

MAY 25, 1964

Pursuant to a call by the Mayor, the City Council of the City of Idaho Falls met in Special Session in the Council Chambers of the City Building on the 25th day of May, 1964, at 7:30 P.M., for the purpose of conducting a public hearing, relative to the creation and establishment of L.I.D. #34, and also a public hearing relative to various areas in need of zoning, also, any other business which might normally be presented, needing Council action. There were present at said Meeting: Mayor S. Eddie Pedersen; Councilmen Keller, Leahy, Nelson, Page, Parish. Absent: Councilman Freeman. Also present: Roy C. Barnes, City Clerk; Ray Browning, Building Official; Don Lloyd, Public Works Director; Ethan Axtmann, Traffic Engineer.

The Mayor announced that this was the time and the place for a public hearing, as advertised, for the zoning of certain areas. First to be considered were all the lots and blocks in Jossie Hughes Addition, Division #1. There were no protests. It was moved by Councilman Page, seconded by Nelson, that this area be zoned as follows: Lots 1, 2, 3, Block 3, Lot 1, Block 1, and Lot 1, Block 2--- R-3; Lot 2, Block 2, Lot 4, Block 3---R-2; Lots 3 through 9, Block 2, Lots 5 through 12, Block 3, Lots 1 through 3, Block 4----R-1. Roll call as follows: Ayes, 5; No, None; carried.

Next to be considered were all the lots and blocks of Riviera Homes Addition, Division #2. No protests were registered. It was moved by Councilman Leahy, seconded by Keller, that these be zoned as follows: Lot 16, Block 7---R-3; Lots 1 through 15, Block 7, Lot 12, Block 4--R-1. Roll call as follows: Ayes, 5; No, None; carried.

Finally, all the lots and blocks in the Home Ranch Addition, Division #2 were presented for zoning. No protests were registered. It was moved by Councilman Parish, seconded by Page, that all these lots be zoned R-1. Roll call as follows: Ayes, 5; No, None; carried.

The Mayor instructed the Building Official to incorporate the foregoing zoning on the official zoning map, located in his office.

Several appeals for variance and one petition were presented to the Council, as follows: Paul Meier, 1095 Ada, to construct a glassed in sun porch with less than the required front setback; Kenneth Cunningham, 565 8th, to waive the required minimum back yard requirement; Arthur P. Clark, 112 East 16th, to build a garage within 3'2" of the property line; L. R. Bird, Lots 6 & 7, Block 4, Bird Addition, #1 to use the side yards for rear yard requirements; G. R. Wells, 1455 Willow Avenue, to use the area as an automotive repair and locksmith shop in an R-2 zone; Serge Marshall, 1675 S. Blvd. to rezone to permit a building to be converted into an insurance office. It was moved by Councilman Leahy, seconded by Page, that these be referred to the Board of Adjustments for study and recommendation. Roll call as follows: Ayes, 5; No, None; carried.

Reference was made to Page 597 in this Book of Minutes, pertaining to Council action, denying the variance request of Carl Van Buckland. At the request of Mr. Van Buckland and the Chairman of the Board of Adjustments, this appeal was presented for reconsideration. It was moved by Councilman Nelson, seconded by Page, that this again be referred to the Board of Adjustments for further study and recommendation. Roll call as follows: Ayes, 5; No, None; carried.

The Mayor announced that this was the time and the place for a public hearing, as advertised, relative to the creation and establishment of L.I.D. #34, commonly referred to as the "E" Street Improvement.

Mr. Ethan Axtmann, Traffic Engineer, appeared at the request of the Mayor to report on the proposed project. He noted that this improvement was originally requested by various property

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owners and that an early decision is necessary, due to the Yellowstone widening. He said that, from the standpoint of street planning, the widening of "E" Street is necessary to provide proper two way flow of traffic and still provide parking. He said the City had not, to date, received a firm proposal from the State regarding a left turn arrangement from Yellowstone on to "E" Street but that the City must make a decision regarding the desired traffic flow.

The City Clerk then presented and read all written protests, to-wit:

PETITION

TO: HONORABLE MAYOR AND CITY COUNCIL
IDAHO FALLS, IDAHO

The undersigned, individually and jointly, as property owners of real property which real property fronts "E" Street in the City of Idaho Falls, hereby sign this petition for the purpose of registering a written protest for the proposed inclusion of the following described lots and blocks within the proposed Special Improvement District #34 of the City of Idaho Falls, Idaho.

In support of the undersigned's petition for including the lots and blocks hereinafter described in the proposed Improvement District #34, the undersigned petitioners hereby submit the following reasons for including said property:

1. That the present paved street together with the curbing, guttering and sidewalk presently installed along "E" Street is in good repair and condition and thus is not in need of being replaced.
2. That the cost of the proposed assessment for the various lots hereinafter described would far exceed any direct or indirect benefit to the owners of the hereinafter described lots.
3. That the equities of the proposed district would not balance the undue economical hardship suffered by the owners of the lots hereinafter described in comparison to any public benefit that might come from including the above property in the proposed special Improvement District #34.
4. Any widening of "E" Street would represent an overall improvement to the City and thus any cost of said improvement should be borne by each of the residents of Idaho Falls and not merely the properties fronting "E" Street.

PETITIONER	LOT	BLOCK	RAILROAD ADDITION TO THE ORIGINAL TOWN OF EAGLE ROCK NOW CITY OF IDAHO FALLS:
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Wesley E. Derr	6	12	796 Memorial Drive
John Schwendiman	8	5	578 E Street
George L. Trumbo			445 E Street
Mrs. Lorraine Lockyer	5	12	565 E Street
Grace Voight			
William Voight			
Leo A. Williams			555 E Street

HOLDEN, HOLDEN & KIDWELL
Idaho Falls, Idaho
May 25, 1964

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

Gentlemen:

We have been authorized by the North Idaho Falls Stake of the Church of Jesus Christ of Latter Day Saints to enter a protest on its behalf with respect to the establishment of Local Improvement District #34 of the City of Idaho Falls as proposed in Resolution No. 1 approved by the Mayor of the City of Idaho Falls on May 7, 1964. The North Idaho Falls Stake of the Church of Jesus Christ of Latter Day Saints is the owner of the property described as Lots 1 to 12 inclusive, of Block 6, in the Railroad Addition to the City of Idaho Falls, Idaho, according to the recorded plat thereof.

This protest is submitted on the following grounds:

1. The existing improvement is in reasonably good repair and is adequate for the purposes for which constructed. The proposed improvement would thus appear to be unnecessary and superfluous.
2. It would appear that the purpose of widening and improving "E" Street, as proposed in the establishment of Local Improvement District #34, would be to provide an arterial street connection between the U.S. Interstate Highway No. 15 and Highway 191, and also to improve the traffic flow in all of downtown Idaho Falls. Both of these purposes would appear to be to the benefit of the public at large and the actual benefit, in any, to the property owners abutting "E" Street would appear to be negligible.
3. It would appear that it is proposed under Local Improvement District #34 to destroy and remove the existing curbs, gutters, parking strip and six feet of sidewalk in order to widen "E" Street by the distance of the parking strip plus one foot of sidewalk, which would be an unnecessary and unreasonable destruction and impairment of the existing improvement.

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4. We have also been advised that the City of Idaho Falls contemplates a further widening of "E" Street at a future date. The North Idaho Stake of the Church of Jesus Christ of Latter Day Saints protests the advisability of putting in new improvements at the present time by means of a local improvement district and then destroying and removing them for future widening.

5. We have also been advised that the City of Idaho Falls contemplates the future improving and maintenance of arterial streets by means of a City wide financed bond issue. The North Idaho Falls Stake of the Church of Jesus Christ of Latter Day Saints protests the advisability of improving and regarding "E" Street as an arterial street by means of a local improvement district when the property owners included in such a local improvement district may well be taxed to repay a bond issue for the purpose of improving and maintaining other arterial streets in the future.

The North Idaho Falls Stake of the Church of Jesus Christ of Latter Day Saints enters its general objection to the establishment of Local Improvement District #34 in the City of Idaho Falls, as proposed in the notice mailed to said Stake on May 13, 1964.

Respectfully submitted,
s/ Terry L. Crapo
Holden, Holden & Kidwell

Mortgage- Insurance Corp.
Memorial Drive & B Street
Idaho Falls, Idaho
May 20, 1964

City Council
City of Idaho Falls
P.O. Box 220
Idaho Falls, Idaho

Gentlemen:

As a co-owner of the property located on Lots 1 and 2, Block 12, Railroad Addition, Idaho Falls, Idaho, I herewith enter my protest to the creation of Local Improvement District No. 34 on the premises that the proposed improvements will not benefit the property since the property is already abutted by curbs, gutters, sidewalks and paved streets, and the design of the streets is such that adequate drainage is provided.

Although the notice of intention to establish the improvement district does not so specifically state, it is our understanding that the improvements are to be widened and that the primary purpose is to establish "E" Street as an arterial connection between Yellowstone Avenue and

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Memorial Drive. This being the case, it is the opinion of our legal counsel that such improvements should become a general obligation rather than a local obligation.

If, therefore, it is the Council's decision to pursue this matter, we intend to litigate the matter.

Very truly yours,
s/ Rolland H. Smith
President

HOLDEN, HOLDEN & KIDWELL
Idaho Falls, Idaho
May 22, 1964

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

Gentlemen:

We have been authorized by Mr. O. A. McCune and Chloe McCune, his wife, to enter a protest on his behalf with respect to the establishment of Local Improvement District #34 of the City of Idaho Falls, Idaho. Mr. McCune is the owner of property described as the north 54 feet of Lot 7 in Block 7, of Railroad Addition to the City of Idaho Falls, Idaho, according to the recorded plat thereof. His property fronts on Park Avenue and does not front on "E" Street. The closest distance of any portion of his property to "E" Street is 86 feet on the extreme southerly edge of the McCune property.

The protest on behalf of Mr. and Mrs. McCune is submitted on the following grounds:

1. The existing improvement is in reasonable good repair and is adequate for the purposes for which constructed.
2. The proposed construction on "E" Street would not in any manner benefit property located north of "E" Street on Park Avenue, inasmuch as Park Avenue at the location of Mr. McCune's property is south bound and two way traffic on "E" Street would not in any way improve access or traffic past his premises. It would appear that Mr. McCune would not receive any benefits in excess of the benefits of the general public, and that insofar as he is concerned, this is a public and not a local improvement.

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We further advised there is contemplated a widening of "E" Street sometime in the future. Our client questions the advisability of putting in the improvements at this time and then removing them for future widening.

A portion of the proposed charges, apparently, would be for the installation of sidewalks. Under the provisions of 9-1-1 of the Idaho Falls Code, the property owner is responsible for construction and repair of sidewalk, curbs, and gutters abutting upon their respective properties. It would appear this is an attempt in violation of the Idaho Falls Municipal Code to extend the liability for construction and repair of sidewalks, curbs and gutters to other than the abutting property owners.

Mr. and Mrs. McCune desire to establish of record their objections to the establishment of Local Improvement District #34 in the City of Idaho Falls, Idaho, as propounded in the notice mailed to us May 8, 1964.

Respectfully submitted,
By: s/ R. Vern Kidwell

James A. McIntosh
Attorney at Law
15 East 4th South
Salt Lake City, Utah

May 23, 1964

City Clerk of Idaho Falls
Idaho Falls, Idaho

Re: Proposed Local Improvement District No. 34

City Clerk of Idaho Falls
Idaho Falls, Idaho

Gentlemen:

My mother Grace Voight and my uncle A. W. Greenwell own three lots in the proposed improvement district which lots are located at 510 E. Street. I am writing this letter in their behalf and at the request of Grace Voight to protest the proposed improvements.

The legal notice I have smacks of unlawful taking of property without due process of law which cannot be justified on the basis of any police powers. Although I am not familiar with

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the Idaho laws, in Utah, the existing streets, sidewalks, curbs and sewers are owned by the City or the County, which must maintain them. Furthermore, these municipal bodies cannot encroach upon private property to widen streets, establish sidewalks, etc., without the consent of the abutting property owners unless the City is willing to pay damages for the "taking". Consequently, it is submitted you should put the issue of any such improvement district directly to a vote by the property owners affected thereby.

The other protest I would like to make is that the legal notice does not purport to say why the district is needed-although I am certain you investigated these matters thoroughly. But why was E Street selected rather than D or any of the others which go straight through from Memorial Drive to Yellowstone Avenue?

We certainly object to any plan which will decrease the size of our property lots or any plan which will increase traffic flow with its attendant hazards and increased noise-all of which will obviously depreciate the value of the area as a residential site. Such a plan might be feasible in the commercial downtown sections of Idaho Falls where wider streets are really needed, but not in the 500 block of E Street which has always been considered residential. It appears that these residential interests are being sacrificed for the commercial interests further to the east.

If the City wants to take our property we submit you should go into court where all of the issues can be heard and all the rights residential as well as commercial can be protected. This way the property owners can be assured that they will receive a fair and adequate compensation for your taking of their valuable property rights.

Thank you for your cooperation in these matters and may I request that I be notified of any further action on this improvement district so that I can supervise my mother's interest since she is now visiting in California.

Respectfully submitted,
s/ James A. McIntosh

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I am in favor of returning "E" Street to two-way traffic with parking on both sides. If this constitutes taking portions of both sides of the street to widen "E" Street. I would favor that, also. I do not mind being assessed for this or the sewer improvement projects. But, if "E" Street is being planned as an arterial to handle heavy cross town traffic, then I believe it is the burden of the City, and not the property owners.

s/ George Tokita

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After noting the comments in certain of the foregoing written protests, Axtmann, as a means of clearing an apparent misunderstanding, said the proposed improvement district would include the street widening and, if accomplished, no further widening at any future date is anticipated.

Mr. Rex Price, 474 L Street, appeared and asked if the first block next to Yellowstone would be widened and was answered in the affirmative except that the sidewalks would be substandard in width.

Terry Crapo, local attorney, appeared and asked if the plan called for the taking of private property and was answered in the affirmative, three feet back of the sidewalk, where practical.

Henry Bennett, Park Taylor Road resident but an "E" Street property owner, appeared and asked if the proposed widening would provide for three lanes of traffic and parking and was answered in the affirmative. He said he would be willing to donate three feet to effect two way traffic.

Mr. George Trumbo, 445 "E" Street, appeared and asked about the proposed traffic flow. Axtmann explained that the plan called for one westbound lane the two eastbound lanes but that the center lane could be made reversible if the future traffic trend so dictated. Mr. Trumbo protested the district on the grounds that no part of the proposed improvement would benefit the affected property owner in relation to the cost.

Mr. D. V. Groberg, local realtor, appeared and asked if the approximate cost to the property owner had been established and was answered in the affirmative, exclusive of the deduction or credit adjustment or lower assessment, yet to be determined, for property that might be taken.

The Mayor explained that, even if the district is established, the City is in no financial position to proceed this year but does intend to participate in the district by improving the center six feet, the intersections, replacing and relocating water and sewer lines, etc., and thus make it as economically feasible as possible for the property owner.

Mr. Crapo reappeared and advised that his client does not object to giving the property nor the two way traffic but, rather, the method of financing this, as well as all other future arterials by some other means than L.I.D. Axtmann commented to the effect that the master street plan of arterials does not include "E" Street in that category. Crapo said that in his opinion, the question remains as to whether the "E" Street Improvement will, primarily, benefit the property owner or the City and asked for a reevaluation of cost, based upon benefit.

Mr. Jay Bates, Minit Market, appeared and said he qualifiedly favors the district but felt the assessments were high in relation to the benefits.

Mr. William Voight, 510 "E" Street, appeared and agreed to give the land needed for widening if the City would stand the construction cost and, if not, he wished to protest the district.

The Mayor commented to the effect that an early decision is needed, due to the Yellowstone widening. Wallace Burns of the State Highway Board appeared and said it is not only necessary to make a decision but to put it in operation and so firmly notify the Highway Department.

Mr. Grant Tate, barber shop at 376 "E" Street, appeared and said he favored two way traffic but protested the cost which, in his estimation, could be eliminated or greatly reduced by taking only the property between the curb and the sidewalk, even if parking were made prohibitive at certain times of the day. Tate concluded his remarks by proposing that two way traffic be established

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immediately to satisfy the State and that widening and complete reconstruction be deferred, pending a better determination of the need.

Mr. John Schwendiman, 578 "E" Street, appeared for the purpose of protesting the district on the grounds that the street is sufficiently wide for two way traffic without taking private property.

Mr. Ray Robbins, 805 9th Street, appeared and asked if two way traffic could be accomplished without widening and creating the L.I.D. and was answered in the affirmative, providing parking were eliminated.

Mr. Bennett reappeared and suggested a compromise arrangement between the City and the property owner on the theory that the "E" Street development, to a degree at least, was for the good of the entire community; namely, that the property needed for widening be given the City and the City, in turn, pay one half of all assessments.

Mr. Gene Bush, local attorney, appeared and noted that "F" Street would be receiving the heaviest flow of west bound traffic and proposed that, as a temporary solution, two way traffic be initiated except that three lanes, one west bound and two east bound, be provided for the last block next to Yellowstone. In this way, Bush said, the immediate problem would be solved and that, meanwhile, an orderly reevaluation of the project and the resultant assessments could be made.

Councilman Page asked Mr. Burns if this would satisfy the State and was answered to the effect that it probably would.

Axtmann warned that anything less than complete reconstruction would place the City in a poor planning position for the future. Axtmann continued by saying, that throughout this hearing, there had been certain inference that the private property would be purchased by the City but that, to his knowledge, this hadn't as yet been confirmed and that this decision would be subject, among other factors, to its being appraised.

Bush reappeared to note that some consistent policy on the private property must be established; that all property should be purchased and thus reflected by a credit adjustment in the assessment, or none at all.

The Mayor asked Mr. Groberg for a rough estimated appraisal of the property in question. Groberg said this would require study but would probably be \$3.00 to \$5.00 per lineal foot. He then voiced an opinion that it would be unfortunate if two way traffic on "E" Street were permitted without complete reconstruction including widening.

Mr. Price reappeared and noted that the engineer's recommendation for complete reconstruction was based, primarily on a planning projection as far distant as 1980. He said that, in his opinion, property owners could not immediately afford the luxury of such projected planning and that the first problem of two way traffic should be approved first.

Councilman Leahy advised that such a decision would provide only temporary relief which might or might not be prudent, but that the Traffic Engineer would be remiss in his position if he didn't appraise the problem from its longer term aspects and therefore recommend a long term solution. He said if a compromise position is approved, the longer term facets of the problem must be faced sooner or later.

Councilman Page concurred with Councilman Leahy with regard to the position of the Engineer. However, he noted that time is of the essence, that financing poses an immediate problem to the City and that, in view of the fact that the State must have an immediate answer, he proposed

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that the Council permit two way traffic and that more time be taken to determine and consummate the complete reconstruction program.

During the course of the hearing those appearing to express favor toward establishment of the district were: William Peden, Westcott Oil; Don Maw, Realtor Manager, Safeway Stores; Richard Crabtree, representing his father, Dr. G. B. Crabtree; Vern Irvine, 627 East 13th; Peggy Taylor, Trustee to the Nick Lagos Trust; Mr. W. J. Loughridge, Manager of the Travelodge.

Councilman Nelson said he was not prepared to take action but that, in view of the findings from this hearing, a decision could probably be reached within two days.

Councilman Parish concurred, noting that the problems were complex and that there was apparently still some confusion in the minds of the Councilmen and the property owners with regard to the most effective and satisfactory solution to the problem.

In view of the comments from the Councilmen and in the absence of further comment from the floor, the Mayor, with general Council agreement, declared the matter temporarily tabled, the hearing concluded and the Meeting adjourned.

ATTEST: s/ _____
CITY CLERK

s/ S. Eddie Pedersen
MAYOR
