

APRIL 24, 1969

The City Council of the City of Idaho Falls met in a Recessed Regular Meeting, Thursday, April 24, 1969, at 7:30 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said meeting: mayor S. Eddie Pedersen; Councilwoman Lyn Smith, Councilmen Dale Parish, Mel Erickson, Jack Wood, and Gordon Nelson. Absent: Jim Freeman. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; William Fell, Electrical Engineer; Rod Gilchrist, City Planner; Les Corcoran, Fire Chief; Howard James, Public Use Advisor; Don Lloyd, Public Works Director.

Minutes of the last Recessed Regular Meeting, held April 10th, 1969, were read and approved.

The Mayor announced that this was the time and the place for a public hearing, as advertised, for the purpose of receiving discussions concerning the advisability of granting a franchise, or franchises, to one or more of the four applicants applying therefore to operate a community antenna television system within the City of Idaho Falls. Inasmuch as Councilman Erickson had a professional interest in one of the proposals of one of the companies to be presented and had previously indicated that he wished to abstain from acting on any of the proceedings relative to this hearing and any decision eventually made pertaining to a community antenna franchise, the Mayor excused him so that he might retire to a seat in the Council Chambers during the hearing. The Mayor advised that this entire hearing would be tape recorded and that a complete tape would be on file in the office of the City Clerk. The Mayor then asked the City Clerk to read aloud and make a matter of record the following, a copy of which had been preciously received by all applicants:

**INSTRUCTIONS TO APPLICANTS APPLYING FOR
FRANCHISE TO OPERATE A COMMUNITY ANTENNA TELEVISION SYSTEM
WITHIN IDAHO FALLS, IDAHO**

I.

In the interests of orderly procedure and conservation of time, the Mayor has promulgated the following rules to govern the hearing:

(1) Each applicant shall be allotted 15 minutes to present its argument and discussion in chief. It may divide its time among such of its agents as it sees fit. The applicants shall be heard in the chronological order in which they made application for franchise.

(2) Following the presentations in chief, the Mayor and Councilmembers will direct such questions to the applicants, or to any of them, as shall be deemed material. Applicants, among other things, may be questioned concerning the INFORMATION FURNISHED BY APPLICANT. (See II and III below.)

(3) Any applicant, or other interested person, desiring to interrogate an applicant as to any material and relevant matter not previously answered or explained shall direct his

questions to the Mayor for further disposition. It is not contemplated that applicants shall be questioned directly from the floor.

APRIL 24, 1969

(4) Following interrogation of applicants, interested members of the public may make statements limited to one minute per person unless such time be extended by the Mayor.

(5) Following interrogation of applicants and statements by members of the public each applicant may have five minutes to summarize its position.

II.

(1) The written INFORMATION FURNISHED BY APPLICANT specified in Section III of these INSTRUCTIONS shall be filed with the City Clerk at the opening of the meeting.

(2) The INFORMATION FURNISHED BY APPLICANT so filed shall be a public record and shall be available to the public during the meeting and thereafter. Twenty copies of said written information shall be filed with the original so that officers of the City, applicants and other interested persons may have access thereto during the meeting.

(3) The INFORMATION FURNISHED BY APPLICANT shall be signed by applicant, if applicant is an individual of individuals; by its authorized agent if the applicant is a corporation; and by a general partner if the applicant is a partnership. If the applicant is a corporation, an extract of the minutes of the Board of Directors duly certified, authorizing such agent to execute the document shall be filed with it.

(4) THE INFORMATION FURNISHED BY APPLICANT shall become integrated in, and a part of, any franchise granted the applicant and shall be binding upon the applicant after the franchise is granted.

(5) No charge in any applicant's proposal made after the INFORMATION FURNISHED BY APPLICANT IS FILED WILL be considered by the City Council in awarding any franchise, but an offer to make the proposed franchised ordinance more favorable to the City than it now is, if made in writing when the INFORMATION FURNISHED BY APPLICANT is filed, will be considered.

III

INFORMATION FURNISHED BY APPLICANT

Each applicant for franchise shall furnish in writing to the City of Idaho Falls, Idaho, at the time set forth in Paragraph !! (1) above, the following information:

(1) A statement of qualifications establishing that the applicant is responsible and capable of performing the work to be done and that it has the technical and financial ability to render the services required by the proposed franchise ordinance.

APRIL 24, 1969

(2) A statement as to how the applicant intends to promote the system to the extent necessary for its to become a successful endeavor.

(3) If the applicant is a corporation, list the names and addresses of the Board of Directors and the names and addresses of the principal stockholders. If the applicant is a partnership, list the names and addresses of the general partners. If the applicant is an individual or individuals, list their names and addresses.

(4) A construction schedule indicating the approximate completion date for the City system.

(5) The make and type of equipment and cable proposed to be installed and including the manufacturer's specifications.

(6) A list of the rates which will be charged the subscribers for installation, monthly service charge, second connection fee, charge per multiple installation and a schedule of other miscellaneous charges and fees, if any.

(7) A list of the TV channels and FM channels that applicant will furnish the subscribers, with a schedule indicating approximate dates each channel will be available for use in the proposed system.

(8) The applicant's extension policy for sparsely populated areas for CATV service within the City.

(9) The 1969 session of the Idaho Legislature failed to place CATV under the regulation of the Public Utilities Commission. In view of this development, is applicant agreeable, regardless of any provision in its proposed franchise ordinance to the contrary, that the City of Idaho Falls exercise such regulatory powers as it has under provisions of Section 50-330, Idaho Code. the statute reads as follows:

"Cities shall have power to regulate the fares, rates, rentals, or charges made for the service rendered under any franchise granted in such city, except such as are subject to regulation by the Public Utilities Commission."

Answer the question "yes" or "no", and then explain the answer if any explanation is desired.

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

APRIL 24, 1969

As indicated in the instructions, applicants, in each case represented by their attorneys, were to present their respective proposals in the order that they were originally submitted to the Council. there fore, first to be invited to present said proposal was the Upper Valley Telecable Company, represented by their attorney, Mr. Terry Crapo. Following, then, are the salient points of his presentation: The Upper Valley Telecable Company is an Idaho Corporation, formed in 1968 with four shareholders, each of which have an equal interest in the corporation. These are Robert Bauchman, the Post Company, KID Broadcasting and Community Television, Inc. A brochure was presented to the Mayor and all Councilmen, containing answers to all questions as requested as well as the background of all owners. It was pointed out that all four of the owners are well known to the Council and that CATV is no new venture to these people, as indicated by the fact that, three years ago, an attempt was made to activate such a system. Although competitors at that time, it was decided and agreed in the interim period to combine forces in the interests of strength and unity. Preliminary engineering is completed, many hours have been spend on a pole line agreement and subscribers fees and, if awarded, the franchise construction would start immediately. Franchise fees are not a primary issue, inasmuch as these are not to be considered as an income producer, but rather, a fee to compensate the City on a regulatory basis. The two primary issues are services and rates. Attention was drawn to Page 29 in the proposal relative to rates which also explained the full service and also the partial service alternative to be offered subscribers. A fair return must be provided if the system is to prosper and move ahead rapidly. Reference was then made to Page 33 in the proposal, explaining the program service which offers a full and detailed program immediately. Local sets can receive 12 channels. As two are already occupied, 10 are available for new programming. Mention was made along this line of a composite group consisting of the three Salt Lake networks. It was explained that, presently, all three national networks are available but because only two channels are used, a portion of these programs are skipped. The composite service would be handled by a single channel and a switcher, by microwave. Two local origination channels would be available. Two independent signals would be made available, from Denver, Colorado, and Lethbridge, Canada, for news, sports, etc. Reference was made to Page 21, the construction schedule, providing full service within 12 months after a franchise is awarded, and partial service within six months. Seventy-five percent (75%) of this company's ownership is local, resulting in local policy, local control, local management decisions and to a great degree, monies received would be spent here.

Mr. Crapo then introduced Mr. Allen Jensen, an officer and member of the board with many years of experience in the field of television who discussed local program origination. He pointed out that, in addition to news, weather, stock market reports and background music, his company had high regard for local programming which existing facilities cannot now accommodate to a great degree, vital as they may be. These are some of the potential fields; public organizations such as City, County, School District, Civil Defense, Music and Drama Clubs, Community Chest, Chamber of Commerce, Legislative Affairs; educational fields would be served by a two-way educational system

involving all State institutions. Programs originating at the A. E. C. and Ricks College could be included. Much of this is now missing and could and should be made available. Upper Valley Cable TV has the experience and the desire to make it available. A local company now in the television business has much to lose in the field of commercial advertising if a CATV Franchise is awarded to someone not in the business, locally. To repute comments about editorial control, nothing could be

APRIL 24, 1969

further from the minds of the officers and board members. The various owners, all in the news media business, compete strongly for news. This CATV company would operate independently.

The Mayor then invited the Benay Corporation to offer their proposal through their attorney, Mr. Eugene Bush. Mr. Bush, in turn, introduced Mr. Leo Higham, President of the Benay Corporation. Following, the, are the salient points of the Benay Corporation proposal. This company would have no conflicts of interest but it would have local interests at heart, inasmuch as it is now serving the local public through the medium of radio with responsible officials enjoying many years of experience. This company has made every effort to expand. Applications for a 50,000 watt station, an FM application and a night time service have been denied by the F. C. C. This company also agrees that there is a tremendous need for programs of local origination. This company would operate under the F. C. C. Third Report and order which provides for three full networks and stations providing there are not now three in existence which is the case in this community; also, an educational channel; also a facility from the nearest independent station which would be Denver, Colorado. Local services would include a weather channel. F. C. C. encourages programs of local origination. Cable television is not broadcasting but "narrow casting" which limits subscribers to a given area according to the franchise. Local schools could use local origination educational programs to great advantage. This company would give School District #91 free time on a daily basis. This could be arranged so that only the school would receive the program. A weekly senior citizens program is contemplated. Other programs of interest might be pertaining to social security, forest service, pictures of servicemen, brides, missing persons, wanted persons, and lost bicycles. A weekly program featuring the Mayor would be desirable. Maps, graphs and local conditions could be displayed at that time. Other groups deserving CATV spots would be the Boy Scouts and high school sports. There would also be ample facilities for children's cartoons, films and travelogues. Mr. Higham then tuned the remaining time over to Mr. bush who pointed out that this company, as indicated in written proposal, has proven capabilities, be they technical, financial or service; have completed negotiations with a reputable organization and would be working closely with them at all times. This company has been assured satisfactory financial backing. However, the Council should be primarily concerned about the service capability of this applicant because this is most likely to affect the subscribers. Local management and ownership, such as is in evidence in this company, assures a keen interest in providing local origination of programming. Profits are necessary for CATV operation to continue. A survey was recently taken which revealed the fact that, generally, local people knew little about the service provided by CATV. After a simple explanation, including that of local program origination, most of those interviewed became enthused. Franchise and subscribers fees, as dully described in the proposal, were discussed. With reference to programs of local origination the existing announcers of this company have a vast knowledge of local history which is a valuable asset to the viewers. This company does not have other competitive interests.

New rules of CATV systems were proposed by the F.C.C. on December 12, 1968. Although these rules are not yet in force, they have been promulgated and will eventually be applied. One such rule is to prohibit cross-ownership between a commercial network and a cable system. A written opinion in this regard by the U.S. Department of Justice, dated April 10, 1969, was read. Said opinion also included cross-ownership by a newspaper. Avoiding cross-ownership encourages healthy competition at the local level and it also fosters ownership. Competition in this field goes beyond

APRIL 24, 1969

editorial policy and enters into the field of basic control. A combination of ownership between companies owning and operating a newspaper, radio and television is not a healthy condition for the local citizenry from the standpoint of a CATV operation.

The Mayor then invited verbal comments from the Idaho Falls Cablevision, Inc. as represented by their attorney, Mr. Tim Hopkins. Following, then, in essence, are the salient points of his presentation. With reference to the background of CATV in general, there are between 2300 and 2400 systems and there are at least as many more for which construction has started. 3,000 homes are being served. It is predicted that, by 1979, 85% or approximately 50,000,000 homes will be served. the principal of CATV is a combined effort by capable competent people to provide television service to a community. This is made possible by spreading a cost among many. CATV growth had been particularly noticeable during the past 10 years and now represents a mass development for many kinds of communication. In answer to a common question as to why CATV is needed and wanted, the primary reasons are for picture quality and program variety. Attention was drawn to 10 exhibits in this company's proposal covering management qualifications, system promotion, listing of officers and principal stockholders, construction schedule, construction specifications, subscriber rates and charges, proposed channels, extension policy, regulatory powers and a summary. The principal points of each exhibit were briefly discussed. It was learned that this company is a subsidiary of H & B American Corporation which is the largest owner and operator of CATV systems in the country. This company would insure adequate financing and technical assistance. H & B's financial structure was described. Top management officials were reviewed. H & B would also assist in system promotion. direct mail advertising would be used and promotional programs would be made available periodically. No installation change would be made during the construction period. Attention was drawn to the fact that all officers except the Executive Vice President are local and that all owners except for the H & B Corporation are also local. If awarded a franchise, insurance and bond certificates would be filed with the City within 30 days and also, during that time, microwave service would be ordered, pole attachment contracts would be finalized, appropriate procedures required by the F.C.C. would be initiated, detailed engineering work would begin and all permits would be obtained. Construction would begin 30 days after all authorizations were final and completed in 12 months. A most likely cause for delay could be receipt of the authorization from the F.C.C. Construction specifications are of the highest quality. Rates offer the best possible service at the lowest possible price. Residential and commercial installation rates and monthly service charges are identical. FM radio service over cable without television is available. Under proposed channels, there are no combinations or options. That which is offered in the written proposal is a complete service. The system would be set up to handle 20 channels. The first stage would provide 10 channels including local weather, news, stock market, educational and community.

This company concurs with the previous applicants with regard to the need for local origination programming. This company's cable would be installed in all public buildings and schools would be given educational television equipment in the amount of \$10,000. There would also be 10 FM channels. When approved by the F.C.C. this company would proceed with stage two, providing 10 additional TV and FM channels. The time when stage two will be available is not yet known. The extension policy would cover the entire City without regard for economic feasibility. Regulatory powers of the City would be recognized and honored at all times.

APRIL 24, 1969

The Mayor then invited verbal comments from Idaho Falls Cable TV, represented by Attorney Jack Voshell who first introduced to the Mayor and Councilmembers certain of that company's officers who were present in the Council Chambers as follows: William Lloyd Davis, Vice President and Board Member, Jerris Burge, Executive vice President, M. A. Peterson, Board Member, Dr. Drostan Baker, Board Member and the speaker, Jack Voshell, Board Member. Absent but included in the official family was William Thomas Davis, President, Rex Blodgett, Board Member. Following then, are the salient points, in essence, as brought out during the Idaho Falls Cable TV presentation, hearing first from Mr. Voshell. The applicant is completely qualified both financially and technically. The company is public service oriented with a vast background in this regard. All officers and board members are morally responsible. The Company is single-minded in its purpose to provide the finest, most sophisticated system that money can buy. The system would accommodate up-grading, would accommodate technological improvements. The company prides itself in the fact that it is large enough to serve, small enough to know the ones they are serving. There is no conflict of interest. The company's application violates no present or proposed rules pertaining to cross ownership as promulgated by the F.C.C. or the U. S. Department of Justice. The franchise, if awarded to this company, would not be exploited. The Company would permanently construct and operate the system. None of this Company's interests in any of the companies they represent have ever been sold. This company's application offers the City a higher percentage of franchise revenue than any other applicant; all residents would be guaranteed immediate service; this company offered an earlier operational date than any other applicant. The City would retain its regulatory powers. Mr. Voshell then introduced Mr. M. A. Peterson, who, before retirement, acted in the capacity of General Manager of the Idaho Potato Growers. It was noted that the Davis interests have, in the past, worked closely with and are well known to that local organization. Mr. Peterson concurred in this regard, explaining that the Davis interests have been associated through the fruit and vegetable industry which encompasses the Idaho Potato Growers and other local companies so engaged. Idaho Potato Growers has, for 30 years, been shipping under the "Blue Goose" label. The label comes from a company by the same name. The Davis interests, during the time they were purchasing sizeable shipping industries, acquired Blue Goose, Inc. This was told to exemplify the extent to which the Davis interests are known and have operated locally. Mr. Voshell then introduced Mr. Jerris Burge who, as pointed out by Mr. Voshell, has installed about 3,000 miles of TV cable, is an experienced engineer and technician. Mr. Burge explained that, regardless of the qualifications of the applicant, otherwise, there are certain things a company can and cannot do as determined by the F.C.C. For instance, channel facilities which, when available to one, will be available to all. It was sited that applications in other areas to bring distant channels in by CATV have been pending for two years,

still remaining un-granted. Therefore, the most important facet which can be controlled is local origination programming. Only one local origination channel is required by F.C.C. This company, unencumbered by other interests, would devote full time to service, much of which would be locally originated. A reminder was given that the franchise is for a 20 year period, and the franchise holder is a public servant. If adequate service is not forthcoming, the subscriber will look to the City Council for corrective action. This company is capable of the kind of service this City should demand. There is no magic in the buying of equipment and so it is the continuing day-to-day management that is the key to a successful system which is a highly sophisticated delicate complex.

APRIL 24, 1969

Having completed the oral presentations, the Mayor declared a ten minute recess.

After a ten minute recess the Mayor reconvened the hearing. He said he and the Councilmembers were well aware that a CATV system would affect the lives of thousand of local people. He said they were also aware that such an installation would involve a substantial investment, all of which provided a serious challenge to any and all applicants. He said that, in his opinion, all applicants were highly qualified and a decision on the awarding of a franchise would be a difficult one. He congratulated the attorneys of all applicants on the fine decorum of their presentations. The Mayor then declared the hearing open for questions. Councilwoman Smith asked of Benay if they would eventually have a 20 channel capability and was answered in the affirmative by Mr. Higham. The Mayor let it be known that it is the sincere wish, hope and desire of the Council that CATV system does materialize here in Idaho Falls. Relative to cross ownership, Councilman Nelson asked Upper Valley Telecable what their positions would be if a ruling were made by the F.C.C., prohibiting cross ownership. Mr. Crapo noted that the proposed rules not only include television stations, but also, radio, newspaper and multi-ownership systems and it would be fair to say that, if all the proposed rules were adopted, all of these four applicants would be affected. However, if this should come to pass, Upper Valley has a stock purchase agreement and divestment of stock could be accomplished to comply. Mr. Bush then reappeared to say that, according to his understanding, cross ownership seems to lean toward prohibitive joint ownership of TV and cable TV, rather than radio vs CATV, although the possibility has not been ruled out that other forms of news media may be affected. Councilman Nelson then asked, from all applicants except Upper Valley who had previously revealed this information, the status of stock ownership, percentage-wise. Benay reported that about 55% of their stock is owned by Messers. Mel Erickson, Keith Clarke, and Leo Higham. Idaho Falls Cablevision, Inc. reported that 20% of all stock is owned locally, 80% by H & B. Idaho Falls Cable TV reported that 80% of all their stock is owned by the Davis interests, 10% by Jerris Burge and 10% by the local Board of Directors. Councilman Wood asked the Idaho Falls Cable TV to explain that portion of their proposal which provided for indemnifying and holding the company harmless by the subscriber from the standpoint of liability. Mr. Burge answered by saying that there is no contract with any subscriber who is on a month to month basis. They may elect to discontinue the service at any time. The company is completely liable for proper, safe installation. However, the company would be held harmless if the subscriber, at a later date, molested the installation in any way to cause or inflict injury or damage. Mr. Burge illustrated by saying the most common act along this line is to move the set in an improper way, or it might be tipped over or an occupant might trip on the cord. In answer to a question posed by the Mayor, Mr. Burge agreed that

if, by cross wiring on a pole, an entire neighborhood were blacked out, correction of this situation would be the responsibility of the company and this would be covered in the pole line agreement. It behooves the Council to study all facets of liability closely to make sure the City is protected. The Mayor was concerned about provision for total availability and asked the members of the Electrical Council Committee if they had questions in this regard. Councilwoman Smith said three of the applicants had included economic feasibility clauses in their ordinances. However, when polled, all except the Benay Corporation said it was their intention to serve all within the City without regard for economic feasibility. Mr. Bush said, as a statement of policy, they would hope, as soon as possible, to reach that point. In answer to a question by Smith, all applicants pledged that nothing

APRIL 24, 1969

but first class, high quality material and equipment would be used at the time of installation construction. Councilman Nelson asked each applicant how many franchises they own and are in operation. Nelson clarified his question to mean accumulative ownership of the various individual interests in each local company. Upper Valley reported 45 systems, 5 of which are in the production stage; Idaho Falls Cablevision reported 62 systems, involving substantially more than 62 franchises; Idaho Falls Cable TV reported seven systems involving more than 7 franchises, 2 of which are operating, 4 of which are in the construction phase, one of which is in litigation with the F.C.C.; Benay Corporation reported owning no systems.

In the absence of further questions, the Mayor opened the meeting for questions or comments by other citizens from the floor. Dr. Gordon Law, head of the Department of Communications, University of Idaho and General Manager of KUID TV and KUID FM, appeared before the Council representing the State Board of Education and presented the following prepared statement:

I am here tonight generally to gain insight about these proceedings- information which I will relate to three commissions, they are, State Telecommunications Committee, State Educational Television Commission and the Public Television Committee of the Federation of Rocky Mountain States. I am an appointee of the Governor to these three bodies. Specifically, tonight my responsibility is to the State Board of Education and to express their sincere concern about the long term direction Instructional Television and Education Television in this State should take. Historically, Educational Television a viable operation since 1961. The fruition of our efforts culminated a few weeks ago when Governor Samuelson signed into law Senate Bill 1400 which appropriated \$226,000 to be matched by Federal money - \$680,000, thus providing Boise College and Idaho State University with the financial backing with which to establish stations in Boise and Pocatello. The Board's concern is much broader than the proposed number of hookups inherent in the matter before you. It's concern is for the 180,000 public school kids in the State and the 25,000 higher education students, only a small percentage of who will be served by any of the parties currently involved in this hearing. The statewide system must have interconnection, that is, microwave or land-line service from one station to the other and it should be a two way system. Only one party states that they have considered and will deliver this availability, if they are the franchise holder. This would then provide the State - the entire State - with Educational and Instructional TV this year. The proposal is that this interconnection of Upper Valley Telecable Company, Inc. would also make available all of

the offerings of our networks, NET, PBL, and CPB. The immediate effect of this type of system would be, for instance that 2 hours of pre-school education would be available free to the entire State, starting this September, by television - our current offerings in elementary art and elementary music and language arts would also be available, as well as our current offerings of continuing medical education for physicians, which we program 3 hours per week. The network would also make it possible for exchange of professors by TV by all institutions of higher education in the State.

These plans have been discussed formally by the State Board and the institutions of higher education.

APRIL 24, 1969

These plans have the approval of the State Superintendent of Public Instruction.

Therefore, our concern - speaking for the State Board - very unselfishly is the interconnection of the three stations and the service to all of the State. We would, therefore, hope that the ordinances you approve will include provisions to permit us to take advantage of interconnections for the sake of public, private and higher education in this State.

In answer to a question by Mayor, Dr. Law explained that the groups he represented do not have regulatory powers within the State, but only an inherent interest in the best and most appropriate communication medium for the furtherance of higher education within the State. Dr. Law was of the opinion that a local CATV system providing only a local tie-in with the local schools would be detrimental. Matching funds have been provided for an educational CATV station in Pocatello and the two existing TV stations in Idaho Falls would be affiliated. Councilman Nelson then asked Mr. Hopkins what his company's policy might be relative to selling or advertising merchandise from outside this trading area. Nelson explained that his question was prompted by a statement from the H & B annual report suggesting the contemplated acquisition of Hanover House Industries, Inc. Mr. Hopkins replied by saying said acquisition would be a transaction accomplished by H & B and would have no connection with Idaho Falls Cablevision, Inc. which would not engage in advertising non-promotional programs. Nelson quoted further from the report as follows: "The contemplated acquisition of Hanover House Industries, Inc. a mail order company located in Hanover, Pennsylvania, will give the company, (H & B) an opportunity to take a major step into one of the exciting future areas of CATV, the direct sale of merchandise by television. Hanover House Industries, Inc. presently sells a variety of specialty items and gifts under the Hanover House name, etc. Through Hanover House Industries the company expects to develop a program under which a broad variety of items can be offered for sale to the company's subscribers by printed catalogues and on television sets. At the same time the company expects that Hanover House Industries will continue its excellent rate of growth, etc." Nelson then asked what would be the reaction of local business men of any phase of this promotion were to be initiated through the local CATV system. Hopkins answered by saying that, not unlike any of the other applicants, his company has no immediate plans for having any local origination programming except educational and as previously

described and explained, with no immediate plans for commercial advertising or promotions as suggested by Councilman Nelson.

The Mayor then invited summary statements as provided in the instructions to applicants. First to appear was Mr. Crapo for Upper Valley Telecable. He said his company, above all other things, wanted to stress the importance of cost and service. He specifically referred to Section VII in his company's proposal in this regard. The key, he said, was how much lie time would be offered by the 10 channels. Any discussion, at this time, of the ultimate 20 channel goal is unimportant. Instead, Crapo said the Council should look at the periods of probable blackouts for the 10 channels which would be immediately available. By reiterating the various outside stations available to Upper Valley, Crapo attempted to prove that his company would provide the best service in this regard. Crapo said his company was best equipped to avoid non-duplicate programming over the three networks which, even with their vast capabilities, are unable to effect continuous programming. No

APRIL 24, 1969

other applicant can operate in conflict with the two existing free stations, as pertains to national network programs. Upper Valley's proposal includes a composite channel which would utilize only one local channel thus making the others available for independent and educational channels. Crapo again reiterated his company's emphasis on educational programming.

The Mayor then invited Benay Corporation, through Mr. bush, for their summary statement. With reference to the comments of Dr. Law, Bush reported that his company wrote to the State Board of Education six weeks ago, advising then of Benay's application for a CATV franchise in Idaho Falls. their answer, said Bush, revealed nothing that Dr. Law described this night pertaining to the State education network facility. Bush assured the Council that Benay would certainly have an interest in participating in such a network. Bush then drew attention to an explanation by Mr. Crapo that Upper Valley's stockholders, if required through an F.C.C. directive, were prepared to initiate a divestment policy. Bush said that, regardless of how this would be handled, the problem would not be solved by divestment. If new stockholders, at this time unknown to the City Council, were to appear, the Council would be taking a chance on the managerial capabilities of said new ownership. Bush explained that he had recently written to other communities within the State to determine the progress that was being made where a CATV franchise had been granted. He said his answers, form the Mayor or City Manager of the community in question, even where a franchise had been granted several years ago, indicated no progress toward construction. Bush referred to the construction schedule which leaves doubt relative to providing any guarantee or even assurance as to when construction would or could be completed. Bush then drew attention to certain of the applicants which had provided local flavor by naming certain local men to their Board of Directors. Bush warned that the length of time these minority stockholders would remain on the board would be dependent on how long the majority stockholders desired to re-elect them. With reference to subscriber rates, Bush drew attention to the sliding scale which provided for the rate to go down as subscribers increased. Bush said his company believes that the lowest possible subscriber rate will be reached because of his company's ability to obtain subscribers. Because Benay is new and small, it must make a profit on the business it has. Benay prides itself in local operating management and having submitted the lowest monthly subscriber rate, coupled with the fact that the services

rendered, in the opinion of the Company, will be as good as or better than any of the other applicants.

The Mayor then invited Idaho Falls Cablevision, Inc., through Mr. Hopkins, for their summary statement. With reference to certain expressed concern about local ownership of his company, Hopkins again drew attention to the fact that four local businessmen have been selected to act as officers and board members and that the interests of these men are certainly the local business interests of the City to which they would be giving their first allegiance. Drawing attention to the voluminous material submitted this night, Hopkins said his company would be willing to cooperate if additional hearing would be deemed necessary or expedient. With reference to cross ownership, Hopkins said his company is completely aware of this situation. Turning to the comments of Dr. Law, he said his company's proposal makes their position clear that they are anxious and capable of providing educational programming which would include, at least in Stage II, participation in the network as described by Dr. Law.

APRIL 24, 1969

Finally, the Mayor invited a summary statement from Idaho Falls Cable TV as presented by Mr. Burge. He said the channels carried in the local system would be basically determined by economics; also, by the FCC, and this applies to all applicants, so it is to be assumed that any applicant will provide every channel made available to them. Burge explained that the non-duplication rules that are enforced by the FCC do allow the local stations precedence over programs which are transmitted the same day and in the same vein. If there is something of time significance of any given program and if that is transmitted on the local station at a later time, then the non-duplication rule does not apply. However, the local stations do have the right to request non-duplication protection from the CATV operator from importation of the same programs being transmitted the same time on the same day. As an example, Burge explained that a Bonanza show could be shown locally at the same time it is shown in Salt Lake, providing it is not the same show; it may have shown in Salt Lake two weeks ago. Burge said his company is moving along very rapidly with their educational system. His company would provide interior wiring with all schools as part of their educational programming. Burge said his company is also keenly interested in furthering adult education. Burge said his company's monthly rate charge is the lowest of any applicant, avoiding any ambiguous package plan which may or may not materialize. Regarding rates, Burge reminded the Council that the City does have control and that the City Administration will be questioned and blamed if rates are not of line. Burge concurred that follow-up meetings with any or all of the applicants would be welcomed.

Mr. Crapo asked for clarification of one charge relative to inactivity under certain franchises where no progress is being made. Mr. Crapo asked, at a later date, to be provided with evidence to this effect. He said it was entirely likely that the examples that were being referred to would not apply to the local situation. At least, said Crapo, they would like the opportunity to be made fully informed as a means of responding to the Council on this implied charge.

This completed the summary statements. Councilwoman Smith expressed appreciation, particularly to William Fell, Electrical Engineer, Howard James, Public Use Advisor and Arthur Smith, City Attorney for their untiring efforts on the background work preparatory to this hearing,

including the early study of the introductory ordinances, preparation of the pole line agreement, the review of certain general publications, etc.

The Mayor concluded the hearing by thanking all participants for their dignified manner of presentation and the high decorum of conduct of the entire hearing. He told each applicant not to be surprised if they were called upon for clarification or for some other purpose, recognizing the magnitude of the issue at hand. With that, the Mayor declared the hearing closed.

Mr. Victor Taylor, 2360 Calkins Avenue, appeared before the Council to appeal a recent denial of the Board of Adjustment, relative to construction of a carport on his residential property. In this connection, the following explanatory memo from the City Planner was read:

April 24, 1969

MEMO

TO: Honorable Mayor and City Council
APRIL 24, 1969

Mr. Victor Taylor, 2360 Calkins Avenue is appealing the decision of the Board of Adjustment. Mr. Taylor applied to the board for permission to add a carport and a storage shed to an existing garage which would have a side yard of eight (8) feet. the proposed carport would be constructed on an existing concrete foundation.

This property is located in an RPA zone which has a side yard requirement of ten (10) feet.

The original appeal made to the Board of Adjustment was denied and Mr. Taylor is now appealing the decision to the Mayor and City Council.

Respectfully submitted,
s/ William R. Gilchrist

Councilman Wood reported that he had examined the premises and had found that Mr. Taylor intended to build the carport on an existing foundation which had been placed there before he owned the property. Wood said the carport would improve the property. Asked why the Board of Adjustment had denied the request, City Planner Gilchrist explained that it was in violation of said covenants. Wood noted, further, that a petition was on file, signed by all near-by property owners, giving their consent to this requested variance. It was moved by Councilman Wood, seconded by Smith, that the variance as requested, be approved. Roll call as follows: Ayes, 5; No, none; carried.

License applications for SAFE AND SANE FIREWORKS, Myrl A. Curnutt for two locations, Sears parking lot and the vacant lot across from Buttrey's Food Center; GROCERY, Owen B. Wallace for Wallace Drive-In Dairy, Jerry's Warehouse Grocery by Gerald Robins; RESTAURANT, Erma McVey for Snack Shop, Evelyn Peterson for Smitty's Pancake House, David Drysdale for 19th Hole Golf Course Café, Ana M. Benson for Mobile Unit to sell Tacos, Holiday Inn, Violet Dearden for Lobby Café; DAIRY, Stuart Pugmire for Eastern Idaho Dairy; JOURNEYMAN ELECTRICIAN, Carl S.

Carlson; APPRENTICE ELECTRICIAN, Monty Blackburn; CLASS C JOURNEYMAN GAS FITTING & WET HEAT, Hyrum Dale Mathews; MASTER PLUMBER, Ramrk Plumbing Co.; JOURNEYMAN PLUMBER, Ray Goyen, Charles Olson, Hyrum Mathews, Don Wilson, Robert L. Ray; APPRENTICE ELECTRICIAN, Gene Mark; PHOTOGRAPHER, D. G. Sallee for Angel Studio, Ronald Boyd for Jack & Jill Pix, Retha Gagasian for Jones & Presnell, Darrell S. Reeder, Charlotte Watson; JOURNEYMAN ELECTRICIAN, Alfred Holyoak, Mondell Nash; MOTEL, Virginia Baird for San-Dee Motel; HOTEL, Wanda Wilson for Ross Hotel; CONCESSION, Ethel M. McNett for Buttrey's parking lot; CAB DRIVER, Larry Burtenshaw; BARTENDER, Penny Shellenborger; BEER, (Canned and bottled to be consumed on the premises), Lester Kiel for Russett Lions Club, were presented. It was moved by Councilman Wood, seconded by Parish, 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 claim was presented and read:

APRIL 24, 1969

April 21, 1969

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

RE: Dean and Mildred Haymond dba Fashion Fabrics claim for overcharge on electric power delivery.

Gentlemen:

On behalf of Dean and Mildred Haymond, dba Fashion Fabrics (hereinafter called Fashion Fabrics), we herewith present a claim to the City of Idaho Falls for overcharges paid for Fashion Fabric on electric power used since October, 1964, caused by the electric power being charged for from three separate meters instead of one meter. The metering of the electric power through three meters resulted in excessive charges because in reality Fashion Fabrics was using enough volume of electric power, if correctly metered, to qualify for lower rates.

The fact of these overcharges was discovered and brought to the attention of the claimant, Fashion Fabrics, by a City employee, Mr. Leonard Bray. The essential particulars are as follows:

1. That on or about the last week of February or first part of March, 1969, Mr. Bray notified the claimants that since the date of their initial connection for electric power they had been overcharged approximately \$1500.00.
2. That Mr. Bray's investigation was prompted by the continual complaints of the claimants that their power bill was excessive.
3. That at the instance of the complaints of the claimants, they were never notified that they could change to a single meter and to commercial rates.
4. In consequence of the use of multiple meters and failure of the City to apply commercial rates to the volume of power being used, the claimants have been overcharged approximately \$1500.00.

We therefore respectfully demand reimbursement to Fashion Fabrics in the total amount of \$1,500.00.

Very truly yours,
s/ Gary J. Jensen

APRIL 24, 1969

It was moved by Councilwoman Smith, seconded by Nelson, that this matter be referred to the City Attorney for proper handling. Roll call as follows: Ayes, 5; No, none; carried.

From the Fire Chief, this memo was submitted:

April 24, 1969

MEMORANDUM

TO: Mayor S. Eddie Pedersen and Members of City Council
FROM: Les Corcoran, Fire Chief
SUBJECT: AMENDING FIREWORKS ORDINANCE

Certain changes in the State Fireworks Law make it necessary to amend the City Ordinance dealing with fireworks.

We feel too, that there are a few other changes needed in our present ordinance.

I therefore request that permission be given to the City Attorney to draw up a proposed amended fireworks ordinance for your consideration.

s/ Les Corcoran

It was moved by Councilman Wood, seconded by Erickson, that the City Attorney, working with the Fire Chief, be directed to prepare an amended fireworks ordinance for Council consideration. Roll call as follows: Ayes, 5; No, none; carried.

The Public Works Director submitted this memo:

City of Idaho Falls
April 24, 1969

TO: Honorable Mayor and City Council
FROM: Donald F. Lloyd
SUBJECT: PUBLIC MEETING FOR ESQUIRE ACRES

The City has received a petition which requests the annexation of Esquire Acres. The Mayor and Public Works Committee feel that before any action is taken with reference to this petition that an informational meeting should be conducted so that each resident of Esquire Acres will have an opportunity to be heard.

Therefore we are requesting Council authorization for a meeting to be held at 7:30 P.M. on May 1, 1969, in the Veteran's Memorial Building for the purpose of discussing the possible annexation of Esquire Acres.

APRIL 24, 1969

s/ Don

Councilman Nelson endorsed the proposed meeting but suggested that it be held in the Council Chambers. There was some question as to whether or not there would be sufficient room. It was moved by Councilman Nelson, seconded by Parish, that the meeting be approved for the time and date as recommended and that it be in the Council Chambers with the understanding that, in the event of an overflow crowd, the group be moved to the Veterans Memorial Building. Roll call as follows: Ayes, 5; No, none; carried.

This letter was presented and read by the City Clerk:

The State of Idaho
Military Department
Boise, Idaho

Honorable Eddie Pedersen
Mayor of Idaho Falls
City Hall
Idaho Falls, Idaho

Dear Eddie:

Current information and plans indicate the 116th Engineer Battalion of the Idaho National Guard will be returning from a year's service in Vietnam sometime in September 1969.

I think you will agree that the outstanding service rendered by this group of 800 Idaho citizens merits the unstinting thanks and appreciation of the State and each community.

I am writing you and the Mayors of all the other Idaho communities concerned to ask that plans be initiated now to organize committees to program for a real "Heroes Welcome" for these young men.

This effort, on the part of your community and the State of Idaho, will be part of a nation-wide program to welcome the return of our National Guard units. I am sure we can be counted upon to lead the nation in our welcoming celebration for these deserving men just as surely as Idaho has led the rest of the nation in its ability to mobilize and deploy this outstanding organization.

You may have already given some thought to this matter and I am listing below, for your consideration, some of the suggestions which have been made:

APRIL 24, 1969

- A. The appointment of a Mayor's committee, to include representatives of civic organizations, chamber of commerce, veterans organizations, churches, and other interested groups to plan and sponsor the program.
- B. Parades at the time the unit returns, to include use of high school bands.
- C. Demobilization ceremonies in which prominent Army and State officials could be scheduled to participate.
- D. Arrange for "Welcome-home" billboard signs and banners.
- E. Develop a strong publicity program aimed at community welcome by all available news media, including sponsorship of welcome-home ads in local newspaper by Chambers of commerce or local merchants.
- F. A community wide barbeque and ceremony in the City Park. This was done in several of our Idaho communities in 1962 with outstanding success on the return of our units from the Berlin crises call-up.

The above are merely some of many suggestions, and this office stands ready to assist you in any way possible.

The exact time schedule for the actual arrival of the unit in your community will be known at a later date and will be communicated to you. It is believed, however, that it is not too early to form your committee and begin the broad planning at this time. I would appreciate your acceptance of this plan and your suggestions.

Best personal regards.

Sincerely,
s/ George B. Bennett
Major General
The Adjutant General, ID.

No Council action was considered in order at this time. The Mayor said he wanted the letter presented so that the Council could start thinking of constructive suggestions for the appropriate handling of this event.

Councilman Wood drew attention to the fact that the agreement with the Idaho Falls Ambulance Service has expired. It was moved by Councilman Wood, seconded by Erickson, that this instrument be renewed with identical terms and conditions except that the expiration date be January 1st, 1970 and that, when prepared, the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 5; No, none; carried.

There being no further business, it was moved by councilman Erickson, seconded by Wood, that the meeting adjourn at 11:15 P.M., carried.

ATTEST: s/ Roy C. Barnes
CITY CLERK

s/ S. Eddie Pedersen
MAYOR

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