

City of Kimberly MINUTES

City Council
MEETING MINUTES

March 28, 2023

6:00 pm

242 Hwy 30 E., Kimberly, ID 83341

Provisions are being made to support Council, Staff and Public participation, in this public meeting, via a telephone conference call option, or you may attend in person.

TO PARTICIPATE BY PHONE, call in at approximately 5:55 p.m. to the conference call number 717-964-0439 Enter the Pin number 131 416 214 followed by the pound # sign.

CALL TO ORDER & PLEDGE OF ALLEGIANCE

WELCOME – PLEASE TURN OFF CELL PHONES – THANK YOU

ROLL CALL OF CITY COUNCIL MEMBERS

City Clerk Carrie Kimball took roll call:

Tomlinson-Yes

Eisenhower-Yes

Duncan- Yes

Richman- Yes

CEREMONIES, ANNOUNCEMENTS, PRESENTATIONS

None

AMENDMENTS TO THE AGENDA

None

DECLARATION OF CONFLICT

None

1. CITIZEN ISSUES – PUBLIC INPUT –No person shall be permitted to speak from a location other than the public podium. This section of the agenda is reserved for citizens wishing to address the Council regarding a City-related issue. In order to ensure adequate public notice, Idaho Law provides that any item requiring Council action must be placed on the agenda of an upcoming Council meeting, except for emergency circumstances. Comments related to future public hearings should be held for that public hearing. Persons wishing to speak will have **3** minutes. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, either by subsequent appointment or after tonight's meeting if

time permitting. Public participation at a Kimberly City Council meeting is limited to participation in the public comment portion of the meeting. The City Council does not take any action or make any decisions during public comment.

2. PUBLIC HEARINGS RULES - Items listed as public hearings allow citizen comment on the subject matter before the Council. Residents or visitors wishing to comment upon the item before the Council should follow the procedural steps. In order to testify, individuals must sign up in advance, providing sufficient information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for presentation by the applicant, submission of information from City staff, and is followed by public testimony. The rules for testifying include the following: applicant will have 15 minutes to present their project; testimony by the public will be limited to 3 minutes per person. Testimony at public hearings on applications brought forth from the Planning & Zoning Commission can be used to reaffirm previous testimony.

None

3. NEW BUSINESS:

A. DISCUSSION-ACTION ITEM- Seasonal Water Share Lease Agreement approving the leasing of 190 shares of Twin Falls Canal Company Stock owned by the City of Kimberly to Darrell Funk Farms for years 2023-2024. (Council action per resolution #382 herein below) *Craig*

Craig went over the documents presented to Council. (*See insert*)

4. UNFINISHED BUSINESS-

A. DISCUSSION-

5. CONSENT CALENDAR- Discussion - Action -The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it is discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.

A. Approve Minutes for March 14, 2023

B. Accounts Payable for March 15, 2023 – March 28, 2023

General Fund	\$ 10,754.05
Water Fund	\$ 58,591.70
Sewer Fund	\$ 2,287.90
Library	\$ 1,205.51
TOTAL	\$ 72,839.16

Mayor Davidson called for a motion:

Councilwoman Eisenhower motioned to approve the Consent Calendar as presented.

Councilman Tomlinson seconded the motion.

Roll Call:

Tomlinson-Yes

Eisenhower-Yes

Duncan- Yes

Richman-Yes

6. ORDINANCES AND RESOLUTIONS –

Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements.

A. DISCUSSION-ACTION ITEM – RESOLUTION NO. 382 RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF KIMBERLY, IDAHO, APPROVING THE LEASING OF 190 SHARES OF TWIN FALLS CANAL COMPANY STOCK OWNED BY THE CITY OF KIMBERLY TO DARRELL FUNK FARMS; AND AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY THE LEASE WITH DARRELL FUNK FARMS; AND AUTHORIZING AND DIRECTING THE CITY CLERK TO REQUEST A SEASONAL WATER TRANSFER FROM THE TWIN FALLS CANAL COMPANY.

Mayor Davidson called for a motion:

*Councilwoman Eisenhower motioned to approve **RESOLUTION NO. 382** RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF KIMBERLY, IDAHO, APPROVING THE LEASING OF 190 SHARES OF TWIN FALLS CANAL COMPANY STOCK OWNED BY THE CITY OF KIMBERLY TO DARRELL FUNK FARMS; AND AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY THE LEASE WITH DARRELL FUNK FARMS; AND AUTHORIZING AND DIRECTING THE CITY CLERK TO REQUEST A SEASONAL WATER TRANSFER FROM THE TWIN FALLS CANAL COMPANY.*

Councilwoman Duncan seconded the motion.

Roll Call:

Tomlinson-Yes

Eisenhower-Yes

Duncan- Yes

Richman-Yes

7. ADMINISTRATIVE / STAFF REPORTS -

Chief Perry- Updated Mayor and Council that the current candidate for the Officer's position is doing his Psych Eval this week and if all goes well, he should be joining the team. Chief will be presenting last year's stats at the next meeting. Chief was pleased to update that all of the radars have been certified by a company out of Kentucky.

Duncan- asked if the City had to pay for their travel expenses as well.

Chief- replied that they try to group cities within close proximity of each other and just bill it as a bundled deal. Chief stated that the docking stations are all here and should be able to get the Grant all wrapped up here soon. Chief wanted to thank RCFD for letting them host some upcoming classes at their facility. Chief wanted to apologize to the staff for the odor in the building this week. His staff was taking record of the evidence room and there were stench of marijuana for quite some time.

Duncan- stated it would be nice to get this last officer positioned filled to have a full staff again.

Chief- agreed. He thanked Jim Eisenhower for his service on the City Council and wished him well.

Craig- Updated Mayor and Council that Patterson Farms had purchased their Sewer Capacities.

Carrie- confirmed receiving via a wire transfer to the City's bank account of ?? \$\$

Craig – stated that Patterson's will perform a sewer model and water model, which will be signed off. He stated there would be approximately 180 homes in this development with active recreation park amenities for the community. Craig reminded them of the two entries this development will have, two on Emerald and two on Main Street.

Craig thanked Jim Eisenhower for the factual part of his service. They were always able to come to great resolutions on items.

Craig referenced the e-mail from Army Corp and was happy to announce that the City had been awarded the \$500,000 Army Core Grant! As everyone knows this started in 2019, kudos to the governing body for all they have done. Craig was successful in getting the city awarded \$435,

000.00 in ARPA as well. These funds will be combined to make up about \$900,000.00 for the CIPP project. It's great to have an Engineer on board. Craig stated that the last sewer project was done by Walton was about \$500,000.00. We did about \$666,000.00, it was about a 30% match. There is sewer CD at D.L Evans of around \$225,000.00 and along with the Chobani funds of a couple hundred thousand we will have about \$1,150,000.00. We want to do as much as possible, while the successful bidder is here and set up. This is great news for the City!

Duncan- asked how long this project would take.

Craig- Stated Wendell's similar to ours took a few months of good weather. Twin Falls is at about the same stage for start of construction, he has been watching them. Hoping to get the same firm since they are already here. As far as a time frame, we are shovel ready. Its man hole to man hole. Hoping to have a start date by fall.

Duncan- Aske if this project has to go out to bid.

Craig- replied yes, and thanked them for the questions. Thanked Jim Eisenhower again for being a part of the Council.

Duncan- Confirmed the property next to Family Dollar is in city limits, and questioned if what was going on up there was conforming and wanted to know about all of the trucks parked there.

Craig- Stated that last July Marshal Bishop purchased that property. Right now, Code Enforcement is handling it. Its Commercial Gateway and yes, it is in City limits.

Duncan- Stated that all uses would have to comply with Kimberly zoning ordinances, even with a residence being there.

Craig- Stated yes. Mayor and Council there were 17 others interested in that property. He has a stack of every person who inquired about it, including Mr. Bishop. The single-family dwelling and associated out buildings are a "legal non-conforming use in the Commercial Gateway zone" that information was provided to Mr. Bishop and was documented, as to what uses were permitted there. Mr. Bishop has discussed the uses that you are inquiring about, with ITD. The Hwy 30 frontage is ITD's, not ours. If you remember Lupe Jarvis owned that property and the small building behind the home was a bridal suite. The concrete slab out back around 6,000 sq. ft., was to be a Wedding Event Center. A building permit was issued around 2009, why it didn't go further is unknown. ITD has that permit documented and was expecting right of way improvements to be made emulating what is in front of Family Dollar. Mr. Bishop and the realtors selling this property got emails in last spring early summer of 2022, regarding building permit issuance, a change of use through ITD. The current access is approved by ITD for the access to a single-family dwelling. Bill Johnson, a builder is working with him or a partner of the site with Mr. Bishop. A few months ago, the builder called and wanted a Building Permit issued, because he wanted to bump up the power to the "Bridal Suite" to do equipment repairs. Craig asked him to get a building permit and referred him to ITD to deal with the Hwy 30 frontage.

Richman- Reiterated that there was an Ordinance on storage shipping containers and wanted to know why they were still there.

Craig- Stated they were on the count down. Shipping containers are permitted for around 3 months and can be extended if there is an active building permit. There is no Building Permit so the containers are on a countdown for removal.

Duncan- Stated it looked junky, Commercial Gateway is to follow the rules. Duncan then asked while they were on the subject, she asked why there is a Porta-Potty behind the Fizz Barn. She wanted to know what is going on. Stated once you walk out of the Hardware store your staring at a Porta-Potty.

Craig- Stated Mrs. Saufley and Craig Roper developed the Lazy H soda barn by City Hall and then they constructed the larger drive-up facility on the Lance Godfrey Select Source site / parcel. As you will remember Mr. Godfrey requested de-annexation shortly after getting the store built due to the City services not being available then. Nancy you are correct Mr. Godfrey's parcel is not in the City limits. Twin Falls County, P & Z, Code enforcement must enforce all City Codes, including building permits and required improvements upon issuance of a building permit in the Kimberly Impact Area. Craig asked Brian about the City's ordinances about prohibiting porta-potti's.

Brian – stated that was correct, no privy's – porta-potti's where city services are available including in the area of impact.

Craig- stated that Brian and I watched trusses and framing go up for this site built building, believing that Twin Falls County P & Z / building department has processed the necessary permits. What has really raised a red flag on the FIZZ Barn, are lots of questions from developers, how this type of development was allowed, and from future developers looking at several lots both west and east of the Godfrey parcel saying, well I will just put in a porta potti, etc. Specifically, now developers looking at the Ruffing / Wayment, bully barn lot, are stating, they aren't spending the money for Commercial Gateway codes if the Fizz Barn property wasn't required. Craig asked the Mayor, about how long he had Craig Paul SCHD Director meet with us?

Mayor Davidson – it's been about two years ago when he met with us and confirmed that no further septic installations or added users to existing septic's, would be permitted and no new users of wells or off site water sources would be permitted, for development of properties located within 600' of city municipal services.

Craig – stated that the Twin Falls P & Z building department notified me to let me know a notice of violation was issued for the FIZZ barn. I assume it is for the lack of a building permit and required Commercial Gateway zone improvements associated with the permit. Of recent Craig spoke to Josh, Craig Paul's replacement at SCHD, and asked where he stood on the FIZZ barn issues. It was confirmed by SCHD staff that the FIZZ barn is about 70' from the Kimberly City's hydrant - water source and about the same distance to the sewer line to the west. There is an illegal water source to the FIZZ barn and there is no legal sewer discharge from the

constructed-on site facility. There has been a leadership change at SCHD and Josh is the Director now. Josh told me they are trying to work through it with the Funk's – FIZZ Barn folks and didn't want to shut them down. Any violation notices, code enforcement shall be from Twin Falls County, South Central Health District and IDWR. The water is being provided by the neighbors well- off site from Dax Duffin. The required improvements prior to issuance of a building permit have not been installed such as curb, gutter and sidewalks yet. He's sure the County is on these violations, in-conjunction with SCHD and IDWR, I hope.

Duncan- asked that follow up communication be done with SCHD, Twin Falls County and IDWR regarding these violations.

Craig - Switching back to the Ruffing / Wayment bully barn lot at the corner of 3500 E / Hwy 30, of recent Twin Falls County P&Z called and asked Craig if he would support a rezone on the west portion of their lot. Craig told them no, never, the only protection of this property being developed in accordance with the Commercial Gateway zone, will be when its annexed, at such time changed to Commercial Gateway, for the west portion of the lot, which is agriculture today. Wayment and Ruffing have purchased Kimberly sewer capacities for this site and will connect when the developer is ready. This will clean up the zoning issue. Craig spent a year or so with Les Schwab, which withdrew its purchase offer recently, due to a real estate transaction failure between the seller and buyer. Craig feels he's on good clear ground with the current developer / buyer now.

Duncan- Question, FIZZ barn is getting its water from the Sprinkler shop well by the porta potti? how, with what a garden hose or what?

Craig- Stated no, apparently a line ran underground to the Sprinkler shop well. There is a frost-free hydrant at the back door of the FIZZ barn. The Porta-Potty is not a permitted use in the Commercial Gateway zone. He talked to Josh about this. The City code says no porta potti's. Ordinance says they need to connect to the sewer. TFC, Twin Falls County P&Z and SCHD said they were told the FIZZ barn structure was a mobile trailer. The Statutes state, non-mobile structure such as the FIZZ barn, you will connect to a legal source of water and have a legal discharge permit.

Duncan- Stated she wanted to know how they have a Business? Are they leasing form the hardware store?

Craig – I spoke with Jessie Southerland when he had his real estate signs posted on both the sites, by city hall and the Godfrey site. Jessie Southerland confirmed that there was a lease of the subject FIZZ barn ground between Godfrey and the future FIZZ barn owner.

Eisenhower- Questioned as to why it hadn't been red-tagged yet, and if they obtained a Building Permit.

Craig- I believe the notice of violation from TF County is on the building with no permit.

Duncan- Stated it should be brought into compliance.

Brain- Thanked Jim Eisenhower for his support, input, and insight. PW has been very busy with fence repairs, PI Systems, pot hole repairs, and the posts along the walking path. Brain went over the Copper and Lead letter that went out to residence. Brian doesn't expect a lot of lead pipe in this area, and has handled every call and walk in personally to explain it. He stated it was a federal project, not a City one. Federally mandated and it stems for the Flint Michigan water happenings.

Craig- Stated he has heard the calls Brian has taken and praised him on how he has handled them all. Nice job. As far as the repairs, it's not just this project, it's always been the Home owners responsibility from the meter to the house.

Tim Stover- Stated the about 6-8 months ago Craig sent back comments regarding the Impact Ord. to T. F. County, and was ignored. He was pleased to state that they now agree to the Impact Ord. and should have that in place in the near future. This includes all the City bodies that Tim represents.

Craig- Thanked Tim for that. Craig pushed back hard, we are holding to the Statutes. He is glad we were able to prevail. Craig had always been concerned about that Ord., it needed more clarification. He thanked Tim again.

8. COUNCIL COMMENTS –

Eisenhower- Stated he appreciated the excellence, professionalism of this City. He urged the Department Heads to relay this to the whole staff. He couldn't make that statement 11-years ago when he started. There have been so hard times but this staff and Council have risen above, he feels good leaving it in such great hands. He thanked the Staff and Council for indulging him, and their patience. He is leaving with his head held high and the City in a great spot.

Richman- Said good luck and urged him to run for County Commissioner.

9. MAYOR COMMENTS –

None

10. DISCUSSION-ACTION ITEM- Council to accept Councilman Jim Eisenhower's resignation, effective 03-28-2023 following the adjournment of the Council meeting of 03-28-2023. *Mayor –Council action required.*

Mayor Davidson called for a motion:

Councilman Richman motioned to accept Councilman Jim Eisenhower's resignation, effective 03-28-2023 following the adjournment of the Council meeting of 03-28-2023.

Councilman Tomlinson seconded the motion.

Roll Call:
Tomlinson-Yes
Eisenhower
Duncan- Yes
Richman-Yes

11. EXECUTIVE SESSION – DISCUSSION-ACTION ITEM-

None

ADJOURNMENT:

Mayor, Burke Davidson

City Clerk, Carrie Kimball