

DECEMBER 7, 1971

Pursuant to a call by the Mayor the City Council of the City of Idaho Falls met in special session in the Sir C Room of the Bonneville Hotel on December 7th, 1971, at 12:00 o'clock noon for the purpose of meeting with Glen, Edward, and Dale Koester and their attorneys for open discussion relative to the acquisition by the City of certain lands owned by the Koesters for purposes of constructing a secondary sewage treatment plant and, more specifically, to discuss and attempt to resolve the problem of possession of said lands during condemnation proceedings. There were present at said meeting: Mayor S. Eddie Pedersen; Councilmen Dale Parish, Jim Freeman, Mel Erickson, Jack Wood, Gordon Nelson. Absent: Councilman Paul Hovey. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Don Lloyd, Public Works Director; Norris Gesas, Councilman-Elect; John Hansen, Attorney-at-Law; Messrs. Glen, Dale and Ron Koester.

Recognizing that this was a meeting as requested by Attorney John Hansen and his clients, the Mayor welcomed all those present as above indicated. The Mayor also noted that the time and the place of this meeting had been set by the City Attorney as evidenced in the following letter:

December 1, 1971

CITY ATTORNEY

Mr. John Hansen
Hansen & Hopkins
Attorneys at Law
P.O. Box 96
Idaho Falls, Idaho

RE: CITY OF IDAHO FALLS VS. GLEN E. KOESTER, ET AL, CIVIL NO. 18795,
BONNEVILLE COUNTY

Dear Mr. Hansen:

This case is fully at issue and in condition for trial setting. The City is requesting an early setting for the obvious purpose of getting possession so that the contract for construction of the Secondary Treatment Plant may be let.

Although the City had an appraisal of the property made by an M.A.I. qualified real estate appraiser, including severance damages, and the amount of the appraised damages was offered to you for the land before suit; the City nevertheless realizes that you desire to discuss the matter with the entire City Council and Mayor before trial to see whether possession might yet be given to the City before trial in exchange for considerations to be explored.

The City is perfectly agreeable to having such a discussion before the whole Council. Accordingly, it has arranged a luncheon special meeting in the Sir C Room of the Bonneville Hotel in Idaho Falls for Tuesday, December 7, 1971, at 12:00 noon. All defendants in the condemnation case, and their counsel, are invited to attend.

DECEMBER 7, 1971

The City has requested on several occasions that you furnish in writing the demands which you made as a condition to giving possession of the land to the City. We all understand that delivery of possession of the land will in no way affect your right to have the amount of damages to the owners determined at the trial. We all also understand that if the City should obtain possession of the land, the trial of the case to fix the damages could then be set at any later time convenient to the parties and the Court.

Sincerely,
s/ A.L. Smith
City Attorney

The Mayor announced that this was an official Council session and would be made a matter of record in the Council minutes. He explained that the City's primary objective at this time was to seek an amiable right of possession on the Koester property during condemnation proceedings and, without said right, the engineers are unable to advertise for bids on the secondary sewage treatment plant construction project. Inasmuch as this was a Public Works matter, the Mayor invited Councilmen Nelson, as Chairman of the Public Works Committee, to chair this portion of the meeting. Nelson expressed appreciation for the opportunity to have round table discussion with those present. He then invited Attorney Hansen to open the discussion. Mr. Hansen explained that he was only representing a part of the Koester family and that another attorney firm, Jones, Pomeray & Jones, was also representing other members of the Koester family. He said even though he was working closely with that attorney firm, they were unable to have one of their representatives present at this meeting and he could not speak for them. Hansen, speaking for himself and in behalf of his clients, expressed appreciation for this opportunity of getting together in this manner. Hansen referred back to the time that the City acquired certain land from the Koester family now being used as the site for the primary treatment plant. He said preliminary meetings of this nature then proved invaluable. Hansen acknowledged the trial date of December 20th for initiating condemnation proceedings and, therefore, agreed that time was of the essence.

Hansen then invited Mr. Glen Koester to address the group. By means of an aerial photo, Mr. Koester oriented the Koester property, in relation to the primary treatment plant and the proposed site for the secondary treatment plant. Koester then gave a brief history of the various negotiations for land acquisition including that acquired by the Union Pacific Railroad. He pointed out that when he was approached by that agency, it was explained that they had to acquire at least 160 acres for their purposes to make said acquisition feasible. Koester said that, after two years of negotiations it was decided to sell the property in question to the railroad on the grounds that it would enhance the remaining property. However, he said it was then necessary to renegotiate in order to convert 50 feet of access right of way to 100 feet. Koester said he was explaining all of this to point out the need for a pre-planning program to expedite continued economical farming. On the remaining property, it remains just as important, now, relative to the property in which the City is interested. Koester also noted other problems requiring pre-planning; namely, the fact that the terrain creates the necessity for north-south as well and east-west irrigation. This, in order to serve the farm area properly, there is a substantial amount of area utilized for irrigation ditches. Again referring to the aerial photo, Koester drew attention to the proximity of certain City owner farmland west of the Fielding Memorial Park Cemetery serviced by two irrigation ditches passing across his property. He suggested that the use of a sprinkler irrigation system for that property and portions of his property might prove advantageous. He reminded the Council that the City owned farmland

DECEMBER 7, 1971

in question is not being productively utilized and that a sprinkler system would enhance its productivity potential. Conversion to sprinkler irrigation would eliminate the necessity for the two irrigation ditches. In turn, elimination of these ditches would permit the secondary treatment plant site to be relocated to the west. Koester then proposed that the southern boundary of the 13.456 acres to be acquired by the City be moved to the north about 290 feet and an equivalent amount of land be substituted to the west, extending to a Koester home. Referring to a preliminary treatment plant layout dated March, 1971, entitled Figure 1 of the March 12, 1971 wastewater treatment plant analysis by CH2M, Koester explained that his proposed south boundary line would only affect future secondary clarifiers and aeration basin.

Councilman Nelson thanked Mr. Koester for this presentation and directed Public Works Director Lloyd to immediately contact the consulting engineer to determine the feasibility and effect of this proposal and advise accordingly. Asked for comment, City Attorney Smith stressed that time was of the essence in considering renegotiation of this nature at this time in view of the trial date.

In absence of further comment on this issue, the Mayor declared the meeting adjourned at 1:15 P.M.

ATTEST: s/ Roy C. Barnes
City Clerk

s/ S. Eddie Pedersen
Mayor

* * * * *