

MAY 27, 1971

---

The City Council of the City of Idaho Falls, Bonneville County, Idaho, met in Regular Public Session at the regular meeting place of the Council in the City Hall in the City of Idaho Falls, at 7:30 o'clock P.M. on May 27<sup>th</sup>, 1971. The roll was called and the following found to be present: Mayor S. Eddie Pedersen; Councilmen Jim Freeman, Paul Hovey, Gordon Nelson, Dale Parish, Jack Wood, Jr. and Mel Erickson. There were also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney, John Evans, City Controller; Rod Gilchrist, City Planner; Steve Harrison, Electrical Engineer; Don Lloyd, Public Works Director.

After the meeting had been duly called to order and the minutes of the preceding meeting read and approved, the Mayor announced that one purpose of the meeting was to open the sealed bids received for the purchase of \$1,250,000 Water and Sewer Revenue Bonds, Series 1971, of the City of Idaho Falls, Idaho.

The City Clerk presented an affidavit showing that a copy of the notice of the sale of said bonds was mailed to the State Auditor of the State of Idaho on May 3<sup>rd</sup>, 1971, in full compliance with law, in the Post Register, the official newspaper of the City of Idaho Falls on May 2<sup>nd</sup>, May 9<sup>th</sup>, and May 16<sup>th</sup>, 1971, said publications having been made at weekly intervals, the first having been made twenty-one (21) full days prior to the date fixed for the sale of said bonds. Such notification and publication and said affidavits were approved and the affidavits were ordered placed on file.

The City Clerk announced that pursuant to said notice of sale seven sealed bids for the purchase of said bonds had been received. The bids were opened and tabulated and found to be as follows:

NAME OF BIDDER	NET INTEREST COST	PREMIUM
Blythe & Co. Inc.	\$827,640.39	\$625.00
Halsey, Stuart & Co. Inc.	827,056.71	300.00
Loewi & Company, Inc.	839,181.65	100.00
Merrill Lynch, Pierce, Fenner & Smith	844,753.38	None
John Nuveen & Co. Inc.	821,025.05	None
Smith, Barney & Co.	848,796.67	None
White, Weld & Co.	833,609.17	None

After a general discussion, it was determined that the bid of JOHN NUVEEN & CO., INC. OF CHICAGO, ILLINOIS, and associates, offering to purchase said bonds at the price of par and accrued interest to the date of delivery and a premium of \$ none was the best and most advantageous bid received for the purchase of said bonds. Said bid reads in full as follows:

**JOHN NUVEEN & CO., INC.  
DUPONT, GLORE, FORGAN, MUNICIPALS, INC.  
209 LA SALLE STREET  
CHICAGO, ILLINOIS 60604**

MAY 27, 1971

---

City Council  
City of Idaho Falls  
Bonneville County, Idaho

Gentlemen:

For the legally issued \$1,250,000.00 par value City of Idaho Falls, Idaho Water and Sewer Revenue, dated June 1, 1971, and maturing August 1, 1979 to 1987 inclusive, as shown in your Notice of Sale, we will pay you par and accrued interest to date of delivery, and in addition thereto, a premium of none (\$.00):

For said bonds, maturing from 1979 to 1981, inclusive, bearing interest at	5.60%;
For said bonds, maturing from 1982 only, inclusive, bearing interest at	5.00%;
For said bonds, maturing from 1983 only, inclusive, bearing interest at	5.20%;
For said bonds, maturing from 1984 only, inclusive, bearing interest at	5.30%;
For said bonds, maturing from 1985 only, inclusive, bearing interest at	5.50%;
For said bonds, maturing from 1986 only, inclusive, bearing interest at	5.60%;
For said bonds, maturing from 1987 only, inclusive, bearing interest at	5.00%.

As evidence of good faith, we hand you herewith a certified check in the amount of \$62,550.00, which is to be used as part payment if the bonds are awarded to us. If the award is not made to us, said check is to be returned immediately.

According to our figures total interest cost from date of the bonds to maturity on the basis of the above bid is \$821,025.05

Less premium of none

Net Interest Cost of \$821,025.05

This figures an average interest cost of approximately 5.3598%.

This bid is made in accord with your printed Notice of Sale.

Respectfully submitted,  
John Nuveen & Co., Inc.  
DuPont, Glore, Forgan  
Municipals, Inc.  
s/ Dean W. Schultz

The following ordinance was introduced in written form by Councilman Parish and was read by title. Councilman Parish moved that the rule requiring the reading of the ordinance three different days be dispensed with and the motion was adopted by the vote of not less than four of the Council, to-wit: Ayes: Councilmen Erickson, Freeman, Hovey, Nelson, Parish and Wood. Nay: none.

MAY 27, 1971

---

The ordinance was thereupon again read by title and was read in full, after which, pursuant to motion made by Councilman Parish and seconded by Councilman Hovey, the ordinance was adopted by the following vote: Ayes: Councilmen Erickson, Freeman, Hovey, Nelson, Parish, Wood. Nay: None.

The ordinance was thereupon signed by the Mayor in evidence of his approval, was attested by the City Clerk, was numbered and ordered recorded and is as follows:

**ORDINANCE NO. 1296**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$1,250,000 WATER AND SEWER REVENUE BONDS, SERIES 1971, OF THE CITY OF IDAHO FALLS FOR THE PURPOSE OF PROVIDING FUNDS WITH WHICH TO ACQUIRE AND CONSTRUCT IMPROVEMENTS AND EXTENSIONS TO THE COMBINED MUNICIPAL WATER SYSTEM AND SEWER PLANT AND SYSTEM, PROVIDING FOR THE PAYMENT OF SUCH BONDS AND THE SALE AND DELIVERY THEREOF, AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT TO THE SECURITY AND PAYMENT FOR SUCH BONDS.

It was moved by Councilman Parish, seconded by Hovey, that the cashier's check from the successful bidder, John Nuveen & Co. in the amount of \$62,550 be retained and turned to the City Treasurer for safe keeping and that all other good faith checks be returned. Roll call as follows: Ayes, 6; No, none; carried.

The Mayor announced that this was the time and the place for a public hearing, as advertised, to consider the Dick Clayton, Jr. petition to rezone Lot 1, Block 4, Bird Addition, from R-1 to R-2. The Mayor asked the City Clerk to present and read aloud this memo from City Planner Gilchrist:

City of Idaho Falls  
May 27, 1971

MEMORANDUM

TO: Mayor and City Council  
FROM: Rod Gilchrist  
SUBJECT: PETITION TO REZONE LOT 1, BLOCK 4, BIRD ADDITION

A petition to re-zone the above described property located at 738 North Skyline Drive from R-1 to R-2 has been submitted to the City. The purpose of the request as stated in the petition was to facilitate a basement apartment. This request was first considered by the Planning Commission at their regular meeting of April 6, 1971. After much discussion, the matter was tabled for one week in order to permit the staff to investigate the possibility of granting a conditional use permit or variance which would permit the continuance of the basement

MAY 27, 1971

---

apartment on this property without necessitating a re-zoning. Investigation revealed that the Planning Commission did not have the authority to grant such a permit.

The Planning Commission further considered this matter at their Regular Meeting April 13, 1971 and at that time recommended approval of the requested re-zoning for the following reasons:

1. Since the original zoning of this parcel, the property across the street had been re-zoned from residential to commercial.
2. Because of the close proximity of commercial zoning, this re-zoning does not constitute "spot" zoning, but rather "transition" of "buffer" zoning.
3. This re-zoning would not be detrimental or in any way devalue the neighborhood.

This Department concurs with the Planning Commission and recommends approval of the request re-zoning. Attached is a copy of the petition, letter of protest and other pertinent information.

s/ Rod Gilchrist

Next to be read was this letter from Mr. Terry Crapo, Attorney for those near-by residents protesting the re-zoning:

Holden, Holden, Kidwell,  
Hahn and Crapo  
May 4, 1971

Mr. Roy Barnes  
City Clerk  
City of Idaho Falls  
Idaho Falls, Idaho

RE: PETITION OF RICHARD I. CLAYTON, JR. TO AMEND ZONING ORDINANCE

Pursuant to the provisions of Section 3-2(e), and Article III of Ordinance No. 1115, Comprehensive Zoning Ordinance for the City of Idaho Falls, I am filing the three attached formal protests to the petition of Richerd I. Clayton, Jr., dated March 30, 1971, to amend the zoning ordinance as applies to Lot 1, Block 4 of the Bird Addition, Division No. 1, to the City of Idaho Falls, which petition seeks to amend the zoning classification of said lot from R-1 to R-2.

MAY 27, 1971

---

Would you please see that these protests are appropriately filed and brought to the attention of the Mayor and City Council prior to consideration of the Petition.

Very truly yours,  
s/ Terry L. Crapo

The foregoing letter made reference to the following petition, most signers of which were present in the Council Chambers:

**PROTEST AGAINST AMENDMENT TO ZONING ORDINANCE**

TO: Honorable S. Eddie Pedersen, Mayor  
Idaho Falls City Council  
City of Idaho Falls  
Idaho Falls, Idaho

Pursuant to the provisions of Section 3-2(e) of ARTICLE III of Ordinance No. 1115, Comprehensive Zoning Ordinance for the City of Idaho Falls, the undersigned persons do hereby formally protest and oppose the petition of Richard I. Clayton, Jr., dated March 30, 1971, to amend the zoning ordinance as it applies to Lot One (1), Block Four (4) of the Bird Addition, Division No. 1, to the City of Idaho Falls, Idaho, which petition seeks to amend the zoning classification of said Lot from R-1 to R-2 to permit the rental of a basement apartment in the home situate at 738 Skyline Drive. The undersigned do hereby certify that they are the owners of the lots and properties described and set forth after their signatures to this protest and that said lots and properties are within 300 feet of the subject property. The undersigned parties do hereby petition the City Council of the City of Idaho Falls, a Municipal corporation, to deny the petition of Richard I. Clayton, Jr., as above described.

Dated this 30<sup>th</sup> day of April, 1971.

Notation was made that there were 61 signers to said petition and a telegram from Mrs. O. H. Hansen, received by the City Clerk on May 26<sup>th</sup>, withdrawing her name from the Dick Clayton petition and adding her name to the list of protests.

Next to be read was this petition with 65 signers after deleting the name of Mrs. O. H. Hansen as above indicated:

**PETITION FOR ZONE CHANGE**

TO: City of Idaho Falls  
Planning & Zoning Department  
City Hall, 308 "C" Street  
Idaho Falls, Idaho

MAY 27, 1971

---

We, the undersigned, hereby formally petition the City Council of Idaho Falls, Idaho, to approve the zoning request submitted by Richard I. Clayton, Jr., to change the zoning of lot One (1) Block Four (4), Bird Addition, from R-1 to R-2, said request having been approved by the City Zoning Commission.

WHEREAS, the undersigned have viewed said property and for the following reasons feel that an R-2 zone is much more desirable zone than R-1. We further feel that said zone change will in no way decrease the value of the surrounding property:

1. The property has been used for other than single family dwelling for over ten (10) years, and has not decreased the values of neighborhood property.
2. Said property was built with a separate entrance to the basement. This entrance is from Skyline Drive, and not from Ray Street, thus causing no disturbance to neighbors.
3. Said property is isolated by Ray Street from the surrounding R-1 area, except to the East.
4. Said property joins commercial to the South and to the West.
5. Neighbors who join said property to the North on the other side of Ray Street signed a petition to approve a commercial zoning on the Ben Franklin Store, yet this same neighbor has signed a petition against changing the zoning of the above-mentioned property.
6. Said property was purchased on a foreclosure sale because it would not sell at the appraised value due to its location to commercial property and its run-down condition, besides being on a very busy street.
7. Street in front of said property is used as a parking lot by people using the shopping center and A.E.C. personnel.
8. Shopping Centers to the South and West are open until late at night, thus causing a nuisance of sound and lights from cars parking in the parking lot.
9. Alley between property and O.K. Food Center to the South is very seldom cleaned by the owner, resulting in a build-up of trash on the above mentioned property.
10. Fence on the South side of the property has been knocked down by delivery trucks using the alley to unload food products to the Food King Store.

MAY 27, 1971

---

11. Property is in a much better condition now than before Mr. Clayton purchased same, resulting in an improvement to the neighborhood. These improvements have been mainly paid for from rent monies from the basement apartment located in said premises.

WHEREFORE, the undersigned support the petition of Richard I. Clayton, Jr. for the changing of the zone of the above described property from R-1 to R-2, by signing the foregoing petition.

Mr. Crapo appeared before the Council and presented this written statement:

May 27, 1971  
Holden, Holden, Kidwell  
Hahn and Crapo

Honorable S. Eddie Pedersen, Mayor  
and City Council  
City of Idaho Falls  
Idaho Falls, Idaho

RE: REZONING PETITION OF RICHARD I. CLAYTON, JR.

Gentlemen:

Our law firm represents a group of property owners in the North Skyline area who wish to oppose the petition of Richard I. Clayton, Jr., dated March 30, 1971, to amend the zoning ordinance as it applies to Lot 1, Block 4, of the Bird Addition. Mr. Clayton seeks to amend the zoning classification from R-1 to R-2 to permit the rental of a basement apartment in the home situate at 738 North Skyline Drive. Appended to Mr. Clayton's petition was the consent of 10 property owners in the area. Following extensive hearings on this matter before the Idaho Falls City Planning Commission, the Planning Commission approved the petition, with two dissenting votes.

Our clients would like to submit the following information to the Council in opposition to the zoning petitions:

1. A great number of the residents in the North Skyline area have signed protests against this amendment to the zoning ordinance and copies of these protests have been filed with the City Clerk, Mr. Roy Barnes. These protesters own 37 different parcels of property in the area. A map is attached showing the location of each of the protesting parties, in red. It should be noted that all of the property to the South, East, and North of the Clayton property

MAY 27, 1971

---

protests the change. A review of this map will indicate that it is very obvious that a great majority of neighbors involved protest the zoning ordinance amendment.

2. Of the 10 neighbors or parties joining in Mr. Clayton's petition, 6 of them are not within 200 feet of the subject property and are, therefore, not so directly affected as many of the other parties protesting. It should also be noted that Mrs. O. H. Hansen, and Mr. and Mrs. Charles Gayman, original signers of Mr. Clayton's petition, have changed positions and now protest the amendment.

3. The area involved has been an R-1 zone for many years and consists of moderate to expensive single family dwellings in a well-kept condition. There is no indication of any change in the area to the East, West, or North of the property in question justifying an amendment of the zoning ordinance to allow properties or duplexes.

4. Although the subject property is near a shopping center and commercial zone, the shopping center and commercial zone pre-existed the acquisition of the property by Mr. Clayton and was well known to him at the time. There has been no substantial change in any of the commercial conditions or existing conditions since the acquisition of the property by Mr. Clayton.

5. So far as any argument that a need exists for a buffer between the commercial and R-1 zone is concerned, it should be pointed out that there is an existing alleyway dividing the properties and that to rezone the subject property would cause the commercial area to, in effect, extend into existing residential area. There have already been earlier attempts by parties owning Lot 1, Block 4, of the Westland Heights Division No. 1, to erect a commercial building on that property which request has been denied by the City. In the event the proposed amendment were allowed, it would be much more difficult for the City to prevent the proposed commercial development in the Westland Heights Division or further deterioration of the zoning ordinance in the Bird Addition, Division No. 1.

6. Although it is true that, in the past, the property has been used by Mr. Clayton for other than R-1 purposes, it should be pointed out that the neighbors have vigorously protested such non-conforming use and have complained on numerous occasions to the appropriate City Officials. They have at no time consented to such non-conforming use.

We would, therefore, respectfully request the City Council deny the petition to rezone.

Very truly yours,  
s/ Terry L. Crapo

He then verbally reminded the Council that many of the signers of the Clayton petition were not affected property owners by virtue of the fact that their property was located away from the affected

area, whereas most of the signers on his petition were adjacent or nearby property owners. Relative to the proposed rezoning, Crapo said the concern of those he represented was prompted because of precedent that would be set, thereby inviting a general down grading trend of that which is otherwise a well developed residential neighborhood consisting of moderate to expensive single family dwellings. Crapo said it is recognized by his clients that there is commercial zoning and development to the South and West, across the street from the Clayton home, but that these were preexisting conditions at the time Mr. Clayton bought the property and that, in the interim period, there have been no zoning changes. Crapo reminded the Council that the previous property owner did not have complete living facilities in the basement and that his petition was precipitated by nearby residents whose property rights and values are subject to jeopardy. He said there were at least two properties, one on the east side of Skyline which is now undeveloped and the other across the street, which are conducive to commercial use, that the Council would be virtually obliged to rezone when requested if the Clayton property were rezoned. Crapo acknowledged, in the interest of his clients, that Mr. Clayton has been a good neighbor by improving the condition of his property which, previously, had been allowed to become run down but that this is not, in the final analysis, important, inasmuch as this is expected of all property owners. Crapo said that, instead, the paramount factor for consideration is the future use of property in question.

Mr. Willis Benjamin, Attorney for Richard Clayton, Jr., appeared before the Council. Speaking for his client, Benjamin emphasized the fact that, first and foremost, rezoning of the property in question would be the desirable decision but that, if it was the will of the Council that said rezoning be denied, his client would agree to a variance permitting him the present use of the property as long as he resides there. Benjamin said it would be understood that, if Clayton were to move without selling the property, he would be willing to then be directed to seek 75% consent of all property owners within 200 feet before continuing to rent the property. Benjamin then registered concern about the fact that Councilmen Wood and Hovey had allegedly made pre-commitment statements as to how they intended to vote on this issue and, therefore, proposed that the Council rule that they be disqualified from voting.

Benjamin continued by commending his client for improving the condition of his property since the time of purchase, thus upgrading it, not only for his own benefit, but for the benefit of neighboring residents. Benjamin also drew attention to the fact that the basement area had been rented for ten years prior to Clayton's purchase of the property. Benjamin emphasized the fact that, at its best, the property in question is not conducive to residential living and illustrated, by several photographs, the fact that it is surrounded on the South and the West by commercial development. He said he felt his grounds were substantiated by the fact that the Planning Commission and the City Planner had recommended rezoning.

Attorney Crapo reappeared to say he would strenuously object to any Councilman, voluntarily or otherwise, being disqualified from voting. Also, he said he would also object to the granting of a variance. He said this hearing was being conducted for the purpose of considering the rezoning question, not a variance, and this alternative had not even been considered by the Planning Commission. The City Attorney then registered his legal opinion to the effect that, inasmuch as the City Council is a quasi-legislative body, a Councilman may not, by vote of the Council or otherwise, be disqualified from voting. He may, however, disqualify himself. There was then some general

MAY 27, 1971

---

discussion regarding procedure in the event Section 50-1205 of the Idaho Code were to apply at the time of voting, said section reading as follows:

50-1205 REGULATIONS - CHANGES - SUCH REGULATIONS, RESTRICTIONS AND BOUNDARIES MAY FROM TIME TO TIME BE AMENDED, SUPPLEMENTED, CHANGED, MODIFIED OR REPEALED. IN CASES, HOWEVER, OF A PROTEST AGAINST SUCH CHANGE, SIGNED BY THE OWNERS OF TWENTY PER CENT (20%) OR MORE EITHER OF THE AREA OF THE LOTS INCLUDED IN SUCH PROPOSED CHANGE, OR OF THOSE WITHIN A THREE HUNDRED (300) FOOT RADIUS OF THE EXTERIOR BOUNDARIES OF SUCH LOTS INCLUDED IN SUCH CHANGE, SUCH AMENDMENT SHALL NOT BECOME EFFECTIVE EXCEPT BY THE FAVORABLE VOTE OF ONE HALF (1/2) PLUS ONE (1) OF THE MEMBERS OF THE FULL COUNCIL OF SUCH CITY. THE PROVISIONS OF THE PREVIOUS SECTION RELATIVE TO PUBLIC HEARINGS AND OFFICIAL NOTICE SHALL APPLY EQUALLY TO ALL CHANGES OR AMENDMENTS.

Crapo then drew attention to a paragraph on Page 17 of Zoning Ordinance #1115 reading as follows:

In case of a protest against a change in the Zoning Ordinance or map, signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of at least three-fourths of all members of the City Council.

The City Attorney ruled that, in this instance, there is an obvious conflict and the State Code would supercede the City Ordinance. The City Attorney continued by saying that the City Council has several choices; they may rezone or they may refuse to rezone, based upon the findings as brought out at the public hearing, or they may refuse to rezone, based upon the findings as brought out at the public hearing, or they may extend partial relief by means of granting a variance.

Noting Mr. Werner Gisin in the Council Chambers, the previous owner of the Clayton property, Councilman Hovey asked of him whether or not the commercial property immediately south was there when he owned the property. Mr. Gisin said it was then under construction. Asked if he lost money when he sold the property, Gisin answered in the affirmative. Gisin said he not only failed to recover from his initial investment, but also, from all improvements during the time he resided there. Hovey then asked if the basement area had been rented while he owned the property. Gisin answered in the affirmative, explaining, however, that it was not, at that time, equipped with a

MAY 27, 1971

---

kitchen. Asked by Hovey if the basement tenant was a relative, Gisin answered in the negative. Councilman Wood asked the petitioner, Mr. Dick Clayton, Jr., what occasioned the addition of a kitchen. Clayton explained that the kitchen was added at the time his sister was involved in an auto accident and that he planned, even though it did not materialize that she could use the apartment during her recuperation period. Councilman Parish reminded the Council that it was the intent, at the time the Bird Addition was annexed into the City, that it be zoned entirely R-1 except for the Commercial area at the corner of West Broadway and Skyline. Parish said that, in his opinion, zoning is for the purpose of protecting the majority of those so affected and, therefore, he could understand the residents apprehension by this rezoning request. On the other hand, continued Parish, testimony has revealed that Mr. Clayton's request was well founded and, therefore, it would appear that some middle-of-the road action would be justifiably in order. In anticipation that the Council was about to take formal action, Councilman Wood requested and received permission from the Mayor for a five minute recess for private counsel. When the hearing was reconvened by the Mayor and in the absence of further comment, it was moved by Councilman Nelson, seconded by Erickson, that the Richard Clayton, Jr., rezoning petition be denied. Roll call as follows: Ayes, 6; No, none; carried.

It was then moved by Councilman Parish, seconded by Nelson, that Richard Clayton, Jr., be granted a variance on the property in question for as long as he owned said property, to have and to use the basement apartment for living purposes for members of his family or others. Councilman Erickson asked Parish if he would amend his motion to read "For only as long as Mr. Clayton were to reside on the property" and was answered in the negative by Parish. Councilman Wood commented to the effect that, if this action is taken, it would appear that the City would be obliged to give the next owner the same treatment and then, directing a question to the City Attorney, asked why one man should be treated different than another. The City Attorney replied by saying that, in matters of this kind the City Council has the discretion to treat each issue on its own merit, based upon the finding in each instance. Councilman Hovey registered an opinion to the effect that if this variance is granted, the Council would be just as obliged to extend the variance to the next owner, and beyond that, this is precedent setting, especially for the structure across the street if, for instance, the owner decided to convert it into an apartment. Councilman Parish said that, in his opinion, the Clayton property is different from the standpoints of use, location and zoning, than any other in the area. Parish then asked for clarification and verification to satisfy his own mind that the Council can revoke a variance at any time. City Attorney Smith answered in the affirmative, providing the owner is not at that time deprived of a vested use. Attorney Terry Crapo then reappeared before the Council to say that this motion constitutes a new issue. He said his clients were just as opposed to a variance as they are the rezoning. He said the variance permits a certain type of use which will very likely be permitted to continue permanently. Crapo said he objected particularly to the portion of the motion having to do with ownership as it is entirely possible that the neighbors, sooner or later, would have to contend with absentee ownership. Crapo concluded his remarks by saying that this motion, if passed, will open the door for R-2 zoning, not only for the property in question, but throughout the neighborhood.

Attorney Benjamin appeared briefly to concur with the remarks of Councilman Parish; namely, that the Clayton property is unique in many respects and therefore a variance is an

MAY 27, 1971

---

appropriate means of solving the problem. In the absence of further comment, the Mayor called for a roll call on the motion, as follows: Ayes, Councilmen Nelson, Parish, Freeman, and Erickson; No, Councilmen Hovey and Wood. Thereupon the Mayor declared the motion carried.

License applications for GROCERY STORE, Anthony R. Zornick for KOA Kampground, Harry Jones for 7-11 Store; CLASS C CONTRACTOR, GAS FITTER, WARM AIR, Richard Wiemer with Wiemer Heating; CLASS C JOURNEYMAN, GAS FITTER, WARM AIR, Richard Wiemer with Wiemer Heating; CLASS D APPRENTICE, GAS FITTER, Henry C. Forschler with Paul's Natural Gas; MOTEL, Mrs. Phyllis Hand for Falls View Motel; DANCE HALL, Leola Boylan for Hawaiian Supper Club, (Transfer only); RESTAURANT, (Transfer only), Hawaiian Supper Club from LaMont Bair and Frank Kinney to Leola Boylan for L & S, Inc.; LIQUOR, (Transfer only), Frank Kinney for Hawaiian Supper Club to Leola Boylan for L & S, Inc. DBA Hawaiian Supper Club; BEER, (Transfer only), from LaMont Bair and Frank Kinney to Leola Boylan for L & S, Inc; BEER, (Canned and bottled, not to be consumed on the premises), Harry Jones for 7-11 Store at 547 G. Street, Anthony Zornick for KOA Kampground; BARTENDER, Kathlene Howard, Nanci Stephanishen, Meryl Hutchison, Danny L. Sucher, Kriss Thomas, were presented. It was moved by Councilman Erickson, seconded by Freeman, that these licenses be granted, subject to the approval of the appropriate Division Director where required. Roll call as follows: Ayes, 6; No, none; carried.

A City redemption tax deed in favor of Grant Gallup was presented, accompanied by this resolution:

**RESOLUTION (Resolution No. 1971-15)**

WHEREAS, the City of Idaho Falls, did, under and pursuant to the provisions of Chapter 29, Title 50, Idaho Code, and by deed of the City Treasurer dated the 7<sup>th</sup> day of November, 1966, recorded as Instrument No. 366321, records of Bonneville County, Idaho title to and possession of the following described real property, to-wit:

Lots 25-27, incl., Block 61, Highland Park Addition to the City of Idaho Falls, Idaho, as per recorded plat thereof.

WHEREAS, GRANT GALLUP has offered to pay to the City of Idaho Falls the amount for which said property was sold to the City, together with all the installments of assessments subsequent to the one for which said property was sold and then due, together with penalties and interest thereon;

NOW THEREFORE, BE IT RESOLVED:

That the Mayor and City Clerk be, and they hereby are, authorized and directed, upon the payment of said sum of money by said purchaser to make, execute and deliver to the said GRANT GALLUP a deed to said property, pursuant to the provisions of Section 50-2951, Idaho Code.

MAY 27, 1971

---

PASSED BY THE COUNCIL this 27<sup>th</sup> day of May, 1971.

APPROVED BY THE MAYOR this 27<sup>th</sup> day of May, 1971.

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ S. Eddie Pedersen  
MAYOR

It was moved by Councilman Parish, seconded by Hovey, that the resolution be passed and the Mayor and City Clerk be authorized to sign the resolution and the deed. Roll call as follows: Ayes, 6; No, none; carried.

A five year extension rider to a railroad contract L & T No. 16624 was presented, covering a sanitary sewer lift station at West 16<sup>th</sup> Street and the railroad right of way. It was noted that, due to recent railroad evaluation of all their rental property, the per term rental on the location has been increased from \$10.00 to \$50.00. It was moved by Councilman Nelson, seconded by Parish, that the extension rider be approved and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

From the Purchasing Department came this memo:

City of Idaho Falls  
May 26, 1971

PURCHASING AGENT  
1 Cab and Chassis (Sanitary Truck)

Honorable Mayor and City Members:

Tabulation of bids for 1 cab and chassis (sanitary truck) is attached.

Evaluation of bids received show Stoddard-Mead Ford submitting the bid of \$7,829.51 without trade-in. The low bid of Snake River Equipment did not meet specifications and was rejected by the Equipment Review Board.

It is the recommendation of the Equipment Review Board and the Purchasing Department that the bid of Stoddard-Mead Ford be accepted.

This recommendation subject to your approval.

s/ W. J. Skow  
Purchasing Department

MAY 27, 1971

---

It was moved by Councilman Nelson, seconded by Parish, that the Stoddard-Mead Ford bid for the sanitary truck cab and chasses be accepted as recommended. Roll call as follows: Ayes, 6; No, none; carried.

Another memo from the Purchasing Department was forthcoming, as follows:

City of Idaho Falls  
May 26, 1971

1 Refuse Packer Body

Honorable Mayor and Councilmembers:

Tabulation of bids for 1 refuse packer body is attached.

Evaluation of bids received show Williamsen Idaho Equipment of Pocatello, submitting the low bid of \$3,330.00 with trade-in.

It is the recommendation of the Equipment Review Board and the Purchasing Department that the bid be accepted.

This recommendation subject to your approval.

s/ W. J. Skow  
Purchasing Department

It was moved by Councilman Nelson, seconded by Parish, that the low bid of Williamsen Idaho Equipment Company of Pocatello be accepted for the refuse packer body. Roll call as follows: Ayes, 6; No, none; carried.

This memo was also submitted from the Purchasing Department:

City of Idaho Falls  
May 26, 1971

Purchasing Agent

1 - 46 KV OCB  
3 - 15 KV OCB

Honorable Mayor and Councilmembers;

Tabulation of bids for 1 - 46 KV Oil Breaker and 3 - 15 KV Oil Circuit Breakers is attached.

MAY 27, 1971

---

Evaluation of bids received show the following:

Electrical Wholesale Supply

1 - 46 KV Oil Circuit Breaker McGraw Edison                      \$12,222.00

General Electric Supply

3 - 15 KV Oil Circuit Breakers General Electric                      \$13,800.00

It is the recommendation of the Electric Light Division and the Purchasing Department that the bids be accepted.

This recommendation subject to your approval.

s/ W. J. Skow  
Purchasing Department

It was moved by Councilman Hovey, seconded by Nelson, that the bids from the supplier as indicated be accepted for these circuit breakers for the Electrical Division. Roll call as follows: Ayes, 6; No, none; carried.

Finally, from the Purchasing Department, this memo was presented:

City of Idaho Falls  
May 26, 1971

1 - 3750 KVA, 3 Phase Transformer

Honorable Mayor and Councilmembers:

Purchasing Department requests all transformer bids be rejected. A change of application and specifications is needed. Request authorization to re-bid.

This recommendation subject to your approval.

s/ W. J. Skow  
Purchasing Department

The City Attorney explained that, due to the fact that the specifications were improperly drawn, the bids were not satisfactory. He said the Council therefore, is within its right to reject all bids if desired. It was moved by Councilman Hovey, seconded by Nelson, that the recommendation be

MAY 27, 1971

---

upheld, that all bids on these particular transformers be rejected and that the Purchasing Department be authorized to re-advertise for bids. Roll call as follows: Ayes, 6; No, none; carried.

This memo from the Public Works Director was presented and discussed:

City of Idaho Falls  
May 24, 1971

TO: Honorable Mayor and City Council  
FROM: Donald F. Lloyd  
SUBJECT: ASPHALT PATCHING AT FANNING FIELD

On May 20, 1971, three bids were received for 7,000 yards of asphalt paving as follows:

1.	Kennaday Paving Company	\$11,900
2.	Gray Landscaping, Inc.	\$12,390
3.	Bonneville Paving Co., Inc.	\$14,350

We are recommending that the low bid by Kennaday Paving be accepted and that this company be awarded a contract in the amount of \$11,900.

Respectfully submitted,  
s/ Donald F. Lloyd

It was moved by Councilman Wood, seconded by Nelson, that the low bid of Kennaday Paving be accepted for the Airport Project as described. Roll call as follows: Ayes, 6; No, none; carried.

Next, from the Public Works Director, this memo was read:

City of Idaho Falls  
May 27, 1971

TO: Honorable Mayor and City Council  
FROM: Donald F. Lloyd  
SUBJECT: ON MAY 25, 1971, BID OPENING 12A-225 (1) F 4-0

On May 25, 1971, bids were received for the construction of the Sunnyside water main as follows:

Bonneville Paving Co.	\$21,328.00
Hartwell Excavating Co.	\$24,480.00
Grover Construction Co.	\$27,003.00

MAY 27, 1971

---

Since the Engineer's estimate was \$25,297.50, we are recommending that the Council award a contract to the low bidder, Bonneville Paving Co. in the amount of \$21,328.00.

s/ Donald F. Lloyd  
Purchasing Department

It was moved by Councilman Nelson, seconded by Parish, that the low bid of Bonneville Paving Company be accepted for construction of the Sunnyside water main. Roll call as follows: Ayes, 6; No, none; carried.

Another memo from the Public Works Director was presented, to-wit:

City of Idaho Falls  
May 24, 1971

TO: Honorable Mayor and City Council  
FROM: Donald F. Lloyd  
SUBJECT: 1971 SEAL COATING C 16-C.3

We are in the final stages of preparing a contract for the 1971 street seal coating program. We are requesting authorization for the City Clerk to advertise as soon as details are finalized.

Respectfully submitted,  
s/ Donald F. Lloyd

It was moved by Councilman Parish, seconded by Nelson, that authorization be given the City Clerk to advertise for bids on the 1971 seal coating project, not to exceed \$27,000, the amount budgeted. Roll call as follows: Ayes, 6; No, none; carried.

Finally, this memo from the Public Works Director was presented and read:

City of Idaho Falls  
May 24, 1971

TO: Honorable Mayor and City Council  
FROM: Donald F. Lloyd  
SUBJECT: LID NO. 42 DOWNTOWN STREETS AND MALL

The first phase (1971 portion) of Downtown Street Improvements has been established for Shoup Avenue between Broadway and "C" Street and one Block of "A" and "B" Streets between Shoup and Yellowstone Avenue.

MAY 27, 1971

---

We are requesting authorization for the City Attorney to prepare a Resolution of Intent to be presented at the first Council Meeting in July. It is anticipated that the public hearing will be on August 3, 1971 or as near that date as practicable.

Respectfully submitted,  
s/ Donald F. Lloyd

It was moved by Councilman Nelson, seconded by Parish, that the City Attorney be directed to prepare a Resolution of Intent to create LID #42 for the project as described. Roll call as follows: Ayes, 6; No, none; carried.

This memo from the City Planner was submitted:

City of Idaho Falls  
May 27, 1971

MEMORANDUM

TO: Mayor and City Council  
FROM: Rod Gilchrist  
SUBJECT: REQUEST FOR A SIGN VARIANCE IN AN R-3A ZONE

Attached is a copy of the joint request, from Mr. Gary Jensen and Mr. Ed Grayson, requesting permission to continue the use of two existing signs located on the building at 280 S. Holmes. According to the Code the only signs permitted on a professional building in an R-3A zone must be mounted against the face of the building. The two small signs in question extend out from the face of the building approximately two feet.

Similar requests have been granted in this zoning as these signs are small and are not detrimental to the intent of the ordinance. This Department has no objection and recommends approval of the request.

s/ Rod Gilchrist

It was moved by Councilman Wood, seconded by Parish, that the variance for continued use of two signs at 280 S. Holmes be granted. Roll call as follows: Ayes, 6; No, none; carried.

With reference to minor infractions of the zoning ordinance, as illustrated by the above instance, it was moved by Councilman Parish, seconded by Wood, that the Planning Director, working with the Planning Commission, give thought to one or more proposed amendments for Council consideration toward avoiding the necessity, as much as possible, for Council action before a permit can be granted. Roll call as follows: Ayes, 6; No, none; carried.

Noting an item on the agenda pertaining to an appeal from a Board of Adjustments decision by Arden Beale relative to covering an existing patio at 1246 Homer, City Planner Gilchrist advised

MAY 27, 1971

---

the Council that Mr. Beale had requested, due to a change in circumstances, that this not be considered by the Council but instead, re-considered by the Board of Adjustments. It was moved by Councilman Wood, seconded by Parish, that the appeal in question be referred back to the Board of Adjustments for re-consideration. Roll call as follows: Ayes, 6; No, none; carried.

Preparatory to considering an annexation incorporating the Bona Vista Addition, Division #4, a final plat of that area was presented. It was moved by Councilman Wood, seconded by Parish, that this final plat be accepted, and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

Preparatory to considering an annexation incorporating the Bonavista Addition, Division #4, a final plat of that area was presented. It was moved by Councilman Wood, seconded by Parish, that this final plat be accepted, and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

An annexation agreement between the City and the developer for the foregoing described property was then presented. It was moved by Councilman Wood, seconded by Parish, that this agreement be accepted and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

ORDINANCE NO. 1297

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS; DESCRIBING SAID LANDS AND DECLARING SAME A PART OF THE CITY OF IDAHO FALLS, IDAHO (Bonavista Addition, Division No. 4)

The foregoing Ordinance was presented in title. It was moved by Councilman Wood, seconded by Parish, that the provisions of Section 50-902 of the Idaho Code requiring all Ordinances to be fully and distinctly read on three several days be dispensed with. The question being, "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, 6; No, none; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the Ordinance placed before the Council for final consideration the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, 6; No, none; carried.

It was then moved by Councilman Wood, seconded by Parish, that the Bonavista Addition, Division #4 be initially zoned R-1 and the Building Official be directed to incorporate said zoning on the official zoning map, located in his office. Roll call as follows: Ayes, 6; No, none; carried.

This letter from Attorney Terry Crapo was submitted and read aloud by the City Clerk:

Holden, Holden, Kidwell,  
Hahn and Crapo  
May 26, 1971

MAY 27, 1971

---

Mr. Roy Barnes  
City Clerk  
City of Idaho Falls  
P. O. Box 220  
Idaho Falls, Idaho 83401

RE: UPPER VALLEY TELECABLE CO., INC.

Dear Mr. Barnes:

On behalf of Upper Valley Telecable Co., Inc., and pursuant to the provisions of the franchise agreement with the City of Idaho Falls, I enclose, for filing, a copy of the company's schedule of rates and charges effective December 15, 1970, together with a copy of the Service Agreement presently being used with customers in the Idaho Falls area.

Very truly yours,  
s/ Terry L. Crapo

**UPPER VALLEY TELECABLE CO., INC.**  
**SCHEDULE OF RATES AND CHARGES**  
**Effective December 15, 1971**

**RESIDENTIAL**

Installation charge - first outlet	\$9.95 (gratis during const.)
Monthly service charge - first outlet	\$ 5.75
Installation charge - additional outlets	Second outlet gratis during installation of first outlet; otherwise time and material cost, not to exceed \$5.00
Monthly service charge - each additional outlet	\$1.00
Reconnect to same person in same location	\$5.00
Moving outlet in a home	\$5.00

**COMMERCIAL**  
**(INCLUDING MOTELS AND HOTELS)**

Installation charge - first outlet	\$9.95 (gratis during const.)
Monthly service charge - first outlet	\$5.75
Installation charge - each additional outlet	Time and material cost
Monthly service charge - each additional outlet	\$ .50

MAY 27, 1971

---

APARTMENTS

Wire building for CATV	No charge
Installation charge - each outlet	\$9.95 (gratis during const.)
Monthly service charge - each apartment	\$5.75

Reduced single billing rates available to apartment building owners.  
Underground house-drops installed at no extra cost where trench or conduit are furnished by the property owner.  
Extensions of more than 150 feet per subscriber will be billed and prorated at actual cost of time and material.

CONVERTERS

If and when required, converters will be made available to subscribers for the actual manufacture's price.

PROMOTIONAL RATE REDUCTIONS

To promote and develop the CATV system, the company will waive installation fees during the construction of the system and during sales campaigns to be conducted each year. In addition, waiver or modification of monthly service charges may be offered from time to time as part of sales or promotional campaigns.

It was moved by Councilman Hovey, seconded by Nelson, that the foregoing be made a matter of record and filed in the office of the City Clerk and, otherwise, referred to the Electrical Committee. Roll call as follows: Ayes, 6; No, none; carried.

By directive from the Mayor, the City Clerk presented and read aloud this legal opinion pertaining to noise prevention:

City of Idaho Falls  
May 21, 1971

Honorable S. Eddie Pedersen  
Mayor of Idaho Falls  
P. O. Box 220  
Idaho Falls, Idaho

RE: STATUTES FOR PREVENTION OF NOISE SECTION 49-835, IDAHO CODE HOUSE BILL NO. 111, 1971 LEGISLATIVE SECTION 10-5-11, CITY CODE OF IDAHO FALLS

MAY 27, 1971

---

Dear Mayor Pedersen:

At the last Council Meeting I was asked to brief the situation relative to prevention of noise so far as statutes and ordinances are concerned. The following is the situation:

1. Section 49-835, Idaho Code has been in effect since 1953. It simply requires mufflers in good working order to be installed on all motor vehicles within the State of Idaho.
2. Section 10-5-11, City Code, is identical to the state statute.
3. House Bill No. 111 became effective May 19, 1971. It simply describes "excessive or unusual noise" applied to passenger motor vehicles and motorcycles. The statute fixes the decibel level of tolerable noise and provides a procedure for measuring it. A photocopy of House Bill No. 111 is enclosed.

There is probably no reason whatever why the City Council should not adopt the import of House Bill No. 111 to bring our traffic ordinances up to date. In fact, I know the City Council has had a policy of making our traffic ordinances conform with the state standard. The technical problems of acquiring and using an effective sound level meter could be solved after the ordinance is enacted. You will recall that the City does not receive the 90% of the fine money from traffic violators unless our officers arrest them within the City limits, and I know there will be reticence on the part of the City police to make any arrests of motorists exceeding 92 decibels unless we have an ordinance covering the subject.

Sincerely yours,  
s/ A. L. Smith  
City Attorney

At this time, Councilman Parish excused himself from the Council Meeting. Councilman Erickson reported that the Police Chief and the Police Committee are continuing to study the noise problem. He said certain equipment has been demonstrated but that, in their opinion, is not adequate and would not prove effective if acquired. Erickson said more time is needed for additional study. It was moved by Councilman Erickson, seconded by Wood, that this matter be tabled and re-introduced at the next Council Meeting. Roll call as follows: Ayes, 5; No, none; carried.

From the Personnel Director, this memo was presented and read:

City of Idaho Falls  
May 27, 1971

TO: Roy C. Barnes  
FROM: Jim Collins  
SUBJECT: COUNCIL AGENDA

MAY 27, 1971

---

Council approval requested of Personnel Policy Amendments Article XV and Article XIX. Article XV is SERIOUS SICKNESS IN IMMEDIATE FAMILY to read: Permanent employees may be allowed leave with 3 days pay at their base rate on account of a serious illness of an emergency nature of a member of employee's immediate family (Immediate Family as defined in Article XVII); and an addition to Article XIX, Paragraph 5 to read: Absence With Permission With Pay. Absence not covered in Personnel Policy may be approved by the Division Director; however, such absence with permission with pay (AWPWP) will be recorded as such on the individual time sheet of employee being granted such leave.

s/ Jim Collins

It was moved by Councilman Hovey, seconded by Wood, that the Personnel Policy be amended to incorporate the foregoing proposals. Roll call as follows: Ayes, 5; No, none; carried.

Reference is made to Page 591 in this Book of Minutes and, more specifically, a letter from Mr. Luther Jenkins asking that the City contribute electric service for the women's rehabilitation center at 890 Park Avenue. Councilman Hovey reported that, at a recent informal Council Meeting, this had been approved. It was moved by Councilman Hovey, seconded by Nelson, that this informal Council action be duly ratified. Roll call as follows: Ayes, 5; No, none; carried.

Councilman Hovey then drew attention to the need for relocating meter bases and replacing certain primary and secondary conductor throughout the Hughes Imperial Addition. Hovey noted that this entire project is planned over a three year period. It was moved by Councilman Hovey, seconded by Nelson, that authorization be granted to advertise for bids on the 1971 portion of this project and that the Electrical Division be permitted to contact all affected homeowners to explain the work that is to be accomplished. Roll call as follows: Ayes, 5; No, none; carried.

Councilman Erickson drew attention to a request by the Yellow Cab Company for a no parking sign in front of the premises which was tabled at the last meeting. Erickson reported that a representative of the State Highway Department had been contacted and offered no objection. Therefore, it was moved by Councilman Erickson, seconded by Wood, that this no parking zone be approved as requested. Roll call as follows: Ayes, 5; No, none; carried.

Councilman Erickson then relayed a request by Mr. Jack Branson for temporary installation of a 4' X 6' printed sign east of the fire training facility, close to the Interstate Highway for advertising the V.F.W. convention here in Idaho Falls, June 9 thru June 12, 1971. It was moved by Councilman Erickson, seconded by Wood, that permission be granted for this temporary installation. Roll call as follows: Ayes, 5; No, none; carried.

There being no further business, it was moved by Councilman Freeman, seconded by Erickson, that the meeting adjourn at 10:10 P.M., carried.

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ S. Eddie Pedersen  
MAYOR

\*\*\*\*\*