

Mayor Darrell Kerby called the special council meeting of November 13, 2007 to order at 7:03 p.m. Present for the meeting were Mayor Kerby, Council President Russ Docherty, Council Members Mick Mellett, Dave Gray, and John Langs, Clerk Kris Larson, City Administrator Stephen Boorman, City Engineer Mike Klaus, Economic Development Coordinator Mike Sloan, Police Chief Dave Kramer, Fire Chief Larry Owsley, and City Attorney Tim Wilson. Also present were Joel MacDonald, Dorothy MacDonald, Gerald Higgs, David Sims, Jenny and Allen Fessler, Doug Ladely, Sr., Ron and Carol Gilmore, William Michalk, Holly Beaudet, Richard Kelson, Steve Day, Teresa and Gordon Robertson, Terry Howe, Scott and Carolyn Ingram, Craig Hubbard, Dayton Skrivseth, Pam and Larry Copeland, Tom Iverson, Rick Philbrook, Mike Villelli, Tony Villelli, Stan Mastre, Brenda and Dave Walter, Mike Hittle, Bob Mastre, Dave and Marianne Duarte, Vern and Marjorie McCalmant, Kevin McNally, Brion and Glenda Poston, Gene and Erika Denning, Doug and Lucy Jensen, Ted Helmer, Dave Fox, and Alan Sandaker.

The special meeting was for an annexation hearing and to approve a catering permit for Under the Sun.

Mayor Kerby called the hearing to order and read letters into the record for those who requested not to be annexed and also those who requested to have their property annexed into the city.

Mayor Kerby went over the questions and answers that were generated by the city for public information. He also pointed out that city residents are liened by the city if they become delinquent on their utility bills helping in the collection process. Darrell also said the sheriff's office will still respond to emergencies but the city police will also be on call for the citizens. Addressing will stay the same. He told the group to check on the savings the public may have due to the low fire class rating that the city has. He said some of the residents may already get the lower homeowners rate due to the way the insurance company has been rating them because they sometimes use the zip code.

Dog licensing will be required as well as building permits. Building inspections are a part of the building permit process. He gave the history of why the city has building permits and inspections due to the change in state law.

Idaho is a right to farm state so the annexation will not stop farming operations. Steve Day said in Post Falls the farmers were shut down due to noise. There were no challenges made in court according to Steve. Tim Wilson said in Idaho farming is a sacred cow and courts usually uphold farming. Tim said the city leaves farming alone. He said building permits are not required by farming operations.

Scott Ingram inquired about building permits being a revenue generation source. Mayor Kerby said our building permits are pretty much revenue neutral. He also said some of the contractors are pleased with the process due to the builders receiving some assistance from the inspection contractor.

Firearms are not allowed to be discharged in the City of Bonners Ferry. He said there is a procedure where a permit could be allowed for a rifle range or shooting range. It is a safety issue for people living close together.

All city residents pay for garbage pickup even if they haul their own garbage. The county solid waste fee is lower in the city than it is in the county.

Tim Wilson gave the definition of grandfathering. If a use in the county is authorized but nonconforming in the city it should be recognized and considered grandfathered in the city. If the use violates any state or county or federal statutes then it would not be allowed.

Jerry Higgs commented on the northern city limits near his property. He said his property taxes went up nearly \$500.00 when he got annexed. He said his snow plowing went from first on the list for the county to last on the city's plowing schedule. He also commented on the problems he has had with his water and sewer billings. He said the majority of the city's budget has been spent on the downtown project, the tunnel, and the visitors' center. He would like to see the city purchase stop gates for the snow plows so the elderly residents don't have to shovel their driveways. He would like to see the money spent on something that would benefit the residents rather than on looky loo for the visitors. He said the right of way vegetation has been overgrown and he gave an example of trees that are a hazard on Jackson Street. He also commented on the traffic control devices. He said his fire insurance premium went from a five class to a four class and it did the opposite of what was spoken to previously.

Bill Michalk spoke on behalf of Drainage District #2 and said this is the first time a portion of their district has been requested to be annexed. He said it will also apply to District 1 and District 11. Parts of District 2 that fall in the city limits raise concerns because they are an individual taxing district. They are considered a subdivision of state government and are an individual government. They can condemn property and levy taxes. There are many issues to be resolved because part of Drainage District 2 would fall in the annexation area. Who will assess the taxes, will it be the drainage district or the city? Concerning operations and maintenance issues, will he have to come to the city or county or do what they have done in the past? Are we creating a joint ownership entity issue? If a change in use of the property were allowed there could be a domino effect for the drainage district. Who will get the permit for the water tests and flood protection? There are many issues that need to be resolved. Bill said since the city is placing the annexation burden on District 2 they are asking the city to reimburse their legal fee costs. Mayor Kerby said the act of annexation does not eliminate the operations of the drainage district. This was answered by the court case that was filed during the Bauman Subdivision annexation according to Mayor Kerby. He said annexation does not eliminate the drainage district or the authority of the drainage district. Mayor Kerby said we will not pay for legal counsel for the drainage district. He did say the city would research the issue of going into a drainage district and that it is done legally and we will pay for that review.

Holly Beaudet from 6631 Alder Street asked that her parcel be removed from annexation consideration. She said there is no water or sewer at this property. She said an adjoining parcel in the Eaton subdivision is also being considered that is in error. She said the city has failed to provide sewer service on Alder Street. There is a problem for federally protected sturgeon in the river by the city and the county. She said she previously requested that the city do an environmental impact study for the collection of storm water being dumped into the river untreated. She said this has not been done and it should be considered. Holly said EPA may need to get involved. Holly said she has had her request recorded and she asked that all annexation efforts be halted until this issue is resolved. She spoke of the right to farm and said in the future we may not be able to keep our farm animals due to odor or noise. She thinks this could be a problem in the future. Holly said the city valuation will be devalued for existing property owners and suggested a tax on people being moved into the area.

Teresa Robertson asked about what the taxes would be on her property if the city takes it in. Mayor Kerby explained the way property is valued through the county assessor as directed by the State Tax Commission and all property is valued the same. She commented on bare land and yield being their property. Jenny Fessler commented that the timber exemption will still be allowed in the city limits. Teresa said the property with the home includes water and electricity and inquired if they disconnect from the city water and drill a well if they can be excluded. Mayor Kerby said they can. She does not want to be involved in city politics. She also spoke about the water project and the increased pressure and the chip sealing of Monroe Street and the loose gravel that is there. She wanted to know why the city wants more property to take care of unwisely. She commented on city/county law enforcement services.

Craig Hubbard inquired about his property being annexed. Mayor Kerby said the Hubbard island will not be annexed because his property needs to be contiguous and adjacent to city property.

Doug Ladely said he feels there has been misrepresentation tonight because when the vote was taken by South Hill Water and Sewer District it was an automatic yes vote for annexation. Mayor Kerby said that was told before the election. Doug said there are many city rules and regulations that he does not have to comply with now that will be imposed on him because he owns a small trailer park. Doug said there are problems with the street near the high school for kids walking. Doug does not want to be in the city limits.

Gordon Robertson spoke about the previous annexation when the Marx Subdivision was annexed. He said he did not want to be annexed then and still does not want to be in the city limits. He said Mayor Kerby contradicted himself concerning annexation. Mayor Kerby said there are different mechanisms for annexation. Gordon thinks the council should go by what the people want since we are a democracy. Mayor Kerby said the urban area around the city grows and develops causing the need for annexation.

Rick Philbrook asked if this process is a done deal or if there is a way for the people to get out of the annexation process. Mick said much of this property has been discussed for annexation. He gave the example of the Three Mile area and said as the area develops it will be brought into the city but he may not live long enough to see it. Mick said council will vote what they feel is in the best interests of the city and he cannot predict what the other members of council will do.

Ted Helmer inquired about the properties that are not served by the city currently. He said he has a 1500 square foot home on 30 acres and is less than happy about the annexation. He has been gone for 30 years and does not like strip zoning. He commented on areas in the city that have not been fixed in inner city areas that could make the city better and result in more of a revenue stream.

Allen Fessler from 6267 Hemlock spoke. He said a three generation family has been on this property and does not want to be in the city but does use city services. They have a parcel number for 90 acres and inquired if he has to be annexed if his home could be separated from the farming portion of his land. Mayor Kerby said he has been told that this is a possibility. Allen asked if he needed to get another parcel number and present it to the city council. Mayor Kerby said he could present a proposal to city council. Allen does not think he has adequate water service for fire protection. Mayor Kerby spoke about extension of services and how the developer has been responsible for costs associated with extending services. The water bond phase 2 includes water pressure and fire flow increases to the Eaton Addition. Stephen Boorman said there are options that are being explored. Allen asked if his property could be de-annexed if he drills a well. Mayor Kerby said it is a decision of council.

Steve Day said Roy Day does not want his property to be annexed. Steve asked what advantage the city will gain from annexation of farm ground. Mayor Kerby said the control of the water system for fiduciary purposes is the main focus of the annexation. Steve asked what the costs will be to the city for annexation. Mayor Kerby said we would need a front end loader but the police would not need additional employees. There may be street lights that need to be installed. Steve asked what amount of revenue would be generated. Mayor Kerby said taxes would be about \$49,000. Steve said this will not pay for the costs associated. Mayor Kerby said it will pay for itself over time and he spoke of the revenues that will be generated.

Scott Ingram asked about property development near Comanche and Benewah. Stephen Boorman said there have been walking paths suggested to be built. Stephen said there are parcels on the northside that belonged to the Idaho Department of Transportation since the new highway up the North Hill was developed. Mayor Kerby said we are not a very friendly walking town and citizens have been asking for better access.

Larry Copeland inquired about his property being an island. Mayor Kerby said the Brinkmeyer property has been asked to be taken in so they would not be an island. Larry asked if he could opt out. He also asked if there is no water on it if they could opt out. Darrell said they could.

Larry said all property west of Mirror Lake Road is not served and asked that this property be left out of the annexation.

Bill Michalk asked about the Vilelli property being in the flood plain. He asked what the vision of the city is to annex undeveloped property in the flood plain. He asked if the city is looking to annex farm ground just to annex farm ground. Mayor Kerby said the Vilelli property is anticipating commercial development and they will want city services in the future. The Vilelli's have requested that their property be included.

Marianne Duarte said they are not fanatically against the annexation and they understood that they may be annexed. She said the main concern is the grandfathering of their gravel pit and want to make sure that the operation of their gravel pit is grandfathered in. Tim Wilson read concerning Supreme Court law about non conforming uses.

Dayton Skrivseth inquired about Wildhorse Lane property. Mayor Kerby said there are properties that make the property contiguous.

Gordon Robertson said most people have a lifestyle that they do not want changed and want to keep it the same. He asked if annexing people into the city and changing their lifestyles is worth it when they are content the way things are. Mick Mellett commented that to say the city will never grow should not be said. He said it restricts some people but it also gives people options. Gordon does not like the idea of being annexed or being dictated the number of animals he can have or licensing. Tim Wilson said this hearing is to take in comments and learn the feelings of the public. Tim said it is not a done deal and comments are welcome.

Dave Gray said he is taking notes and listening to what the public has to say and wants to do what is best for the city and its residents.

Alan Sandaker asked about the Mirror Lake area. He said he has two water rights and asked if he can leave this out of the city or if he hooks on would he be under Sewell Engineering for building permits. He wanted to know how long he has to hook on to the system and build before he has to comply with the city rules. He wanted to know how long he has to take out the building permits before they expire. Mayor Kerby said the city should not extend water to outside city limits. Alan asked why they sold the water right. Mayor Kerby said these details need to be worked out with city staff.

Ron Gilmore asked if it comes down to an issue of dollars and cents for annexation. Mayor Kerby said it is due to the future growth and the people being outside the city limits have no say. Mr. Gilmore said it boils down to dollars and cents.

Bob Mastre said it looks like no one wants to be annexed. He asked if the comments from this meeting and the next will dictate the decision. Dave Gray said after the meeting on the 27th

council will be making a decision. He said he cannot give an answer tonight and said council is in a waiting place.

Holly Beaudet asked about council recalls.

Marge McCalmant said annexation will have to happen. She said to look at all the people who live in their culdesac and the growth that is occurring. Mayor Kerby said all of the services are available now and there probably are not any reasons why a person would want annexation.

Jerry Higgs said most people in the meeting are here to find out their options. He said the city is inadequately serving the citizens they have currently. He commented there would be more miles of road to snow plow and chip seal. He is asking if the political will of the public is known by council. He is hoping the council will take the city in a different direction because there is a ground swell of public resentment. He said he has been ignored previously by council.

Dave Duarte asked about the date of annexation. Mayor Kerby said the concept is to complete it by the end of the year.

Alan Sandaker inquired about the obligations of South Hill Water. Mayor Kerby said people cannot hold on to the water hook ons forever. They either have to hook on to the city or get a refund of the hook on fees they paid South Hill Water and Sewer. The city policies now apply since the consolidation of South Hill Water and Sewer with the City. Alan does not understand this. He said on his land descriptions it does not say this. Mayor Kerby told him to work with the city and the attorney.

Scott Ingram said if someone has a hook on with South Hill Water and they want to hook on they will be charged a monthly fee.

Stephen Boorman said the zoning meeting on November 15th will be for zoning of the proposed annexation area and encouraged the public to come give input.

Dave Walter asked about levy maintenance on the dike in District 1. Mayor Kerby said the district does not dissolve and asked Tim about the issue. Tim has not researched this but he will. Mayor Kerby inquired about the area near the sewer lagoon. Bill Michalk said it was not part of a drainage district.

Brenda Walter said she was told that city employees were going to take trees down off their private property during the high water and then they received phone calls asking for permission. Mayor Kerby said annexation does not change ownership.

Bill asked if the city would reimburse the drainage district for flood protection. Mayor Kerby said the city may do that but he cannot say. He said sometimes the city can bring additional assistance during high water. Mayor Kerby asked if the drainage district can tax the county. Bill

said they can. Mayor Kerby said if the district can charge the county then they should be able to charge the city. Bill recommended postponing the annexation decision.

Ted Helmer asked if there could be a zoning restriction based on parcel size and he gave an example of acreage. Mayor Kerby said new ordinances can be created but they do not exist now. Mayor Kerby explained city zoning and said it is different from county zoning. He said the Planning and Zoning Commission makes a recommendation to council.

Brenda Walter said downtown is nice and it is much better than it used to be.

Doug Ladely asked about the road in front of his trailer park. He asked if it would become a city street. Mayor Kerby asked who owned it now. Doug said he does. Mayor Kerby said he would still maintain the ownership.

Ted asked about speed limits on the highway. Mayor Kerby said if the area to the golf course was annexed we may be able to have some input regarding the speed limit. He said an engineering study is done to help set the speed limit.

John Langs thanked the group for their input. Dave Gray also thanked them. Russ Docherty and Mick Mellett agreed.

Mike Hittle asked if a street is in the city limits if it must be maintained by the city. Mayor Kerby said it is not required. Rick Philbrook said there is a city street near the high school and the mini storage that has been on the books since the 1800s.

Teresa Robertson asked about bringing streets up to standards. Mayor Kerby said if the street near the Ladely property is requested to be a city street or a subdivision is requested then it would have to be brought up to standard. Tim said if the use was there and it was a nonconforming use before it was annexed then it would be allowed through grandfathering until modifications were made that would take it out of grandfathering.

Holly Beaudet asked how much it costs to educate each child in the school system and how much the cost to the city is for keeping prisoners in the jail. Mayor Kerby said it costs the city nothing because each citizen pays their taxes to the school district and the county for these services. She asked how many people would be brought into the city if annexation were to occur. Mayor Kerby said he thought about 350 people.

There being no more comment Russ Docherty moved to close the hearing at 9:19 p.m. Mick Mellett seconded the motion and it passed, all in favor.

Mick Mellett moved to authorize the catering permit for Under the Sun. Russ Docherty seconded the motion. Dave Gray said he would like to waive the fee since it is for a charity. Mick agreed and amended his motion to waive the fee. Russ agreed to the amendment. The motion passed, all in favor.

Mick Mellett moved to go into executive session per Idaho Code 67-2345 for legal issues at 9:35 p.m. Russ Docherty seconded the motion. The motion passed – Mick Mellett “yes”, Russ Docherty “yes”, John Langs “yes”, Dave Gray “yes”. Council went out of executive session at 10:07. No action was taken.

Mick Mellett moved to put the annexation on hold due to testimony received this evening at the hearing and further legal review needed and that the P&Z hearing on 11-15-07 be cancelled and the hearing on 11-27-07 be cancelled and instruct the attorney to research the drainage district issues. Russ Docherty seconded the motion. John and Dave want to keep the motion going on annexation. The motion passed – Mick Mellett “yes”, Dave Gray “yes”, John Langs “yes”, Russ Docherty “yes”.

There being no further business Mick Mellett moved to adjourn the meeting at 10:12 p.m. Russ Docherty seconded the motion and it passed, all in favor.

Darrell Kerby, Mayor

Attest:

Kris Larson, City Clerk