

**OCTOBER 25, 2007**

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The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, October 25, 2007, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Jared D. Fuhriman  
Councilmember Ida Hardcastle  
Councilmember Michael Lehto  
Councilmember Karen Cornwell  
Councilmember Thomas Hally  
Councilmember Joe Groberg

Also present:

Dale Storer, City Attorney  
Rosemarie Anderson, City Clerk  
All available Division Directors

Mayor Fuhriman requested Boy Scout Hunter Deuel to come forward to lead those present in the Pledge of Allegiance.

**CONSENT AGENDA ITEMS**

The City Clerk requested approval of the Minutes from the October 11, 2007 Regular Council Meeting and the October 17, 2007 Executive Session.

The City Clerk presented several license applications, including a BEER TO BE CONSUMED ON THE PREMISES LICENSE to Pachangas Mexican Food, all carrying the required approvals, and requested authorization to issue those licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on October 25, 2007.

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the Consent Agenda in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Lehto  
Councilmember Hardcastle  
Councilmember Groberg  
Councilmember Hally  
Councilmember Cornwell

Nay: None

Motion Carried.

**REGULAR AGENDA ITEMS**

Mayor Fuhriman stated that he is proud of Kent Livsey and his efforts of the past twelve years. He has done a magnificent job, left quite a legacy, and provided a great foundation for the future of the Police Department. Mayor Fuhriman stated that he has known Steve Roos for eighteen years. He stated that he has complete confidence in his abilities and expertise. Mayor Fuhriman requested Council confirmation for the

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appointment of Steve Roos to serve as the Police Chief for the City of Idaho Falls. It was moved by Councilmember Hardcastle, seconded by Councilmember Cornwell, to confirm the appointment of Steve Roos to serve as the Police Chief for the City of Idaho Falls. Roll call as follows:

Aye:            Councilmember Cornwell  
                  Councilmember Groberg  
                  Councilmember Hardcastle  
                  Councilmember Lehto  
                  Councilmember Hally

Nay:            None

Motion Carried.

Police Chief Steve Roos appeared to state that Chief Livsey has left large shoes to fill and he would do his best to fill those shoes by bringing the Department forward.

Mayor Fuhrman requested the members of the Mayor's Youth Advisory Council to come forward and give a report to the City Council. Tiffany Saslow appeared to explain that she is the Chair for the Public Relations and Advertising Subcommittee on the Mayor's Youth Advisory Council. She explained that many members of the Mayor's Youth Advisory Council attended the Harvestfest as volunteers. There were rave reviews from the organizers of the event. The Mayor's Youth Advisory Council is planning a New Year's Eve Dance at Idaho Falls High School. There will be a dance in one of the gyms, with games and different activities being conducted in the other gym. Tyler Brooks from A & B Productions attended the last meeting and gave great ideas for the dance.

Kailey Smith appeared to state that the Mayor's Youth Advisory Council participated in the Buddy Walk sponsored by the local high schools. A representative from the Idaho Humanities Council (Friends for Learning) attended their last meeting, to request the Mayor's Youth Advisory Council to usher that event.

Councilmember Cornwell suggested that the Council contact television stations in the area. The stations have community calendars, with time slots on the morning and noon shows. This would be a great place to advertise the activities for the Mayor's Youth Advisory Council.

Michael Schmitt, 1285 Pebble Creek Court, appeared to share the following statement:

I come before you not only as a concerned citizen, but more importantly as a concerned parent. It has come to my attention that there is an ordinance that is under consideration regarding child care and regulating the caregivers that operate these centers. I have two children that attend a home daycare part time, one for 3 hours after kindergarten and the other for less than an hour after 3<sup>rd</sup> grade. I understand the need for some regulation in this area, but I am concerned that the City Council has not given enough consideration to the impacts this will have on the families as well as the community.

After reading through the ordinance and speaking with parents and care givers, it appears that this ordinance, as it is written, will force many home daycare centers to make one of three choices: Conform (at great expense), operate illegally, or close. My children's daycare provider, along with other home daycare providers have said that it is not economically feasible to

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conform to the ordinance, so then for she will be forced to close. If most home daycare providers are like ours (law abiding citizens), there will be many closings of home daycare centers, which will cause a ripple effect throughout the community. To begin with, most part time children, such as my own, will be left without the high quality care they deserve. Due to the ordinance, many commercial daycare providers (those that will not close due to the ordinance) have stated they will only accept full time children (at a higher rate). Those part time children will either become latchkey kids, and those that aren't old enough to carry that responsibility will end up shuffled between care centers. This creates an undue burden on community, parents, but most of all the children affected by this ordinance.

Another key consequence of this ordinance is that it limits the choice of the parents. As a parent, it should be my decision if a home daycare provider is capable of watching my children. If this ordinance is implemented as written, my choices will decrease dramatically due to the economic barriers, and in essence Idaho Falls will end up "directing" me to providers they think are capable. When a parent chooses a home for their child to go to after school or during the day, we are not looking for a home that has ramps, sprinkler systems or 2<sup>nd</sup> floor access. This is not to say safety isn't important. But we are also looking for someone that will care for our child as we would, and there is no ordinance that can make that kind of person. The ordinance will only make that person not willing to take on the financial burden and thus not watch children.

At community meetings this has been discussed at length with other like minded parents, and we have brainstormed on several topics in the ordinance and feel that the following changes should be made. These changes protect the parent while enabling and enhancing home daycares.

First, while the ordinance differentiates between Center (type 1, greater than 13), Group (type 2, 6-12), and Family (type 3, less than 6), there is no material difference between the three categories in terms of licensing requirements, with the exception of the workers comp on the family daycare. It seems unreasonable to require all daycare facilities to meet the same requirements. Instead of grouping the daycare providers in these categories, it seems appropriate to divide them into separate groupings such a "Commercial" and "Home". From these groupings, requirements can be better tailored to the environment to which they are applicable. For example, it makes sense to require commercial businesses to adhere to building codes, as they apply to commercial structures. One would not expect a homeowner who cares for 5 children to install emergency exits, sprinkler systems etc.

Second, while I agree the background checks are necessary, the extent to which they are applied to home daycare providers is impractical as defined in (P) of the draft. This would require minor children (and their friends) to have background checks. As a parent, I feel comfortable with my provider; therefore I fell comfortable with the provider's family. After all, if my provider couldn't responsibly raise their own children, I wouldn't let my children stay in her home.

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Third, liability insurance and workman's comp clauses are appropriate for large commercial daycares, as they employ many people. While liability insurance is usually a part of homeowner's insurance, this would not be too much of an issue for the home daycare provider. Workman's comp is really unnecessary since many of the home daycare providers operate as individuals, and do not employ staff.

In previous homes, as with the current home daycare that my children have attended, there is a contract that is signed informing the parent of the provider's liabilities as well as rules, hours and charges. As a parent, this seems more appropriate for home daycare providers than to have the city impose the regulations.

My wife and I have used both commercial and home daycare centers for the better part of 8 years and our preference is definitely with the home based daycare centers. Not only do we find the quality of the care to be better, but our children have been happier and healthier because of home daycare. My children do not think of their caregiver's home as just a place that someone watches them until their mom or dad picks them up, but they think of the home as a second home, a place where they feel safe, there is consistency in the rules and someone that actually cares for their well being. Nor do they think of their caregiver as just a caregiver, but more of an aunt. This is something that is extremely rare in commercial care centers. Home daycare centers are an integral part of the community and enacting the ordinance as written will cause most, if not all of them to close.

To finish up, it seems that the counsel's intentions are good and in certain circumstances needed, if this ordinance is implemented the way it is written, it will hurt more children than help. I ask that a community forum is formed with commercial daycare providers, home care providers and parents, along with council members in order to put forth a comprehensive, but fair ordinance. I ask that the counsel abstain from passing this ordinance until it can be refined to meet the needs of the community.

Mayor Fuhrman stated that the City is still making changes to the proposed Day Care Ordinance. There will be other public meetings for parents and day care providers to make comments.

Following a brief discussion regarding what the new Day Care Licensing would require, it was determined that this was not the forum for this discussion and there would be other opportunities to have this discussion at public meetings.

Jerry Jayne, 1568 Lola Street, appeared to express his concern for the bulldozing of much of the natural vegetation on the west side of the river, between Broadway and Pancheri. Mayor Fuhrman stated that Mr. Jayne should visit Loren Walker from McNeil Development for a development plan for this area. The City Attorney suggested that Mr. Jayne visit with the Parks and Recreation Division, as they are in charge of the development of the Greenbelt path on the east side of the river between Pancheri and South Tourist Park.

Russ Brown, 1622 East 22<sup>nd</sup> Street, appeared to express his concern for cell phone use while driving. Mr. Brown cited several articles from around the world regarding impairment that results from cell phone use while driving. It is worth considering the ban of cell phones while driving. He stated that this is a difficult issue for the City Council to

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consider and should be considered as a state-wide ban. Mr. Brown stated that the blood of people will be on the hands of those who fail to at least give this consideration.

Councilmember Hardcastle requested that Mr. Brown remain in attendance as this issue will be discussed later on in the Council Meeting.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
October 22, 2007

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Jackie Flowers, Idaho Falls Power Director  
SUBJECT: AGREEMENT WITH BONNEVILLE POWER ADMINISTRATION  
FOR PERFORMANCE OF CERTAIN ACTIVITIES REQUIRED  
UNDER ELECTRIC RELIABILITY STANDARDS

Attached for your consideration is the Agreement for Performance of Certain Activities Required Under Electric Reliability Standards between the City of Idaho Falls and Bonneville Power Administration. This agreement addresses activities that Bonneville Power Administration conducts on behalf of the City that are now subject to the Electric Reliability Standards as adopted by FERC. The agreement requires Bonneville Power Administration to continue to provide these activities and report on them as required by the Standards. The agreement has been reviewed by the City Attorney.

Idaho Falls Power respectfully requests approval of the Agreement for Performance of Certain Activities Required Under Electric Reliability Standards and authorization for the Mayor to sign the documents.

s/ Jackie Flowers

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to approve the Agreement with Bonneville Power Administration for Performance of Certain Activities Required Under Electric Reliability Standards and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hally  
Councilmember Groberg

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

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City of Idaho Falls  
October 18, 2007

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: CONSENT TO ASSIGNMENT/AIRPORT LEASE AGREEMENT

Attached for your consideration is the Consent to Assignment and the Assignment of Lease between the City of Idaho Falls and R & V Hangar Partnership LLC and Yost Development LLC located at 2665 Foote Drive.

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

It is respectfully requested that Council approve the proposed Consent to Assignment and Lease Agreement and authorize the Mayor to execute said documents.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the Consent to Assignment and the Assignment of Lease Agreement between the City of Idaho Falls and R & V Partnership LLC and Yost Development LLC located at 2665 Foote Drive and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell  
Councilmember Hardcastle  
Councilmember Hally  
Councilmember Groberg  
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls  
October 18, 2007

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: REQUEST TO PURCHASE ROAD SAND

Municipal Services respectfully requests authorization to purchase additional road sand from City of Idaho Falls Bid IF-06-04. This bid was awarded on November 22, 2005, to Rhodehouse Construction to furnish the specified sand

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for an amount of \$7.95 per cubic yard. The vendor has agreed to honor their bid price from Bid IF-06-04.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to give authorization to purchase additional road sand from the City of Idaho Falls Bid IF-06-04 to Rhodehouse Construction in the amount of \$7.95 per cubic yard. Roll call as follows:

Aye: Councilmember Lehto  
Councilmember Hardcastle  
Councilmember Groberg  
Councilmember Hally  
Councilmember Cornwell

Nay: None

Motion Carried.

The Police Chief submitted the following memo:

City of Idaho Falls  
October 2, 2007

MEMORANDUM

TO: Mayor and Council  
FROM: J. K. Livsey, Chief of Police  
SUBJECT: COUNCIL AGENDA ITEM

I respectfully submit the attached Ordinance for Safe Operation and Control of Motor Vehicles for your approval at the City Council Meeting of October 11, 2007.

Thank you for your consideration.

s/ J. K. Livsey

Councilmember Hardcastle stated that in the past two weeks, she has received many telephone calls regarding this Ordinance. Many of the calls have addressed that there are laws on the record already that would address inattentive driving. This was brought forth originally to give Police Officers another tool to use. Councilmember Hardcastle stated that this Ordinance was not a ban of the use of cell phones while driving. This would provide for any activity that interferes with the safe operation of a motor vehicle or motorcycle. She commented further, that she would prefer that this issue be considered under State legislation.

The City Attorney stated that the reasoning behind this type of Ordinance was rather than citing for inattentive driving, it would not hit the driver as hard for insurance purposes.

Councilmember Hardcastle stated that she was withdrawing the Ordinance for Safe Operation and Control of Motor Vehicles.

The Public Works Director submitted the following memos:

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City of Idaho Falls  
October 18, 2007

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: EASEMENT VACATION – LOT 1, BLOCK 2, EXIT 118 EAST,  
DIVISION NO. 2

As previously authorized, the City Attorney has prepared documents needed to vacate a utility easement located in Lot 1, Block 2, Exit 118 East, Division No. 2.

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

s/ Chad Stanger

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

**ORDINANCE NO. 2721**

AN ORDINANCE VACATING A CERTAIN EASEMENT WITHIN THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE SAID EASEMENT; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ON BEHALF OF THE CITY A QUITCLAIM DEED CONVEYING THE VACATED EASEMENT TO THE OWNER OF THE ADJACENT LAND, AND NAMING IT; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE.

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

Aye: Councilmember Hally  
Councilmember Groberg  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hardcastle

Nay: None

Motion Carried.

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City of Idaho Falls  
October 18, 2007

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY – PARCEL NOS. 13/14

Attached is a Release and Hold Harmless Agreement between the City and Robert and Rhonda Rice for Parcels No. 13 and 14, Sunnyside Road Right-of-Way. Prior to Rice's ownership of property fronting these right-of-way parcels, the City had agreed to reinstall chain link fencing and curbing along this property's frontage. The current owners no longer want this fence installed and have agreed to accept payment in lieu of, and release the City from any obligation to complete this construction.

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

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve the Release and Hold Harmless Agreement between the City and Robert and Rhonda Rice for Parcel Nos. 13 and 14, Sunnyside Road Right-of-Way and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Groberg  
Councilmember Hally  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hardcastle

Nay: None

Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to recess Annexation Proceedings for Kingston-Bauchman Industrial Park, Division No. 2 to the November 8, 2007 Regular Council Meeting. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hally  
Councilmember Groberg

Nay: None

Motion Carried.

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There being no further business, it was moved by Councilmember Cornwell, seconded by Councilmember Hally, that the meeting adjourn at 8:15 p.m.

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CITY CLERK

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MAYOR

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