

DECEMBER 11, 2008

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, December 11, 2008, in the Council Chambers located in the City Annex Building at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Mayor Jared D. Fuhriman
Councilmember Ida Hardcastle
Councilmember Michael Lehto
Councilmember Karen Cornwell
Councilmember Thomas Hally
Councilmember Sharon D. Parry
Councilmember Ken Taylor

Absent was:

Rosemarie Anderson, City Clerk

Also present:

Shan Perry, Assistant City Attorney
Kathy Hampton, City Clerk ProTem
All available Division Directors

Mayor Fuhriman requested Fire Chief Dean Ellis to come forward to lead those present in the Pledge of Allegiance.

CONSENT AGENDA ITEMS

The City Clerk ProTem requested approval of the Minutes from the November 25, 2008 Regular Council Meeting.

The City Clerk ProTem presented monthly reports from various Division and Department Heads and requested that they be accepted and placed on file in the City Clerk's Office.

The City Clerk ProTem presented the following Expenditure Summary dated November 1, 2008 through November 30, 2008, after having been audited by the Fiscal Committee and paid by the Controller:

<u>FUND</u>	<u>TOTAL EXPENDITURE</u>
General Fund	\$ 928,945.99
Street Fund	158,471.44
Recreation Fund	28,105.41
Library Fund	51,346.13
Municipal Equipment Replacement Fund	65,222.00
Electric Light Public Purpose Fund	32,215.02
Golf Fund	53,950.34
Sanitary Sewer Capital Improvement Fund	17,897.60
Municipal Capital Improvement Fund	45,326.88
Street Capital Improvement Fund	347.50
Water Capital Improvement Fund	15,769.34
Surface Drainage Fund	17,356.50

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FUND	TOTAL EXPENDITURE
Traffic Light Capital Improvement Fund	237,392.87
Airport Fund	724,044.39
Water and Sewer Fund	429,656.25
Sanitation Fund	161,496.86
Ambulance Fund	12,272.39
Electric Light Fund	3,473,005.24
Payroll Liability Fund	2,573,581.44
TOTALS	\$ 9,026,403.59

The City Clerk ProTem presented several license applications, including BEER Licenses to Airport Lounge, Albertson's (West Broadway), Albertson's (17th Street), Applebee's Neighborhood Grill and Bar, Blue Wave, Collage LLC, Bubba's Bar-B-Que Restaurant, Common Cents Food Store (17th Street), Common Cents Food Store (Broadway), Common Cents Food Store (Boulevard), D. B.'s Steakhouse, Fanatics Sports dba Taco Shop No. 10, Flying J Convenience Store, Ford's Bar/JKP Inc., Fred Meyer Stores Inc., Idaho Falls Arts Council, Leo's Place, Muddys Place, O'Callahan's Restaurant, Outback Steakhouse-Evergreen Restaurant, Plum Loco, Red Lion on the Falls, Rite Aid (Broadway), S & K Konvenience - S & K Shell, Smith's Food and Drug, Stinker Stores Inc. (Broadway, and Stinker Stores Inc. (First Street), all carrying the required approvals, and requested authorization to issue those licenses.

The City Clerk ProTem requested Council ratification for the publication of legal notices calling for public hearings on December 11, 2008.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
December 11, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: AUTHORIZATION TO BID - TAUTPHAUS PARK PLAYGROUND
PARKING LOT PAVING - PHASE II

The Division of Parks and Recreation respectfully requests authorization to advertise for bids for construction of the Tautphaus Park Playground Parking Lot Paving - Phase II.

s/ David J. Christiansen

It was moved by Councilmember Taylor, seconded by Councilmember Hardcastle, that the Consent Agenda be approved in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Parry
Councilmember Lehto
Councilmember Taylor
Councilmember Cornwell

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Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Fuhrman requested those to come forward who had issues for the City Council that were not otherwise listed on the Council Agenda.

Dr. James T. Scuderi, 4986 South 2000 West, Rexburg, Idaho, appeared to state that he has a business called Green Building Concepts LLC which is an alternative energy consultant (windmills, solar, and research). He understands that the City is considering the installation of huge wind turbines. He was against the installation of the huge wind turbines as they require a large amount of land. Mr. Scuderi stated that his business is a group of engineers that have put together a design using smaller turbines which produce approximately the same amount of energy per acre as the large turbines provide. He requested to know whether the Mayor and City Council were interested in an alternative to the large turbines.

Councilmember Lehto stated that the City is proactive in looking for alternative energy services. He stated that the Idaho Falls Power Council Committee would look forward to a presentation from Dr. Scuderi and his firm. He requested Mr. Scuderi to contact the Idaho Falls Power Director to schedule that presentation.

The Airport Director submitted the following memos:

City of Idaho Falls
December 3, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Len Nelson, Airport Director
SUBJECT: GRANT AGREEMENT

Council may wish to authorize the Mayor to sign the appropriate documents for acceptance of a grant from the State of Idaho Department of Transportation in the amount of \$25,000.00. This grant is assistance to the Idaho Falls Regional Airport for matching funds relative to Federal Grants previously received AIP-3-16-0018-0029 and 0030.

s/ Len Nelson

RESOLUTION NO. 2008-22

EXTRACT FROM THE MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO HELD ON DECEMBER 11, 2008.

The following Resolution was introduced by Councilman Karen Cornwell, read in full, considered and adopted:

DECEMBER 11, 2008

RESOLUTION NO. 2008-22 OF CITY OF IDAHO FALLS, IDAHO ACCEPTING THE GRANT OFFER OF THE STATE OF IDAHO THROUGH THE IDAHO TRANSPORTATION DEPARTMENT, DIVISION OF AERONAUTICS, IN THE MAXIMUM AMOUNT OF \$25,000.00 TO BE USED UNDER THE IDAHO AIRPORT AID PROGRAM: LNS8IDA, PROJECT NO.: 3-16-0018-0029/030 IN THE DEVELOPMENT OF THE IDAHO FALLS REGIONAL AIRPORT; AND,

Be it resolved by the Mayor and Council of the City of Idaho Falls, Idaho (herein referred to as the "CITY") as follows:

Section 1. That the CITY, shall accept the Grant Offer of the State of Idaho in the amount of \$25,000.00, for the purpose of obtaining State Aid under Program Number: LNS8IDA, Project Number: 3-16-0028-0029/030, in the development of the Idaho Falls Regional Airport; and,

Section 2. That the Mayor of the CITY is hereby authorized and directed to sign the statement of Acceptance of said Grant Offer (entitled Part II - Acceptance) on behalf of the CITY. The City Clerk is hereby authorized and directed to attest the signature of the Mayor and to impress the official seal of the CITY on the aforesaid statement of Acceptance; and,

Section 3. A true copy of the Grant Offer referred to herein be attached hereto and made a part thereof.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 11th day of December, 2008.

s/ Jared D. Fuhriman
Jared D. Fuhriman, Mayor

ATTEST:

s/ Rosemarie Anderson
Rosemarie Anderson, City Clerk

(SEAL)

CERTIFICATE

I, Rosemarie Anderson, City Clerk to hereby certify that the foregoing is a full, true, and correct copy of Resolution No. 2008-22 adopted at a Regular Meeting of the Council held on the 11th day of December, 2008, and that the same is now in full force and effect. IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official seal of the CITY, this 11th day of December, 2008.

s/ Rosemarie Anderson
Rosemarie Anderson, City Clerk

(SEAL)

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It was moved by Councilmember Cornwell, seconded by Councilmember Parry, to approve the Grant Agreement from the State of Idaho Department of Transportation in the amount of \$25,000.00 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Taylor
Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

City of Idaho Falls
December 1, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Len Nelson, Airport Director
SUBJECT: CONSENT TO ASSIGNMENT OF LEASE AND ASSIGNMENT OF LEASE

Attached for City Council approval is the Consent to Assignment and Assignment of Lease for the transfer of an Aircraft Hangar between Arnold Walker and Mark Mason. The hangar is located at 1959 Foote Drive, Idaho Falls, Idaho. All other terms and conditions of the lease remain the same.

Shan Perry, Assistant City Attorney, has prepared and approved said lease.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Len Nelson

It was moved by Councilmember Cornwell, seconded by Councilmember Parry, to approve the Consent to Assignment and Assignment of Lease Agreement for the transfer of an Aircraft Hangar between Arnold Walker and Mark Mason and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Cornwell
Councilmember Hally
Councilmember Parry
Councilmember Taylor

Nay: None

Motion Carried.

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The Idaho Falls Power Director submitted the following memos:

City of Idaho Falls
December 3, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jo Elg, Assistant Idaho Falls Power Director
SUBJECT: SIMMONS WIND PROJECT

Attached for your consideration is a letter from UAMPS soliciting participation in the Simmons Wind Project. The wind project is progressing from a study to an actual construction phase. Idaho Falls Power participated in the study phase at a 2 megawatt level.

Idaho Falls Power respectfully recommends participation in the Simmons Wind Project at a 2 megawatt level and authorization for the Mayor to sign the form.

s/ Jo Elg

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to approve the Participation Agreement for the Simmons Wind Project at the 2 megawatt level and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Taylor
Councilmember Hally
Councilmember Lehto
Councilmember Parry
Councilmember Cornwell
Councilmember Hardcastle

Nay: None

Motion Carried.

City of Idaho Falls
December 3, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jackie Flowers, Idaho Falls Power Director
SUBJECT: IDAHO FALLS POWER BUILDING, CHANGE ORDER NO. 4

Attached is Change Order No. 4, the final Change Order, for the Idaho Falls Power Building Renovation Project (Phase 2) for \$6,679.00 and an adjustment to the contract completion date.

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Idaho Falls Power requests Council approval of this Change Order and authorization for the Mayor to sign the documents.

s/ Jackie Flowers

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to approve Change Order No. 4 to Double E Construction, Inc. for the Idaho Falls Power Building Renovation, Phase 2 Project and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

The memo from the Idaho Falls Power Director regarding the tabulation and award of bid for Westside Substation Expansion Project was withdrawn by the Division Director.

City of Idaho Falls
December 9, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jo Elg, Assistant Idaho Falls Power Director
SUBJECT: CONFIRMATION AGREEMENT WITH POWEREX

Attached for your consideration is a Confirmation Agreement to purchase power from Powerex for November 2009 through February 2010. The agreement is for 10 megawatts on-peak at an average of \$55.27 per megawatt hour. The total cost is \$875,472.00.

Idaho Falls Power respectfully requests ratification of the Confirmation Agreement.

s/ Jo Elg

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to ratify the execution of the Confirmation Agreement to purchase power from Powerex for November 2009 through February 2010 for 10 megawatts on-peak at an average of \$55.27 per megawatt hour for a total cost of \$875,472.00. Roll call as follows:

Aye: Councilmember Parry
Councilmember Cornwell
Councilmember Hally

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Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
December 1, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-09-05, AGGREGATE/CRUSHED GRAVEL

Attached for your consideration is the tabulation for Bid IF-09-05, Aggregate/Crushed Gravel.

The apparent low bid of Rhodehouse Construction had an exception in regards to the gravel being located within a 3.5 mile radius of the City limits. However, when cost calculations were done, the cost to haul the gravel the extra distance exceeds the difference in their low bid and the next higher bid. Therefore, it is the recommendation of Municipal Services to accept the bid of H-K Contractors to furnish approximately 20,000 tons of ¾" aggregate for the amount of \$3.95 per ton, extended to \$79,000.00.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Hardcastle, to reject the apparent low bid from Rhodehouse Construction due to the exception provided and accept the bid from H-K Contractors to furnish 20,000 tons of ¾" aggregate for the amount of \$3.95 per ton for an extended total cost of to \$79,000.00. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Taylor
Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

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City of Idaho Falls
December 8, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-09-04, MOTOR FUEL AND LUBRICANTS

Attached for your consideration is the tabulation for Bid IF-09-04, Motor Fuels, Lubricants, and Services and the Fuel obtained through a Computerized Fuel Dispensing System beginning March 3, 2009.

It is the recommendation of Municipal Services that we accept the low bid for all sections as follows:

SECTION I:

Motor Oil Conrad and Bischoff

SECTION II:

Fuel Picked Up By City Truck Conrad and Bischoff
Unleaded Gas, Cold Weather Additive
And Ultra Low Sulfur Diesel No. 1 and
No. 2

SECTION III:

Services and Fuel obtained through a Computerized Fuel Dispensing System Conrad and Bischoff
Unleaded Gas, Cold Weather Additive
And Ultra Low Sulfur Diesel No. 1 and
No. 2

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Hardcastle, to accept the low bid from Conrad and Bischoff to provide the Fuels, Lubricants, and Services and the Fuel obtained through a Computerized Fuel Dispensing System beginning March 3, 2009 as recommended. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Cornwell
Councilmember Hally
Councilmember Parry
Councilmember Taylor

Nay: None

Motion Carried.

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The Police Chief submitted the following memo:

City of Idaho Falls
December 9, 2008

MEMORANDUM

TO: Mayor and Council
FROM: Steve Roos, Chief of Police
SUBJECT: CITY COUNCIL AGENDA ITEM

Attached is an Ordinance amending Section 5-10-3 of the City Code of Idaho Falls, Idaho regarding Dog License Fees.

I respectfully request approval of this Ordinance at the City Council Meeting of December 11, 2008.

s/ Steve Roos

At the request of Councilmember Hardcastle, the Assistant City Attorney read the following Ordinance by title only:

ORDINANCE NO. 2787

AN ORDINANCE AMENDING SECTION 5-10-3 OF THE CITY CODE OF IDAHO FALLS, IDAHO; REGARDING DOG LICENSE FEES; ESTABLISHING METHODOLOGY; PROVIDING FOR SEVERABILITY; PROVIDING FOR PRESERVATION OF PRIOR ORDINANCE AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Taylor seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Taylor
Councilmember Hally
Councilmember Lehto
Councilmember Parry
Councilmember Cornwell
Councilmember Hardcastle

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

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City of Idaho Falls
December 2, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: ENGINEERING SERVICES AGREEMENT – IDAHO CANAL
BRIDGE AT JOHN ADAMS PARKWAY AND GARFIELD STREET

The Public Works Capital Improvement Project List includes two (2) Idaho Canal bridge replacements. These bridges, both of which are Federal Aid Projects, are located at John Adams Parkway and Garfield Street.

Forsgren and Associates is on Idaho Transportation Department's approved term agreement list and Public Works requests authorization to negotiate a proposed Design Services Agreement with Forsgren in the matter of these projects.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Parry, to give authorization to negotiate a proposed Design Services Agreement with Forsgren and Associates for two (2) Idaho Canal bridge replacements at John Adams Parkway and Garfield Street. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Parry
Councilmember Lehto
Councilmember Taylor
Councilmember Cornwell

Nay: None

Motion Carried.

City of Idaho Falls
December 2, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 1, BLOCK 6, THE MEADOWS
ADDITION, DIVISION NO. 2

As previously authorized, the City Attorney has prepared documents to vacate an easement located in Lot 1, Block 6, The Meadows Addition, Division No. 2.

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Public Works recommends approval of this vacation; and, authorization for the Mayor and City Clerk to sign necessary documents.

s/ Chad Stanger

At the request of Councilmember Lehto, the Assistant City Attorney read the following Ordinance by title only:

ORDINANCE NO. 2788

AN ORDINANCE VACATING AN EIGHT FOOT (8') EASEMENT WITHIN MEADOWS SUBDIVISION OF THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE SAID EASEMENT; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ON BEHALF OF THE CITY A QUITCLAIM DEED CONVEYING THE EIGHT FOOT (8') EASEMENT TO THE OWNER OF THE ADJACENT LAND, AND NAMING IT; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE.

The foregoing Ordinance was presented by title only. Councilmember Lehto moved, and Councilmember Parry seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Hardcastle to conduct a public hearing for consideration of Golf Fee Increases Greater than One Hundred Five Percent (105%) for the 2008-2009 Fiscal Year. At the request of Councilmember Hardcastle, the City Clerk ProTem read the following memo:

City of Idaho Falls
December 11, 2008

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: 2008 PROPOSED GOLF FEE INCREASES

DECEMBER 11, 2008

The Parks and Recreation Division respectfully requests the Mayor and City Council to approve the attached 2008-2009 proposed golf fee increases. The proposed increases were advertised November 30, 2008 and December 7, 2008 as required by Idaho Law.

s/ David J. Christiansen

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the City of Idaho Falls proposes to increase existing fees beginning December 15, 2008, by amounts that exceed one hundred five percent (105%) of respective fees from the current fiscal year. The fee increases are necessary to cover increased costs associated with these programs.

Source of Fees	Current Fees	Proposed New Fees
Golf Course		
Non-Resident Green Fees:		
9-Hole Weekday	\$14.50	\$0.00
18-Hole Weekday	18.50	.00
9-Hole Weekend	15.50	.00
18-Hole Weekend	19.50	.00
Resident Green Fees:		
9-Hole Weekday	12.50	.00
18-Hole Weekday	16.50	.00
9-Hole Weekend	13.50	.00
18-Hole Weekend	17.50	.00
Non-Resident Green Fees:		
9-Hole Daily	.00	16.00
18-Hole Daily	.00	20.00
Resident Green Fees:		
9-Hole Daily	.00	14.00
18-Hole Daily	.00	18.00
Out of State:		
9-Hole Daily	15.50	20.00
18-Hole Daily	19.50	24.00
Driving Range:		
Small Bucket	3.00	3.25
Large Bucket	4.00	4.25

Any person who desires to provide comments regarding such fee increases may appear at 7:30 p.m. on Thursday, December 11, 2008, at the

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City of Idaho Falls Council Chamber, City Hall Annex, 680 Park Avenue, Idaho Falls, Idaho.

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

Published: November 30 and December 7, 2008

Councilmember Hardcastle explained that for three consecutive years, the golf courses operated in the black. This year, due to the late spring and the increase in operation and maintenance costs, the golf courses were operating a small amount in the red. It was the sense of the Mayor and City Council that it was better to raise the golf fees in small increments.

Councilmember Lehto stated that he received a telephone call to state that the out-of-state rates being considered are a great deal.

There being no further discussion either in favor of or in opposition to these golf fee increases, Mayor Fuhriman closed the public hearing.

It was moved by Councilmember Hardcastle, seconded by Councilmember Lehto, to approve the 2008-2009 Golf Fee Increases Greater than One Hundred Five Percent (105%). Roll call as follows:

Aye: Councilmember Parry
Councilmember Cornwell
Councilmember Hally
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Parry to conduct Annexation Proceedings for Candy Cottage, Division No. 1. At the request of Councilmember Parry, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 4, 2008

MEMORANDUM

TO: Mayor and Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: ANNEXATION WITH INITIAL ZONING OF RSC-1, FINAL PLAT,
AND RSC-1 SITE PLAN – CANDY COTTAGE, DIVISION NO. 1

Attached are the Annexation Agreement, Annexation Ordinance, Final Plat, and Site Plan for Candy Cottage, Division No. 1. This three lot final plat is located on the southwest corner of Bonita Drive and Woodruff Avenue. Annexation and initial zoning of RSC-1 are being requested for the western 0.1

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acre of this plat. The Planning Commission recommended approval of the annexation, RSC-1 zoning, final plat, and site plan with the condition the parking in the clear site triangles be eliminated. This request is being submitted to the Mayor and Council for consideration.

s/ Renee R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. There was a public hearing conducted on November 13, 2008 for this annexation. She further indicated that the Planning Division could not find proof that those residents within 300 feet of the subject property had received notice of this annexation, so they would be conducting the public hearing again. Following is a list of exhibits used in connection with this annexation request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo with property outlined in red
Slide 3	Aerial Photo – close up
Slide 4	Aerial Photo showing Final Plat
Slide 5	Final Plat under consideration
Slide 6	Site Plan under consideration
Slide 7	Landscape Plan
Slide 8	Building Elevation
Slide 9	Comprehensive Plan
Slide 10	Site Photo showing existing Candy Cottage
Slide 11	Site Photo showing Candy Cottage and proposed building site
Slide 12	Site Photo showing proposed building on site
Slide 13	Site Photo looking west across Lot 3
Exhibit 1	Planning Commission Minutes dated October 7, 2008
Exhibit 2	Staff Report dated October 7, 2008
Exhibit 3	Vicinity Map
Exhibit 4	Copy of Final Plat
Exhibit 5	Copy of Site Plan

The Planning and Building Director stated that an Annexation Agreement is being provided for annexation fees, as well as should a building be developed on Lot 3 where the storm water retention is now being provided, that a new storm water retention area will be provided at that time.

Todd Meyer, 645 Hickory Lane, appeared as the representative for Morgan Construction. Candy Cottage is proposing to build a second building, where the kitchen and office will be located. The original building will be used for display and sales. Mr. Meyers, further, explained where the storm water would flow into Lot 3. Should a building be proposed in the future for Lot 3, storm drainage will be officially addressed.

There being no further discussion either in favor of or in opposition to this annexation request, Mayor Fuhrman closed the public hearing.

It was moved by Councilmember Parry, seconded by Councilmember Hally, to approve the Annexation Agreement for Candy Cottage Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

Aye: Councilmember Cornwell
 Councilmember Parry

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Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

At the request of Councilmember Parry, the Assistant City Attorney read the following Ordinance by title only:

ORDINANCE NO. 2789

CANDY COTTAGE ADDITION, DIVISION NO. 1

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS, IDAHO; DESCRIBING THESE LANDS; REQUIRING THE FILING OF THE ORDINANCE AND AMENDED CITY MAP AND AMENDED LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Parry moved, and Councilmember Hally seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Parry
Councilmember Cornwell
Councilmember Hally
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Parry, seconded by Councilmember Hally, to establish the initial zoning for Candy Cottage Addition, Division No. 1 as RSC-1 (Residential Shopping Center) Zoning as presented, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

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Aye: Councilmember Lehto
Councilmember Taylor
Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

It was moved by Councilmember Parry, seconded by Councilmember Hally, to accept the Final Plat for Candy Cottage Addition, Division No. 1 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Taylor
Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

It was moved by Councilmember Parry, seconded by Councilmember Hally, to approve the RSC-1 Site Plan with the condition that the clear site triangles adjacent to Bonita Drive be landscaped. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Cornwell
Councilmember Hally
Councilmember Parry
Councilmember Taylor

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Parry to conduct a public hearing for consideration of an Appeal from the Board of Adjustment Decision to deny the request for a variance to the sign provisions for separation requirements between billboards and separation requirements between a billboard and the Snake River, on property located generally south and adjacent to Denver Street, north of Broadway, east and adjacent to North Utah Avenue, west and adjacent to Lindsay Boulevard and legally described as Lots 8-12, Block 9, West Broadway Addition (540 North Utah Avenue). At the request of Councilmember Parry, the City Clerk ProTem read the following memo from the Planning and Building Director:

DECEMBER 11, 2008

City of Idaho Falls
December 2, 2008

MEMORANDUM

TO: Mayor and City Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: APPEAL FROM BOARD OF ADJUSTMENT – REQUEST TO LOCATE A BILLBOARD ON UTAH AVENUE/LINDSAY BOULEVARD

Attached is the appeal from the Board of Adjustment action on September 9, 2008. The Board of Adjustment found the location of the billboard will negatively impact its neighborhood environment, the applicant voluntarily removed the billboard, and the intent of the Sign Ordinance is bring new or replacement billboards into compliance with the spacing requirements of the Sign Ordinance. Staff agrees with the findings of the Board. This appeal is now being presented to the Mayor and Council for consideration.

s/ Renee R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this request:

- Slide 1 Vicinity Map showing surrounding zoning
- Slide 2 Aerial Photo showing site for proposed billboard
- Slide 3 Aerial Photo taken in 2004 showing applicant's property
- Slide 4 Site Plan for Commercial Tire Company
- Slide 5 Sign Code Section 7-9-18:
7-9-18: NON-CONFORMING SIGNS AND THEIR REMOVAL:
Signs in existence on the date of enactment of this Code which do not conform to the provisions of this Code, but which were constructed, erected, affixed or maintained in compliance with all previous regulations, shall be regarded as non-conforming signs which may be continued from the effective date of this Code, but shall not be structurally altered, relocated or replaced without immediately being brought into compliance with all the provisions of this Code.
- Slide 6 Sign Code Section 7-9-19:
7-9-19 VARIANCES:
Any person may seek a variance to provisions of this Code by following the procedures outlined in the Zoning Ordinance of the City of Idaho Falls. The Board of Adjustment may grant a variance for signs regulated by this Code if it finds that the proposed sign:
 - (1) Does not negatively impact its neighborhood environment or aesthetics and is absolutely necessary to adequately identify the premises;
 - (2) The frontage of the building upon which the maximum permitted sign size is based, is disproportionately small in comparison to the floor area or size of the building associated with such sign; or

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- (3) Is historically significant to the community.
- Slide 7 Aerial Photo showing the existing billboard and the requested billboard location which is 485 feet from the existing billboard approximately 730 feet from the Snake River Greenbelt
- Slide 8 Site Photo showing proposed sign location
- Slide 9 Site Photo looking north at proposed sign location
- Slide 10 Site Photo showing location of the old sign compared with the location of the proposed sign
- Exhibit 1 Vicinity Map and Aerial Photo
- Exhibit 2 Copy of Site Plan
- Exhibit 3 Photos submitted by applicant
- Exhibit 4 Copy of Appeal
- Exhibit 5 Board of Adjustment Findings of Fact and Conclusions of Law
- Exhibit 6 Board of Adjustment Minutes dated September 9, 2008
- Exhibit 7 Council Meeting Minutes dated April 25, 2002

The Planning and Building Director explained that the two signs on the applicant's property did not meet the requirements of the 750 foot spacing. That spacing requirement was adopted by the City Council on April 25, 2002. She explained, further, that there was a provision in the same minutes that there would be no billboard within 750 feet of the Greenbelt or within 750 feet of a Historic District. When the Board of Adjustment reviewed this request, it was determined that there were 7 billboards along Lindsay Boulevard and Utah Avenue presently. The addition of another billboard that does not meet the 750 foot spacing would adversely affect the neighborhood as it does not meet the distance requirements. The purpose of the Ordinance was to discourage the clutter of billboards and the eliminating of billboards serves the purposes of the Sign Code. If the City Council approves this variance request, there will be five billboards in a distance of 1300 feet along Lindsay Boulevard and Utah Avenue. Further, if the City Council grants the variance request, it will in effect amend the Sign Code. The hardship was created by the owner's actions. The Planning and Building Director reviewed the minutes from the April 25, 2002 Council Meeting. She felt that the Board of Adjustment was correct when it summarized the purpose of the Sign Code. The City Council was providing the distances between billboards to enhance the attractiveness and aesthetics of our community, especially on the entranceways, the Snake River Greenbelt, and in those areas where visitors come.

Councilmember Hally requested to know the vote from the Board of Adjustment. The Planning and Building Director stated that the vote was 4-2 in favor of granting the variance, with 3 members being absent. She stated, further, that the Board of Adjustment has conducted 24 public hearings in 2008. In those public hearings, the Board has approved 22 of 24 variances or conditional use permits in those public hearings. In most of those cases, there was not a full Board of Adjustment. Councilmember Hally stated that one of the purposes of the Ordinance is to reduce the number of billboards. The Planning and Building Director stated that was the purpose from the staff and the City Council. Councilmember Hally stated that the second issue was aesthetics. The old sign, should it still exist, might be less pleasing aesthetically. The Planning and Building Director agreed. Councilmember Hally stated that the issue with the Greenbelt is not an issue, because the new sign cannot be seen from the Greenbelt. The Planning and Building Director stated that is what the Board of Adjustment found.

Councilmember Parry requested to know what the long-term effect would be for the variance. The Planning and Building Director stated that the variance, should it be granted, goes with the land.

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Councilmember Hardcastle stated that the City Council has heard many times that there are too many billboards at the entranceways to the City.

Dane Watkins, 2242 South Boulevard, appeared to express his appreciation for the work done by the Mayor and City Council. He stated that the original sign was in place for ten years. The location of the sign was an issue with the final remodel for Commercial Tire. Prior to the change in the Sign Ordinance, the sign was moved from the Chili's location across the street from Commercial Tire without having to seek approval from the Board of Adjustment. Aesthetically, the sign does not impact the river, the area is highway commercial, and Mr. Watkins did not believe that the 750 foot separation requirement is particularly applicable to Utah Avenue. The Board of Adjustment provided a 2/3 approval to the variance request. The goal is to make this community aesthetically pleasing. This area has improved greatly from 15 years ago.

Councilmember Taylor acknowledged that he had a brief conversation with Mr. Watkins prior to the Council Meeting this evening. He did not know that he was not supposed to have that conversation prior to making a decision on this issue. Councilmember Taylor requested to know why the old sign was removed due to safety issues.

Mr. Watkins indicated that the reason it was a safety issue was due to the fact that they could not get into their building if the old sign remained in that location.

Councilmember Hally requested to know whether Mr. Watkins was aware that one of the purposes of the Sign Code was to remove additional signs.

Mr. Watkins stated that he was unaware of that purpose. Each situation needs to be looked at individually. They are not asking for additional signs. There will still be seven signs along Lindsay Boulevard and Utah Avenue at this location. The location that they have chosen for the new sign will not be visible from the Greenbelt. The old sign would have been visible from the Greenbelt. This is a good proposal.

Kent Marboe, 174 Martinsburg Lane, appeared to state that he represented LaMar Outdoor Advertising. He expressed his dissatisfaction to the Mayor and City Council that his industry is not respected. Mr. Marboe stated that he appeared before the Planning Commission in 2002 to state that the City was going to have a problem with the number of billboards allowed if the Code did not change. Mr. Marboe served on the Committee that crafted the Sign Ordinance. At the time, there were no spacing requirements and a billboard could be placed every ten feet. This is a good proposal. He stated, further, that he has billboards along Lindsay Boulevard where trees are covering the advertising area. He has requested the City to trim those trees so that the billboards are useable advertising space. He has been turned down. Mr. Marboe requested the City Council to review this request carefully. The proposed sign is in a better location. He is not requesting an increase in signage along Lindsay Boulevard.

Steve Wackerli, 810 West Broadway, appeared to state that he is an adjacent property owner to this sign. He appeared to state that he was opposed to the proposed sign due to its proximity to his property. His business uses the alley regularly. He requested to know whether the City Council would approve a variance for another sign on his property should the proposed sign be approved. Mr. Wackerli suggested placing their sign on the north side of the building, rather than on the south.

Mr. Watkins re-appeared to state that the sign would only require 16 inches out of the alley. The use of the alley would not change. He uses the alley as well as Mr. Wackerli.

Councilmember Cornwell requested to know why the sign could not be placed on the north side of Mr. Watkins' building.

Mr. Watkins stated that he determined that the south side of the building would be better due to the fact that the sign would not be seen from the Greenbelt. If the sign were placed on the north side it would be seen from the Greenbelt.

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Mr. Marboe re-appeared to state that the spacing is much better on the south side of the building from the other billboards located on Lindsay Boulevard.

There being no further discussion either in favor of or in opposition to this appeal, Mayor Fuhriman closed the public hearing.

Councilmember Hardcastle stated that she appreciated Mr. Marboe's participation in developing the Sign Code. She stated, further, that if this variance is granted, it takes away from the intent of the Ordinance. She stated that she was apprehensive to approve this variance due to that.

Councilmember Hally stated that Lindsay Boulevard is an entranceway to the City. The Ordinance states that signage should be limited to the entranceways. Granting this variance request would violate that provision of the Ordinance.

Councilmember Taylor stated that due to the fact that this is replacing a sign that existed previously, he would consider this variance request. Whereas, if Mr. Wackerli requested a variance to place a sign along Lindsay Boulevard, he would probably not consider that as it is an additional sign. The Board of Adjustment approved this request in a 2/3 majority vote. The placement of this sign would not change the aesthetics along Lindsay Boulevard/Utah Avenue. Further, it would not be seen from the Greenbelt. Councilmember Taylor expressed his concern that Mr. Wackerli was not supporting this variance request for a sign.

Councilmember Cornwell stated that she supported the Board of Adjustment decision to approve the variance. The majority of the Board present supported granting the request. She stated, further, that in her opinion there are more problems with signage in the City, than that of the billboards along Lindsay Boulevard.

Councilmember Lehto stated that he remembered that it was the intent in 2002 to not increase the number of billboards within the landscaped entrances to Idaho Falls. That is the reasoning for the enactment of the 750 foot distance between billboards at these locations. Councilmember Lehto stated that there was no opposition expressed at the Board of Adjustment Meeting. He expressed his concern for the opposition voiced at this meeting regarding this request.

Councilmember Parry stated that billboards are different from signs. Following a review of the issues involved and determining that this is an off-site billboard, it was moved by Councilmember Parry, seconded by Councilmember Hardcastle, to deny the request for a variance to the sign provisions for separation requirements between billboards and separation requirements between a billboard and the Snake River, on property located generally south and adjacent to Denver Street, north of Broadway, east and adjacent to North Utah Avenue, west and adjacent to Lindsay Boulevard and legally described as Lots 8-12, Block 9, West Broadway Addition (540 North Utah Avenue) and, further instruct the Planning and Building Director and City Attorney to prepare written Findings of Fact, Conclusion of Law, and Decision regarding this decision. Roll call as follows:

Aye: Councilmember Hardcastle
 Councilmember Parry

Nay: Councilmember Lehto
 Councilmember Cornwell
 Councilmember Hally
 Councilmember Taylor

Motion Denied.

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It was moved by Councilmember Lehto, seconded by Councilmember Cornwell, to approve the request for a variance to the sign provisions for separation requirements between billboards and separation requirements between a billboard and the Snake River, on property located generally south and adjacent to Denver Street, north of Broadway, east and adjacent to North Utah Avenue, west and adjacent to Lindsay Boulevard and legally described as Lots 8-12, Block 9, West Broadway Addition (540 North Utah Avenue). Roll call as follows:

Aye: Councilmember Taylor
Councilmember Hally
Councilmember Lehto
Councilmember Cornwell

Nay; Councilmember Parry
Councilmember Hardcastle

Motion Carried.

There being no further business, it was moved by Councilmember Cornwell, seconded by Councilmember Lehto, that the meeting adjourn at 9:26 p.m.

CITY CLERK

MAYOR
