion. There was a roll call vote. Kelly voted yes, Marla voted yes, Michael voted yes, and Amanda voted yes. The motion passed.

Michael moved to approve Ordinance No. 2024-2 designating the map for the Area of Impact. Marla seconded the motion. Mayor McClain read the title. Amanda questioned if the area changed it would be with both Twin Falls County and the city; Karen confirmed that change would have to be agreed by both entities. There was a discussion that once this process was complete with the city the agreement would go to the Twin Falls County Planning and Zoning and finally the Twin Falls County Commissioners. There was no further discussion. There was a

roll call vote. Marla voted yes, Michael voted yes, Amanda voted yes and Kelly voted yes. The motion passed.

Review and Consideration of Public Testimony and Ordinance Amending Title IX, Chapter 7 of City of Buhl, Idaho, Code 2010 & Agreement Recommendation with Twin Falls County: All members of the City Council having been furnished a copy of the proposed Ordinance No. 2024-3 and being fully apprised of the content and purpose of said Ordinance, Marla moved that the provisions of Idaho Code Section 50-902 which require that said Ordinance to be read on three (3) different days, two (2) readings by Title only and one (1) reading which shall be in full, be dispensed with and that said Ordinance be passed upon one (1) reading by title only. Michael requested a roll call vote on the motion. Michael seconded the motion. There was no discussion. There was a roll call vote. Michael voted yes, Amanda voted yes, Kelly voted yes, and Marla voted yes. The motion passed.

Marla moved to approve Ordinance No. 2024-3 the Area of Impact Agreement with Twin Falls County. Michael seconded the motion. Mayor McClain read the title. Michael commented on the misinformation that arose from not understanding it was not an annexation. He also commented the downside is it will take more time for residences for application and permits. There was a discussion about the boundaries and that it used to be one mile around the city. Karen noted on 4000 N it is now both the city limits line and area of impact boundary. There was no further discussion. There was a roll call vote. Amanda voted yes, Kelly voted yes, Marla voted yes and Michael voted yes. The motion passed.

Review and Consideration of Buhl Chamber of Economic Development and Commerce Inc. to Change Name in Lease: Reme Pullicar, President of the Board, presented information on the recent name change and restructure. He noted they are happy to help with community events such as Sagebrush Days and Nightlight Parade but those take resources. The restructure would be to a 501 (c)(3) charitable organization. The request was to update the lease with the name change. This change would allow for opportunities for estate donation, which they could accept before, and grant applications. They will continue to bring additional businesses to Buhl. Kelly questioned if they were affiliated with the National Chamber Association; Reme noted they hadn't paid membership for some time but they will research the benefits. Marla questioned Andrew if he had any issues. Andrew stated they would just draft an amendment to the lease.

Michael moved to approve the name change in the lease. Kelly seconded the motion. There was no discussion. There was a roll call vote. Kelly voted yes, Marla voted yes, Michael voted yes, and Amanda voted yes.

Review and Consideration of Buhl Chamber of Economic Development and Commerce Inc. Request for Sagebrush Days Parade Co-Sponsorship, Eastman Park Vendors: Reme stated the Sagebrush Day parade and events are an economic benefit to the community and it could not be

held without the co-sponsorship of the city and support of the police, fire, and maintenance departments.

Michael moved to approve the co-sponsorship of the Sagebrush Days Parade. Marla seconded the motion. There was no discussion. Marla voted yes, Amanda voted yes, Michael voted yes, and Kelly voted yes. The motion passed.

Reme presented the recommended route change that will stage on Sawtooth Ave then travel up Broadway and turn onto Clear Lakes Road. Marla moved to approve the route change. Michael seconded the motion. Marla suggested the change could be listed on the utility bills. Amanda questioned if any residents along Broadway had been notified and if there was any plan to avoid a free for all onto resident's lawns. Reme stated they will work on notifications to be respectful and communicate with those residences. Michael also questioned if they are going to eliminate parking along Broadway; Reme noted they will and ask if vehicles can be moved to side street or back of properties. Karen also noted door hangars work to inform residents. Mayor McClain noted there was a great committee working on this and have given it a lot of thought. Chief Engbaum noted they are also working on a reserved spot for seniors from the nursing homes to have since the route will not go by them with this change. There was no further discussion. There was a roll call vote. Marla voted yes, Michael voted yes, Amanda voted yes, and Kelly voted yes. The motion passed.

Review and Consideration of Buhl Municipal Airport Grant Application from Idaho Department of Transportation Aeronautics for Power Pole Relocation: Karen explained the project to move this power pole was budgeted in the airport 2023-2024 and use the airport fund balance for this expense. This grant would save that money in the find balance which comes into play with the next agenda item. The request for Council was for the mayor to sign the grant application.

Marla moved to approve the signing of the grant application. Amanda seconded the motion. There was no discussion. There was a roll call vote. Michael voted yes, Amanda voted yes, Kelly voted yes, and Marla voted yes. The motion passed.

Review and Consideration of Buhl Municipal Airport Bid Proposal for Runway Reconstruction: Karen explained this item was before Council as the airport board would like to bid this construction project but it is not currently budgeted in the 2023-2024 fiscal budget. If awarded and accepted either a budget amendment would need to be done for 2023-2024 or potentially budgeted in the 2024-2025 fiscal year. She added there is a pending grant application with the FAA for this project but it is a place holder until there is a bid amount to include. The estimate on the project is \$2.2 million, with the historical match of 5% needing to come from the airport fund and 5% from the state the boards match would be \$110,000. If they used the \$30,000 from their fund balance to relocate the power pole the match would not be possible, but Kent has

worked hard on finding that grant to save the money. Karen added there is also about \$12,000 left in the last CARES grant the airport was given that will be reimbursed within the next couple months. This project was bid last year as part of the design project and grant but the one bid that was received was 34% above engineer's estimates so it was rejected. The request of Council was to approve putting the project to bid if the amount came back more than the \$2.2 million then the airport board would have to discuss next steps before recommending approval of any bid. Kent added it is hard to phase out a runway project.

Marla moved to approve the bid proposal. Michael seconded the motion. There was no discussion. There was a roll call vote. Kelly voted yes, Marla voted yes, Michael voted yes and Amanda voted yes. The motion passed.

Review and Consideration of 2023-2024 Fiscal Year Budget Amendment: Autumn explained this would be the second amendment for the 2023-2024 fiscal year. She detailed it would include \$30,000 in Administration for the Blue Cross Grant, \$350,000 for the police building renovations, \$125,000 in the fire donation to close out the ICCU CDs per the contract, and in the Utility fund/water budget for \$83,000 for the DEQ portion of the water study and \$306,553.18 for capital equipment costs. She detailed the noticing, public hearing, and publication timeline. There was a discussion about the items including the payments from DEQ, the \$306,553.18 is the remaining SRF that has to be used on water capital equipment. Jason noted the water filters are 15 years old and needing maintenance; he added everything is fine now but noted probably count on doing this about every 15 years.

Autumn read the portion of her treasurer's report regarding the cost analysis of the building renovation costs. Amanda questioned the minutes from when the building was purchased and it stated \$150,000 for renovation. Autumn explained she is not a contractor and that estimate was for construction of walls and bathroom, but did not anticipate the security system, AC units and fiber. She explained this item tonight was just to move the amendment into the process for public hearing. Michael noted the public hearing at that time was only for the purchase of the building. Marla questioned if items could be picked in the renovation process. Autumn explained the bid documents are worded as items can be separately bid. Autumn also explained that currently the city is earning an average of \$1000 per day, which is approximately \$365,000 per year, in interest which is not budgeted and will go back to the fund balance at the end of the fiscal year. Michael wants to make sure all departments are covered. Amanda would like to table the \$350,000 and move forward with other items. Kelly stated this is a bargain and the police are a part of the city infrastructure; any place else would not be across the street from city hall. He added the police are cramped and 100% in support of it.

Amanda moved to move forward with amendment to include the \$30,000 in administration, \$125,000 in fire donation, \$83,000 from DEQ, and \$306,553.18 for water equipment. Michael

seconded the motion. It was discussed that all bids will come before Council. Autumn explained this was included in this amendment to save publication costs and the current bid documents are to solicit contractors, then negotiations will be held for construction items. Marla stated we bought the building to renovate. Amanda questioned this amount not being in the 2023-2024 budget. Autumn stated she explained it was not included at that time but it would probably come back as a budget amendment through the work Clearwater Financial was going to help coordinate. There was no further discussion. There was a roll call vote. Marla voted no, Michael voted no, Amanda voted yes, Kelly voted no. The motion failed.

Marla moved to approve moving forward with the budget amendment process as presented. Michael seconded the motion. Michael confirmed this does not guarantee that amount for payment. Autumn confirmed. There was no further discussion. There was a roll call vote. Kelly voted yes, Marla voted yes, Michael voted yes, and Amanda voted no. The motion passed.

Review and Consideration of Bid Documents for 200 Broadway Ave N Renovation: Autumn explained the bid documents and a video walk through of the building will be posted on the city website. Cameron Arial with Clearwater Financial confirmed that final approval is a full discretion of the Council. Once proposals are received, we will enter negotiations with the contractors for project costs. He added a selection evaluation committee recommendation would be brought to Council and there is no harm in the process. Marla questioned if there would be any additional cost from Clearwater Financial; Autumn confirmed all their work was included in the addendum to their agreement.

Marla moved to approve the bid documents. Michael seconded the motion. There was no discussion. There was a roll call vote. Amanda voted yes, Kelly voted yes, Marla voted yes, and Michael voted yes. The motion passed.

Statement from the City Attorney: Andrew Wright made a statement including since a police issue was raised at the last meeting he has meet with Mayor McClain and several officers, gathered evidence including watching the bodycam video in its entirety, pulled historical data on Buhl Police Department use of force, and researched relevant case law. He continued by stating the incident included speeding which is an infraction, driving or walking away from a traffic stop which is a misdemeanor, told he was under arrest and fought with the officers which is a felony. He added no one got tased because of speeding, no one got tased because of walking away from a traffic stop, someone got tased because they were combative with officers during and arrest and the Buhl Police Department didn't cause him to commit a misdemeanor or commit a felony.

Andrew then reviewed citations issued in the last two years. In the 561 citations in two years, two have been tased, zero have had the use of a baton, zero have had the use of pepper spray, and

zero have had forced traumatic injury. Across the country we are seeing a 4-step process happening.

- 1) Incident involving police
- 2) Incident causes hysteria
- 3) Hysteria overwhelms governing body – which leads to limiting police power, firing the whole department, or defunding the police.
- 4) Unintended consequences – increases violent crime, drug crime, etc.

With this incident it has followed along these 4 steps.

- 1) There was a police incident. There may be incidents in the future.
- 2) At the last meeting of the approximately 80 people that showed up only 1 was at the incident. The hysteria had people that were asked why they were at the meeting and they didn't know, a media tour, and emails to the mayor from a pastor to fire by sundown.
- 3) This is where we are with this incident. Council is all that stands between hysteria and consequences. Council has the authority and could set power limits of the police. You direct Buhl police officer if someone leaves a traffic stop just leave the ticket on the windshield, or don't pursue misdemeanor suspects, or don't arrest misdemeanor suspects, or you don't want officers to have tasers, which is the path of least resistance.
- 4) Once the city starts down that road there could be unintended consequences. There hasn't been a city in the West that can rein in back in.

Andrew concluded by stating Buhl has a good police department, with good officers, good staff and good people. They are there for the community 24 hours a day for domestic violence issue, if an intruder is in a house and put their neck on the line; they put their health/safety on the line for total strangers with no questions asked. They also deal with non-criminal incidents like checking on family members and show up to auto wrecks. He appreciates everything they do for our community. Personnel issues are handled by the mayor and administration. He is 100% comfortable with how Mayor McClain has handled this issue. His recommendation for Council and the community is to continue to support the Buhl Police Department.

MAYOR & COUNCIL COMMENTS: Mayor McClain read a statement.

We need to make sure that we comply with the law with regards to employee privacy issues. If a member of City Council would like to discuss any issues pertaining to complaints, discipline, etc. of a city employee, those will first need to be discussed with the mayor, who is the chief city administrator per Idaho Code 50-602. After review of the complaint, discipline, etc. if it needs to

go before City Council it will be listed under an executive session on the upcoming meeting agenda.

Michael asked if we still had positions open. Jason stated one in streets and one in sanitation; he is waiting until spring for the streets position.

Michael stated he was going to ask about the executive session that he thought was going to be on this agenda and Andrew's statement answered that.

Amanda questioned why the executive session was pulled. Mayor McClain stated the code wasn't appropriate and we must follow the law.

Marla thanked Andrew for his comments.

Kelly had no comments.

CITIZEN COMMENTS:

Matt Bridges, Buhl, Idaho – He attended a community meeting to speak about the Elisha Johnson incident, he added he was called a racist at another recent meeting. He stated be aware of things coming into Buhl. He asked for everyone to use caution as he feels we are being setup for division.

Jim Stevens, Twin Falls, Idaho – After watching full bodycam footage, he commended the police department and stated Mr. Johnson has disrespect for the law. He was tazed 14 minutes into the footage. Why was first 8 minutes not shown. He questioned, what is the agenda? Speeding on Sawtooth when it is 25 mph all day and always has been.

Joan Hurlock, Buhl, Idaho – Beware of wolves in sheep's clothing. The video of the incident was purposefully edited by the pastor. The victim was non-compliant and continued by setting up police and perpetuating a fraud in a church, had his own provocateur in the audience. She commended the police and stated they owe no one an apology. Questioned Mr. Johnson's purpose that day and he owe the police an apology.

Tammie Layne, Gooding, Idaho – Left meeting before public comment.

Julie Arroyo, Buhl and Jerome, Idaho – Quoted Abraham Lincoln's Gettysburg Address and the First Amendment. She explained the definition of abridging is to make shorter and redress of grievances. She stated 2 minutes once a month is not enough time to redress the Council. She asked for the Council to reconsider the time limit.

Tiffany Hindman, Buhl Idaho – She cautioned city residents. It is inviting California here if saying we are not supporting our police. Her daughter was personally escorted to her car by the chief of police during the school lock down. That is why her family left California. The police are there to keep us safe.

Jason Stokes, Buhl, Idaho – Listed the monthly wages of Council and Mayor and stated the benefits they are provided. He noted it takes only 5 signatures to get on the ballot. He stated you can't make a point without going over time. He questioned if we were in 1930's Germany. Council's job is to listen to the people, Council works for them.

Jon Thomsen, Buhl, Idaho – People are speculating on why Mr. Johnson did what he did. He questioned why the judge dismissed the charges if he had seen the footage. He would like bodycams mandatory and would like them mandatory for county deputies.

Silas Thompson, Buhl, Idaho – He respectfully requested the request of the mayor to attend other meetings. Their desire is to live peaceful lives and this was an injustice to their brother. He made a statement to the citizens, a statement to the Mayor and Council, and a statement to the Attorney.

Kaitlyn Stark, Twin Falls, Idaho – Questioned Council are there any laws the police have to follow? Mayor McClain stated it was not a question-and-answer period. Kaitlyn questioned if police can enter into a home without a warrant, will it happen again? Mayor McClain stated again it was not a question-and-answer period.

Kevin Stark, Twin Falls, Idaho – He stated it is disturbing it is not a question-and-answer period. He stated Andrew Wright is not the only one to see the whole footage. He questioned if all the Council members have seen the footage? Amanda stated it had not been shown to Council. Michael stated this is a personnel issue we cannot comment. Kevin questioned if the Buhl Police Department forcibly entering a home is acceptable?

Mereline Shepard, Buhl, Idaho – She stated she has listened to both sides tonight and commented if you don't like it move. We have to respect the police department.

Amanda questioned if there had been a third party investigate this.

Amanda requested an executive session at the next meeting. She stated she had just sent an email before. Andrew advised if she wanted that she should make a motion for that request and have a vote. Amanda moved to have an executive session pursuant to Idaho Code 74-206 1.b on February 26th, it is to consider the evaluation, dismissal or disciplining of, or to hear complaints

or charges brought against, a public officer, employee, staff member or individual agent. Michael seconded the motion. Amanda stated there hasn't been any discussion on this as a Council. There was no further discussion. There was a roll call vote. Kelly voted no, Marla voted yes, Michael voted yes, and Amanda voted yes. The motion passed.

MEETING ADJOURNED – Michael Higbee moved that the meeting be adjourned; Amanda Hawkins seconded the motion. There was no discussion. All voted yes. The meeting was adjourned at 8:29 PM.

Minutes prepared by Karen Drown, City Clerk