

NOVEMBER 5, 1970

The City Council of the City of Idaho Falls met in a Regular Meeting, Thursday, November 5, 1970, at 7:30 p.m. in the Council Chambers at Idaho Falls, Idaho. There were present at said meeting, Mayor S. Eddie Pedersen; Councilmen Jim Freeman, Jack Wood, Gordon Nelson, Paul Hovey, and Dale Parish. Absent: Councilman Melvin Erickson. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Rod Gilchrist, City Planner; John Evans, City Controller; Don Lloyd, Public Works Director; Robert Pollock, Police Chief. The Mayor noted that Councilman Erickson's absence was occasioned because he is in the hospital for surgery.

Minutes of the last Recessed, Regular Meeting held October 22nd, 1970, were read and approved.

The Mayor announced that this was the time and the place for a public hearing, as advertised, to consider a petition for rezoning certain property as described in the following memo from the City Planner Gilchrist:

Idaho Falls, Idaho
November 5, 1970

MEMORANDUM

TO: Mayor and City Council
FROM: W. R. Gilchrist
SUBJECT: REZONING

Attached is a copy of the petition to rezone a portion of Blocks 5 and 6, Bel-Aire No. 2. The request is to rezone from R-1 to R-2A, that portion of Block 5 bounded by Payne and Quincy Streets, Royal Avenue and the alley and that portion of Block 6 bounded by Quincy and Wheeler Streets, Royal Avenue and the alley.

Also attached is a petition submitted to the Planning Commission relative to traffic problems in the area. This petition is submitted by residents in the adjacent area.

At their Regular Meeting of October 12, 1970, the Planning Commission considered this request and recommended denial. This recommendation was based in part on the present traffic congestion in the area. It was felt that before any rezoning can be considered in the area some solution should be made to the present traffic problems.

This Division concurs with the recommendations of the Planning Commission.

s/ Rod Gilchrist

The foregoing memo made reference to a petition which the Mayor asked the City Clerk to present and read aloud, to-wit:

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With reference to the prospective rezoning of the property on Royal Avenue between Quincy Street and Wheeler Street;

Taking into consideration that at the present zoning, eight (8) one-family dwellings could be built on the total property in question, and that if the property was zoned R2A, sixteen (16) one-family units could be built;

We, the undersigned, who live on the exit route to Lincoln Road (and the entry route to North Bel-Aire), request the Planning Commission to consider rerouting the traffic for a safer residential area and a more convenient route to motorists and pedestrians.

This request is in agreement with the Traffic Safety Chairman, Robert Pollock, and Traffic Engineer, Joe Laird.

It was noted that this petition and its petitioners were not protesting the proposed rezoning, per se.

Mrs. Duane McCracken, 914 Wheeler, appeared before the Council. She said those who were seeking signatures on the petition were urging the rezoning so that the property in question could be developed and it was due to this persuasion that she had signed. Since then, Mrs. McCracken said she tends to agree with the Planning Commission who has recommended denial of the rezoning petition on the grounds that the area would not benefit by multiple housing, especially in view of the traffic problem. No others appeared on this rezoning question. It was moved by Councilman Wood, seconded by Hovey, that the Planning Commission recommendation be upheld and the rezoning be denied. Roll call as follows: Ayes, 5; No, none; carried.

Mr. Stanley D. Johnson, local Blue Cross representative, appeared before the Council to discuss and offer the City his company's new contract. He pointed out some of the salient advantages of the new contract including increased coverage for intensive care, raising of the major maximum, increasing coverage for number of days of confinement, etc. Johnson said this additional coverage would cost, monthly \$1.26 for an individual, \$2.71 per couple and \$3.56 for a complete family. It was moved by Councilman Parish, seconded by Freeman, that this proposal be referred to the Fiscal Committee for detailed study and recommendation. Roll call as follows: Ayes, 5; No, none; carried.

Bills for the month of October, 1970, having been properly audited by the Fiscal Committee, were presented in caption form, as follows:

| <u>FUND</u> | <u>GROSS PAYROLL</u> | <u>SERVICES & MATERIALS</u> | <u>TOTAL EXPENDITURES</u> |
|---------------------|--------------------------|-------------------------------------|-------------------------------|
| General Fund | \$192,642.30 | \$85,522.45 | \$278,164.75 |
| Fire Bonds | 67,193.28 | 6,434.93 | 73,628.21 |
| Water and Sewer | 16,027.23 | 89,564.61 | 105,591.84 |
| Electric Light Fund | 53,566.94 | 71,228.33 | 124,795.27 |
| Recreation Fund | 3,914.83 | 2,709.59 | 6,624.42 |

Police Retirement

3,143.40

.00

3,143.40

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| | | | |
|--------------|--------------|--------------|--------------|
| TOTAL | \$336,487.98 | \$255,459.91 | \$591,947.89 |
|--------------|--------------|--------------|--------------|

It was moved by Councilman Parish, seconded by Freeman, that the bills be allowed and the Controller be authorized to issue warrants on the respective funds for their payment. Roll call as follows: Ayes, 5; No, none; carried.

Reports from Division and Department Heads were presented for the month of October, 1970, and there being no objection, were accepted by the Mayor and ordered placed on file in the office of the City Clerk.

License applications for GROCERY STORE, Harvey R. Jones for 7-11 Store, (2), Louis Herrback for Albertsons; JOURNEYMAN ELECTRICIAN, David A Paulk, Jim Walters, Glayde Hill, Louis Prim, Monty Blackburn, Rex Cherry, Gerald Hargraves; APPRENTICE ELECTRICIAN, Leonard E. Sheetz, Jack R. Phippen; BEER, (Canned and bottled, not to be consumed on the premises), Harvey R. Jones for 7-11, (2), Lewis J. Herrback for Albertsons; BARTENDER, Mildred C. Stewart, Gaye Fisher, Leuella Gardner, Barbara Rigger, Margaret Thayer, were presented. It was moved by Councilman Wood, seconded by Freeman, that these licenses be granted, subject to the approval of the appropriate Division Director, where required. Roll call as follows: Ayes, 5; No, none; carried.

This memo from the Electrical Director was submitted:

City of Idaho Falls
October 28, 1970

TO: Roy C. Barnes
FROM: Jim Collins
SUBJECT: RATIFICATION OF AMENDED PERSONNEL POLICY

It is requested that ratification of amended Personnel Policy be put on the agenda for Council Meeting the evening of November 5, 1970. Ratification will include, based on prior approval at Council Work Sessions, sick leave, employee-student in-service education program, military leave and compensatory time with the effective date of November, 1, 1970.

s/ Jim Collins
Personnel Director

(Section XIV Sick Leave

Unlimited accumulation with full pay up to 60 working days accumulated sick leave after which pay reduces to ¾ or 75% for remainder of accumulation.

Section VII Overtime-Comp Time

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O. T. other than scheduled O. T. will be paid in comp time at the rate of 1 ½ hours for every hour O. T. worked.

Section XXIV Military Leave

Any employee who is drafted may be granted two (2) days leave with pay for purpose of taking pre-induction physical - this applies only if employee is drafted. Employee-student In-Service Educational Policy - City will reimburse employee for cost of registration and tuition up to 6 credit hours per semester upon successful completion of course. The course must be job related and applies to permanent employees with one year or more continuous service.)

It was moved by Councilman Freeman, seconded by Wood, that the Council's informal action in approving amendments to the Personnel Policy as described, be duly ratified. Roll call as follows: Ayes, 5; No, none; carried.

This damage claim was presented and read:

Seward H. French
Attorney at Law
November 2, 1970

CERTIFIED MAIL

Mr. Roy Barnes
City Clerk
City of Idaho Falls
City Hall
Idaho Falls, Idaho 83401

Dear Mr. Barnes:

I have been retained to represent Floyd A. Stevens who was injured in the motorcycle-pedestrian accident on the evening of October 30, 1970, on the North Yellowstone Highway in Idaho Falls, Idaho. I am informed that at the place where Mr. Stevens was injured that City street lighting was provided but that at that place, the street lights were not illuminated. At the outset it appears that the City has some responsibility for the injury of my client for its failure to have street lights illuminated at the time and place of his injury. This letter is to serve as a claim for damages against the City of Idaho Falls and is given to you, as City Clerk, pursuant to the provisions of Idaho Code 50-219.

I would be pleased to review this claim with the City Attorney at such time it would be convenient to him.

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Very truly yours,
s/ Seward H. French

It was moved by Councilman Freeman, seconded by Parish, that this be referred to the City Insurance Adjustor for investigation and proper handling. Roll call as follows: Ayes, 5; No, none; carried.

This memo from the Purchasing Department was presented:

City of Idaho Falls
November 4, 1970

One 1971 ¾ Ton Pickup (Sewer)

Honorable Mayor and Councilmembers:

Mr. Donald Lloyd, Public Works Director, requests that all bids for invitation to bid No. IF-70-10, one 1971 ¾ ton pickup be rejected.

Mr. Lloyd requests this re-bid at a later date.

This recommendation subject to your approval.

s/ W. J. Skow
Purchasing Agent

It was moved by Councilman Nelson, seconded by Parish, that all bids on the pickup be rejected, inasmuch as the advertisement for bid was improperly handled. Roll call as follows: Ayes, 5; No, none; carried.

Next, from the Purchasing Department, this memo was forthcoming:

City of Idaho Falls
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Ambulance Insurance

Honorable Mayor and Councilmembers:

The Controller and the Purchasing Department request approval to advertise for bids for ambulance service public liability insurance for City of Idaho Falls and Bonneville County to cover:

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Item No. 1

Policy Term:

December 1, 1970 to December 1, 1971.

Item No. 2

Limits of Liability:

- A. Bodily Injury Liability - \$250,000 per person, \$500,000 per occurrence.
- B. Property Damage Liability - \$100,000 each occurrence with a \$200,000 aggregate.

Item No. 3

Equipment Use:

The policy is to cover the operators and attendants of the following three units:

- 1- 1965 Cadillac Ambulance, S# 25180120
- 2- 1963 Cadillac Ambulance, S# 63Z057464
- 3- 1963 Cadillac Ambulance, S# 63Z082730

This recommendation subject to your approval.

s/ W. J. Skow
Purchasing Agent

It was moved by Councilman Hovey, seconded by Freeman, that authorization be granted to advertise for bids as recommended. Roll call as follows: Ayes, 5; No, none; carried.

Another memo from the Purchasing Department was then reviewed, as follows:

City of Idaho Falls
November 4, 1970

Chipper

Honorable Mayor and Councilmembers:

Tabulation of bids for one 1971 trailer mounted, engine driven chipper unit is attached.

Evaluation of bids received shows Arrowhead Machinery of Boise, Idaho submitting the bid for a chipper in the amount of \$6060.00. This unit meets the safety requirement and complete specifications.

The bids were evaluated by G. S. Harrison, Jack Baird, Boyd Wood, Lee Lowe, and Wesley Skow.

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

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This recommendation subject to your approval.

s/ W. J. Skow
Purchasing Department

It was moved by Councilman Hovey, seconded by Nelson, that the Arrowhead Machinery bid in the amount of \$6060.00 be accepted. Roll call as follows: Ayes, 5; No, none; carried.

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

City of Idaho Falls
November 5, 1970

Electrical Materials - System Supervisory

Honorable Mayor and Councilmembers:

Tabulation of bids for supervisory equipment is attached.

After evaluation of the bids, it is the recommendation of the Electric Light Division and the Purchasing Department that the bid be awarded to Quindar Electronics, Inc. of Springfield, New Jersey for the sum of \$14,468.00.

This recommendation is based on the following conditions:

We have in operation now, one Quindar Supervisory, therefore, we have an inventory of spare parts and test equipment which would be necessary to purchase with any other equipment, also by paralleling two Quindar Supervisory units \$1,300.00 in installation equipment would be deleted from the total bid price.

Supervisory School is furnished free by Quindar Electronics, Inc.

This recommendation subject to your approval.

s/ W. J. Skow
Purchasing Department

It was moved by Councilman Hovey, seconded by Nelson, that the bid of Quindar Electronics for this supervisory equipment in the amount of \$14,468.00 be accepted with the condition as stated. Roll call as follows: Ayes, 5; No, none; carried.

From the City Clerk, this memo was forthcoming:

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City of Idaho Falls
November 5, 1970

To the Honorable Mayor and City Council
Idaho Falls, Idaho

Gentlemen:

We have been advised by the Police Department that there is again sufficient accumulation of impounded or unclaimed vehicles, bicycles and miscellaneous personal property to warrant an auction sale.

We proposed that such a sale be conducted Saturday, November 14, 1970, at 1:00 P.M., in the Building Maintenance Shop and at the impounding lot.

Your approval is requested.

Respectfully submitted,
s/ Roy C. Barnes
City Clerk

It was moved by Councilman Parish, seconded by Freeman, that authorization be granted to conduct an auction sale at the time and place as indicated and the City Clerk be authorized to publish legal notice accordingly. Roll call as follows: Ayes, 5; No, none; carried.

Presented by the City Clerk was a five year extension rider to a railroad contract, LD, #20151, covering a power line and street light crossing to serve Broadway and Yellowstone and street lights on Elm Street. It was moved by Councilman Nelson, seconded by Freeman, that this extension rider be accepted and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 5; No, none; carried.

This letter was presented and read:

Carl E. Stewart
479 E. 13th Street
Idaho Falls, Idaho

November 4, 1970

TO: The Mayor and City Council of Idaho Falls:

I would like to make the following bid proposals on land acquired by the City of Idaho Falls in quiet title action. This real property to be conveyed by warranty deed: Lots 32 & 33, Block 57, Highland Park (1000 block on Bear); I bid \$650.00 payable by cashiers check. Lots 13 & 14, Block 57, Highland Park; I bid \$650.00 payable by cashiers check (1000 block on Bannock).

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Sale of these lots would enable them to get back on the tax rolls. I understand that when sold these lots will be free & clear to all encumbrances. I would appreciate your prompt action on these bid proposals.

Sincerely,
s/ Carl E. Stewart

Attached to the foregoing letter was this memo of recommendation from the City Treasurer:

City of Idaho Falls
November 15, 1970

TO: Mayor and City Council
FROM: Lorna Coughlin
SUBJECT: SALE OF CITY PROPERTY

In regards to the offer from Carl E. Stewart for following pieces of property in Highland Park Addition, I would recommend that we accept his offer, and issue warranty deeds. In this way, the property will get back on the tax rolls and homes will be built on the properties and improve the neighborhood. We have quiet title action on both pieces.

| | | |
|--|--------------------|-------------------------|
| Lots 32 & 33, Block 57, Highland Park, | City lien \$647.67 | Stewarts offer \$650.00 |
| Lots 13 & 14, Block 57, Highland Park, | City lien \$603.20 | Stewarts offer \$650.00 |

s/ Lorna Coughlin

It was moved by Councilman Parish, seconded by Freeman, that the offer made by Mr. Stewart for the two parcels of property be accepted and the Mayor and City Clerk be authorized to sign a deed of conveyance upon receipt of payment as indicated. Roll call as follows: Ayes, 5; No, none; carried.

From the Public Works Director, this memo was submitted:

City of Idaho Falls
November 4, 1970

TO: Honorable Mayor and City Council
FROM: Donald F. Lloyd
SUBJECT: AMENDMENT NO. 2 TO A TOPICS AGREEMENT 6A-33 C 22-F

Attached hereto is an original and two copies of Amendment No. 2 of an engineers agreement for a TOPICS Program. This amendment has been signed by the consulting engineers, Barton, Stoddard, Milhollin, and Higgins and after approval by the City, it must go to the Department of Highways and the Bureau of Public Roads.

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This amendment No. 2 is a further requirement of the Bureau requiring a detailed breakdown of the engineering fee schedule. It in no way alters the scope of the work or the participation by the City.

We would recommend that the Mayor and City Clerk be authorized to sign the City's approval.

Respectfully submitted,
s/ Donald F. Lloyd
Public Works Director

It was moved by Councilman Nelson, seconded by Parish, that amendment #2 to the TOPICS agreement be accepted and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 5; No, none; carried.

A second memo was forthcoming from the Public Works Director, to-wit:

City of Idaho Falls
November 4, 1970

TO: Honorable Mayor and City Council
FROM: Donald F. Lloyd, P.E.
SUBJECT: MOUND AVENUE SANITARY SEWER, PHASE 2

The engineering work for the second phase of the Mound Avenue sanitary sewer is now completed and ready for advertising. This project is estimated to cost \$14,000 and that amount has been budgeted for this year's expenditures. We have also received approval from FWQA for a 30% grant.

We would recommend that the City Clerk be authorized to advertise on November 8 and 15 and open bids at 10 A.M. on November 17, 1970.

Respectfully submitted,
s/ Donald F. Lloyd, P.E.

It was moved by Councilman Parish, seconded by Nelson, that the City Clerk be authorized to advertise for bids on the project as described. Roll call as follows: Ayes, 5; No, none; carried.

Finally, from the Public Works Director, this memo was introduced:

City of Idaho Falls
November 5, 1970

TO: Honorable Mayor and City Council
FROM: Donald F. Lloyd, P.E.
SUBJECT: BRENTHAVEN STORM DRAIN

NOVEMBER 5, 1970

On October 27, 1970 only one bid was received for the construction of the above captioned project in the amount of \$4,182.00. We do not feel that this bid is excessive and since we see no advantage of re-advertising, we would recommend that the Mayor and City Council authorize this contract to Hartwell Excavating Company in the amount of \$4,182.00.

Respectfully submitted,
s/ Donald F. Lloyd

It was moved by Councilman Nelson, seconded by Parish, that the one bid of Hartwell Excavating Company in the amount of \$4,182.00 be accepted for the project as described. Roll call as follows: Ayes, 5; No, none; carried.

From the City Planner, this memo was presented and studied:

Idaho Falls, Idaho
November 5, 1970

MEMORANDUM

TO: Mayor and City Council
FROM: W. R. Gilchrist
SUBJECT: PROPOSED VACATION OF UTILITY EASEMENT

A request has been submitted to this office to abandon the existing utility easement between Lots 5 and 6, Block 9, in the Melbourne Park Addition, No. 3. Attached are copies of memos from the Electric Light Division, Intermountain Gas Co. and Mountain Bell Co.

The Electric Light Division has recommended that this easement be retained; or if it is vacated, that the developer pay all labor and material cost for relocation of the existing overhead line. Intermountain Gas has agreed to abandon their right to a portion of the utility easement, retaining their rights in the easterly 18 feet of the easement which contains a two-inch gas line. Mountain Bell has agreed to abandon the easement provided an alternate

easement is granted. There is a buried telephone cable in the existing easement. This cable will remain in place under a proposed garage floor.

The developer has granted alternate easements immediately to the north and adjacent to the existing easement and would leave in tact that portion of the easement which contains the gas line.

Inasmuch as there are three utilities now using the existing easement, it would appear that there is no justification for granting this request.

s/ Rod Gilchrist

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After some discussion, it was moved by Councilman Wood, seconded by Hovey, that the recommendation of the City Planner be upheld and the request for vacating the easement in question be denied. Roll call as follows: Ayes, 5; No, none; carried.

The Mayor announced that he had recently created an Equipment Control Committee. He then proceeded to present this memo to the Council, revealing this Committee's initial appointments and their duties:

Office of the Mayor
November 3, 1970

TO: Members of the City Council
SUBJECT: EQUIPMENT REVIEW BOARD

Gentlemen:

In compliance with the instructions of the City Council work session recently, I have proceeded to establish an Equipment Control Committee. It's charter shall be for the purposes listed below:

1. Evaluate the necessary and efficient utilization of all City equipment.
2. Prior to the establishment of the annual budget, review all requests for equipment and make recommendations for inclusions or deletion based on need only.
3. Approve the specifications for and recommend the advertising for all new equipment.
4. Review and make recommendations on the selection of equipment once bids are received.
5. Recommends the disposition of old and obsolete equipment.
6. Other such reviews or studies pertaining to equipment that may be specifically assigned by the Mayor.

I submit to you for your confirmation the appointments of the Equipment Review Board to consist of the following City personnel:

Gordon Nelson, Chairman
Lee Lowe
Wes Skow
John Evans
Don Lloyd

It was moved by Councilman Wood, seconded by Freeman, that these appointments be confirmed. Roll call as follows: Ayes, 5; No, none; carried.

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The Mayor then proceeded to announce his Council committee assignments for the coming year, effective immediately, as follows:

COUNCIL COMMITTEES

| | | |
|---------------------------------------|----|----------------|
| AIRPORT | 1. | Jack Wood, Jr. |
| | 2. | Gordon Nelson |
| GOLF COURSE | 1. | Mel Erickson |
| | 2. | Jim Freeman |
| FINANCE, PERSONNEL PUBLIC BUILDING | 1. | Dale Parish |
| | 2. | Paul Hovey |
| PARKS, RECREATION CEMETERIES | 1. | Jim Freeman |
| | 2. | Mel Erickson |
| FIRE | 1. | Mel Erickson |
| | 2. | Paul Hovey |
| POLICE | 1. | Mel Erickson |
| | 2. | Jack Wood, Jr. |
| ELECTRICAL | 1. | Paul Hovey |
| | 2. | Gordon Nelson |
| PUBLIC WORKS | 1. | Gordon Nelson |
| | 2. | Dale Parish |

PLANNING & ZONING
PUBLIC HEALTH

1. Jack Wood, Jr.
2. Dale Parish

It was understood that the first Councilman named, in each instance, represented the Committee Chairman.

Reference is made to Page 488 in this Book of Minutes and, more specifically, an appeal for a variance by Elliotts, Inc. for another sign for their business operation in the Airport Industrial Park. Councilman Wood reported that, in the interim period, they had decided that they could accomplish their desired purpose by adding certain wording to an existing sign. Therefore, it was moved by Councilman Wood, seconded by Hovey, that their appeal for a variance be denied. Roll call as follows: Ayes, 5; No, none; carried.

The City Attorney submitted this memorandum decision from the District Court and asked that it be made a matter of record:

NOVEMBER 5, 1970

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY
OF BONNEVILLE

| | | |
|-------------------------|---|----------------------------|
| FRANCIS W. SIMA |) | |
| Plaintiff, |) | Case No. 17788 |
| |) | |
| VS. |) | <u>MEMORANDUM DECISION</u> |
| |) | |
| CITY OF IDAHO FALLS, |) | |
| A Municipal Corporation |) | |
| Defendant |) | |
| _____ |) | |

The above case was tried by this court on August 10, 1970. All the briefs are in and the Court being fully advised makes this memorandum decision.

The plaintiff maintained a residence and business at 361 Eagle Rock, Idaho Falls, Idaho.

The City on or about October 17, 1969, removed from the back yard of the premises considerable material and five trees.

The plaintiff alleges that the City did this by trespass. The City answers that same was done pursuant to the provisions of City Ordinance and after notice and that it had a right to do so. The City further contends that nothing of value was removed, only junk and combustible material which was a fire hazard, and furthermore a nuisance in the Community.

The plaintiff seeks damages for the loss of his personal property and treble damages because of the malicious nature of the trespass.

There is no doubt that the City gave orders for the premises to be cleared. I have no questions that same was given pursuant to an Ordinance the City had a right to pass under the constitution and laws of the State.

A fire had already been extinguished by the City in the building on the premises on July 16, 1968, at which the evidence is all to the effect that because of the existing accumulation of "junk" in the back yard the operation was difficult and a hazard to the men and augered for a spread of the fire if the same got out of the building into the yard.

The plaintiff made promises of cleaning up the situation when the officials talked to him about it, but failed to do anything about it, so on October 17, 1969, the City did what it had a right to do and removed the hazard, and abated the nuisance.

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The City did not have to sue in equity to establish its right. Nor did it have to wait indefinitely. It has a right to enforce Ordinances necessary to its very existence.

An individual's rights on his own premises cannot be carried to the point where in allowing these rights he violates the rights of all others coming in contact with his premises, including the Fire Department, the City in administering its affairs, and his neighbor's rights.

Several witnesses, substantial men, and officials of the City, testified that the property had no value, was junk and not worth hauling off. I feel this testimony was worthy of belief. The plaintiff, on the contrary, came up with a list of valuable personal property in the lot that none of other witnesses saw. The statement is inherently unacceptable. The trees cut down were valueless seedlings perhaps nurtured by the plaintiff, but themselves a nuisance where they were growing.

I must conclude that the City had the right to clean up the obstruction under the law and facts of this case, in the manner used.

That property was of no value and that no punitive damages should be allowed.

No cost will be allowed.

Counsel for the City will prepare, unless waived, finding of fact, conclusions of law, and judgment in accordance with this memorandum.

DATED THIS 4TH DAY OF NOVEMBER, 1970.

s/ Henry S. Martin
District Judge

No council action was considered necessary.

The City Attorney then presented a participation agreement from which was to be delivered to six heavy industrial users of the secondary sewage treatment plant; namely, Rogers Brothers, Western Farmer, I. F. Animal Products, Challenge Creamery, Idaho Potato Starch, Menan Starch. The City Attorney explained that this agreement provided for these users to guarantee to the City that they would use no other secondary sewage treatment plant facility for at least ten years as long during that period as they were in business in the immediate area; also, that they would guarantee a certain minimum payment each year for five years in an amount equivalent to their prorated share of plant capital investment. The City Attorney explained, further, that the agreement should provide for some form of written understanding that this was the minimum the City would accept, thus, eliminating any possibility or attempt toward negotiation. Councilman Parish disagreed. Parish said that, in his opinion, the agreement, carrying a November 30th deadline, should be sent out in its present form to ascertain its reaction. It was moved by Councilman Nelson, seconded by Parish, that

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the participation agreement in question be forwarded to the six users in its present form, subject to final approval by the Public Works Committee. Roll call as follows: Ayes, 5; No, none; carried.

Councilman Parish noted that the Civic Auditorium Board had asked for Council guidance for use of the Civic Auditorium by the Dora Erickson School on December 22nd for a Christmas program. After some discussion, it was moved by Councilman Parish, seconded by Freeman, that its use be permitted on the date and by the applicant as indicated, providing there is no conflict. Roll call as follows: Ayes, 5; No, none; carried.

There being no further business, it was moved by Councilman Freeman, seconded by Wood, that the meeting adjourn at 9:10 P.M., carried.

ATTEST: s/ Roy C. Barnes
CITY CLERK

s/ S. Eddie Pedersen
MAYOR
