

**REGULAR BURLEY CITY COUNCIL MEETING
CITY HALL
May 16, 2023**

COMMENCE MEETING

REGULAR SESSION

Council met in regular session at 7:00p.m. with Mayor Ormond presiding. Council members present were Casey Andersen, John Craner, Janet Hansen, Kimberli Seely, Jim Powell, and Bryce Morgan.

City Staff present were as follows:

City Administrator – Mark Mitton <input checked="" type="checkbox"/>	Building Inspector – Gary Pawson _____
City Clerk – Tracy Bustos <input checked="" type="checkbox"/>	Engineer – Brian Reiter <input checked="" type="checkbox"/>
City Attorney – Dave Shirley <input checked="" type="checkbox"/>	Deputy Fire Chief – Casey Harman _____
Sexton – Dave Allred _____	Electrical Supervisor – Brent Wallin _____
WW Treatment Director – Dustin Raney _____	Parks Supervisor – Brent Winn _____
Economic Dev. Specialist – Doug Manning _____	Librarian – Tayce Robinson <input checked="" type="checkbox"/>
Golf Pro – Scott Draper _____	Human Resources – Carol Anderson <input checked="" type="checkbox"/>
Engineer – Dave Waldren <input checked="" type="checkbox"/>	Sanitation Supervisor – Eric Pufahl <input checked="" type="checkbox"/>
Street Supervisor – Korky Blackner _____	Shop Foreman – Rick Garner <input checked="" type="checkbox"/>
Sheriff's Department – _____	Fire Department – _____

INVOCATION

The invocation was offered by Council member Hansen followed by the Pledge to the Flag.

CONSENT CALENDAR

1. **ACTION ITEM 1.a through c.** Items on the Consent Calendar are considered to be routine and enacted by one motion. Any item may be removed for discussion and made a part of the regular agenda at the request of a member of the Council. Any request shall be made after the Consent Calendar is read and before action is taken.
 - d. **APPROVAL OF MINUTES FOR REGULAR AND SPECIAL MEETINGS**
 - e. **BILLS PAYABLE \$167,600.42**
 - f. **PAYROLL ENDING ON 5/5/23 FOR \$248,344.43**

Information Items

BUILDING PERMITS:

A motion was made by Council member Hansen and seconded by Council member Morgan to accept the consent calendar as written.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

Mayor Ormond asked that the Council discuss correcting item number seven on the agenda to read:

Change order for CPS Sidewalk Construction and Grant Addendum.

Attorney Dave Shirley added that item number seven was originally posted as CPS Sidewalk Construction. The intent, when communicated from Mr. Waldron, was to also include the "grant addendum" concerning the same project. This was lost somewhere in communication and was not put on the agenda. That being the case, it looks like a good faith effort was made to include all the items in the agenda to be discussed on that topic.

A motion was made by Council member Craner to include "grant addendum" to item number seven on the agenda pertaining to CPS Sidewalk Construction and the change order which will be discussed. The motion was seconded by Council member Morgan.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

APPROVAL OF ETS BROADBAND CONSTRUCTION AND OPERATION CONTRACT

Administrator Mark Mitton presented the contract and commented that we've been working on the language of the contract which has taken a long time. Last year we went out for RFP to use the SLFRF money to build hard fiber broadband. The RFP was awarded to ETS for that purpose. They will build it and they will operate it. Unlike other systems that will be in the city, this will be an open system. That means that anyone that meets certain standards can provide service on our network to an end user. The others that are being built are private capital and building for a system that only they can use. Which means they will have fixed costs and fees and may not be the best service for low-moderate income people in Burley.

There are two contracts for this project, one for the construction of the system and one for the operation of the system (which includes setting up the standards, monitoring the subscribers, etc.). There will be a build period and a testing period so that once we open it up for subscribers (not the end users) we know that it works.

Mark turned it over to the Duchen attorneys and City Attorney Dave Shirley for comments and questions.

Council member Craner asked about the City's current network and Administrator Mitton explained that The City is currently on wireless and it works good but has it's quirks because it is wireless. Phase one of this fiber project will get almost all of the city's departments on hard fiber except the golf course, cemetery, and wastewater.

Council member Craner asked if the next step would be to expand throughout the city so that the people that could not afford private internet would be able to piggy-back off ours. Administrator Mitton explained that "they" (a third party) would come in and hook into our system at the head, bring in their own internet circuit and they can sell their product to the end user. Administrator Mitton explained that we would not be able to get the entire city on the network with just the ~\$2M that we have but we will start it and we can complete it over time so that everyone in Burley and every provider that wants to come on and meets the standards can be on the system.

Council member asked if we will eventually get away from wireless and Administrator Mitton said we will have to make that decision at a future date. Currently it serves others within and outside the city.

Council member Hansen stated that we already have private companies who have put in their infrastructure and are selling internet services to our community. Now we have our own fiber, and we are going to have a third party to sell off that. She asked how we know that they are going to sell at a cheaper price. Administrator Mitton said they do not need to sell it at a cheaper price they just need to meet the standards and pay the fees associated with that. One of the standards is that they have to be registered with the federal government to receive the subsidies for low and moderate income households so that they can offer a package affordable for those citizens.

Council member Powell asked if the city would be involved in any of the billing and Administrator Mitton said no. The city will be the network owner. We have established fees through the RFP that we will charge to maintain the network. So, the provider will send the billing to the end user, collect the money, and send us the piece that we require for them to be on the network. The city will not bill, have any customer relations, or a call center. That is all done by the third-party provider. Council member Powell also asked if anyone could come in and provide the same type of program to the citizens as we are trying to provide for them. Administrator Mitton said that anyone could come in under a state franchise which is why we had to pass our right-of-way protection act several years ago.

Attorney Dave Shirley reiterated that the firm that was selected to negotiate the contract with was ETS. It was decided to structure the negotiation by having two agreements: one for the construction of the fiber and one for the lease of the fiber. The construction agreement is where the infrastructure is described on how it's engineered and constructed. Exhibit A shows the location. We are starting out with four quadrants of the city that have initially determined to be locations that are beneficial to the city and has a lot to do with the

economic structure of those four quadrants. The funds received from ARPA (\$1,969,610.00) can be used for the installation of fiber, so we have determined that this appears to be an appropriate use of the funds. The completion requirement in the contract for the project is by May 16, 2024. The second agreement is the Fiber Lease agreement. The Duchen lawyers were responsible for helping with this contract and making sure we are in compliance with Federal regulations and what we are doing as a municipality.

Administrator Mitton asked that both agreements get approved and signed by the Mayor.

A motion was made by Council member Morgan to approve the Design and Construction Agreement between the City and ETS Communications LLC and Eminent Technical Solutions LLC and also to approve the Fiber Lease Agreement between the City and Eminent Technical Solutions LLC and ETS Communications LLC and authorize both agreements to be signed by the mayor. The motion was seconded by Council member Andersen.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

LITTLE FLOWER CHURCH SPECIAL EVENT AGREEMENT

This item was tabled until next meeting.

STREET SLURRY BID AND CONTRACT APPROVAL

This item was tabled until the next meeting.

APPROVAL OF THE CITY ADMINISTRATOR PUBLICATION

Administrator Mitton is asking for the advertisement to be approved along with the compensation for the Administrator's position.

Council member Powell asked what the hiring process is for this position. Administrator Mitton said that we will advertise the position and collect all the resumes. The advertisement will run for about 45 days. Resumes will be screened and those that do not meet minimum qualifications will not move forward in the process. Once the candidate pool is narrowed down to the finalists they will meet in groups with City Council members, department heads, and community leaders.

This is a critical position so the interviews will be thorough and in-person.

A motion was made by Council member Anderson and seconded by Council member Morgan to approve the publication and compensation for the Administrator's position.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

CHANGE ORDER FOR BEDKE BOULEVARD

David Waldron presented change orders 2-5 as follows:

2. Reduce excavation amount in curb and gutter section because of gas and electrical depth – it was too shallow at 2 feet below the asphalt.
3. ¾ Base for installation for grade change. The straightway didn't have the correct grade.
4. Replace curb and gutter where it is deteriorated in alleyway east of Miller.
5. Supply and install 3 sets of traffic loops that were damaged.

The project is moving forward, and the first level of asphalt paving is done as of today. The second level will begin tomorrow and by the end of the week the paving will be complete. Project should finish two weeks ahead of schedule.

The total for the change orders is \$61,286.64 (less than 3%). There may be one small additional change order once complete. Council member Seely asked where these additional funds come from. Administrator Mitton responded that they come out of the Road Funds account. We have received more money in that account than we have spent so there is money there to cover the change orders.

Council member Andersen made a motion to approve change orders 2-5 and allow the Mayor to sign. The motion was seconded by Council member Morgan.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

CHANGE ORDER FOR CPS SIDEWALK CONSTRUCTION AND GRANT ADDENDUM

Dave Waldron said that additional gravel was needed for the sidewalk being installed on 27th street along Park. Additionally, there was a section of sidewalk that was covered with dirt when it was initially inspected and once it was cleaned off the sidewalk was damage so

we asked for that section of the sidewalk to be replaced. The total change order is for \$9,199.06 and the addendum change is for \$29,729.94

A motion was made by Council member Seely to approve the increase in the change order and approve the grant addendum and allow the Mayor to sign. Council member Craner seconded the motion.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

PURCHASE OF ONE VEHICLE FOR SANITATION

Rick Garner asked for approval to purchase a new vehicle for the Supervisor of the Sanitation department. Rick received three bids and is asking for approval and signature on the Purchase Agreement.

This is not a lease under our lease program but a purchase because it is more economical for the City.

A motion was made by Council member Powell to approve the purchase of the 2023 GMC Sierra for the Sanitation department and seconded by Council member Morgan.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

PURCHASE OF VEHICLE FOR WATER DEPARTMENT

This item was tabled

ANNEXATION OF THE CITY OF BURLEY PROPERTY AT 1559 WASHINGTON AVE

Bryan Reiter said this property is now owned solely by the city and would like to get the property annexed. Bryan presented the documents asking for a signature on both documents, i.) Consent to Annex and ii.) the proposed annexation ordinance.

A motion was made by Council member Morgan to approve the Consent to Annex and allow the Mayor to sign. The motion was seconded by Hansen.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

A motion was made by Council member Morgan to dispense with the rule requiring three separate readings and allow the ordinance number 62023 to be read once by title only. The motion was seconded by Council member Andersen.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

The Ordinance was then ready by Attorney Dave Shirley.

Instrument # 2023001412
BURLEY, CASSIA, IDAHO
5-18-2023 01:09:16 PM No. of Pages: 4
Recorded for : CITY OF BURLEY
JOSEPH LARSEN Fee: 0.00
Ex-Officio Recorder Deputy EV
Index to: ORDINANCE

ORDINANCE NO. 62.023

AN ORDINANCE OF THE CITY OF BURLEY, IDAHO; ANNEXING ADJACENT AND CONTIGUOUS LANDS LOCATED IN CASSIA COUNTY; DIRECTING THE CITY ENGINEER TO LODGE AND FILE A LEGAL DESCRIPTION AND MAP FOR SAID ANNEXED LANDS; PROVIDING THAT COPIES OF THIS ORDINANCE SHALL BE FILED WITH OFFICIALS OF CASSIA COUNTY AND THE IDAHO STATE TAX COMMISSION; PROVIDING THAT A COPY OF SAID MAP AND LEGAL DESCRIPTION BE RECORDED WITH THE CASSIA COUNTY RECORDER AND FILED WITH THE CASSIA COUNTY ASSESSOR AND THE IDAHO STATE TAX COMMISSION, AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

PREAMBLE

WHEREAS the following parcel of land described on Exhibit "A" is adjacent and contiguous to the City of Burley in Cassia County, Idaho; and

WHEREAS the owner of said parcel is the City of Burley, an Idaho municipality, and the City of Burley has requested, and hereby does request in writing, that the parcel of land described on Exhibit "A" be annexed into the City of Burley; and

WHEREAS the owner of said parcel, the City of Burley, has provided consent by written documents submitted to the City Council of the City of Burley, incorporated into the minutes of the regular meeting of the Burley City Council held May 16, 2023;

NOW, THEREFORE:

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BURLEY:

Section 1. The following described real estate in Cassia County, Idaho, shall be and the same is hereby annexed to the City of Burley:

See Exhibit "A" Attached hereto and by this reference made a part hereof.

Section 2. The annexed real property shall be subject to all the statutes pertaining to the City of

Burley and all ordinances, resolutions, police regulations, taxation (unless exempt), and all other powers of the City of Burley.

Section 3. The land use classification of the real property shall remain C3 as it was classified immediately before annexation.

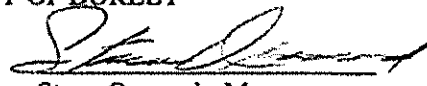
Section 4. The City Engineer is hereby directed to lodge and file with the City Clerk within ten (10) days after the passage and approval hereof, a legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the property annexed.


Section 5. The City Clerk is hereby directed to file, within ten (10) days after the passage and approval hereof, a certified copy of this Ordinance with the Cassia County Auditor, Treasurer, Assessor, and the Idaho State Tax Commission, and to file a copy of said legal description and map, as prepared and lodged with the City Clerk by the City Engineer, with the Cassia County Assessor, the Cassia County Recorder and the Idaho State Tax Commission, all as provided by Idaho Code Sections 50-223 and 63-215.

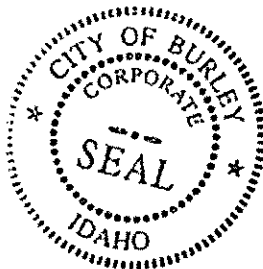
Section 6. This Ordinance shall be effective upon its passage, approval and publication.

PASSED May 16, 2023

APPROVED May 16, 2023 CITY OF BURLEY


Steve Ormond - Mayor

ATTEST:

Tracy Bustos - City Clerk



An additional motion was made by Council member Morgan to approve Ordinance 62023 and allow the Mayor to sign. The motion was seconded by Council member Hansen.

Roll Call Vote.

The results of the votes were as follows:

Jim Powell	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye
Casey Andersen	Aye	Janet Hansen	Aye

Motion carried.

Report and Discussion of Recent City Events

Mayor Ormond mentioned that this weekend is the City Cleanup event and it would be nice if people could make themselves available to participate in this event.

Council member Craner reminded everyone that tomorrow is the deadline to submit City Achievement Nominations to the AIC. The awards will be presented at this year's convention in June. Council member Craner asked that we submit anything with merit be considered for submission.

Council member Andersen mention our fiber project be submitted and Administrator Mitton said, with the help of ETS, he would submit the application to AIC.

ADJOURN

A motion was made by Council member Andersen and seconded by Morgan to adjourn the meeting at 8:59 p.m.


All "Aye."
Motion carried.

City of Burley:



Mayor Steve Ormond

ATTEST:



City Clerk Tracy Bustos