MARCH 19, 1964

The City Council of the City of Idaho Falls met in Regular Session, Thursday, March 19, 1964, at 7:30 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said Meeting: Mayor S. Eddie Pedersen: Councilmen Keller, Leahy, Nelson, Page, Freeman. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Donald Lloyd, Public Works Director; Ray Browning, Building Official; Luther Jenkins, Controller. Absent: Councilman Parish.

Minutes of the last Recessed Regular Meeting, held March 9th, 1964 were read and approved.

Councilman Nelson made reference to a letter from the Civil Defense Director, originally presented to the Council March 9th, 1964, noting that the present budget contained only $200.00 for this cause. He introduced Civil Defense Director Lewis Ross who read a letter addressed to former Mayor O'Bryant, dated December 4th, 1963, which asked that the Council consider the inclusion of $1250.00 for the 1964 budget. It was to be assumed that said letter was never referred to the present Administration for their budget consideration. Ross explained that the requested funds would be used for such items as travel, telephone, postage, salary, rent, etc. He said this was the same amount as budgeted and remitted for the past several years. He touched on the over-all Civil Defense program which included youth instruction in such worthwhile programs as self help and radiological instrument training. He pointed out, further, that other Cities and Counties participated to a much greater degree than does Idaho Falls. It was moved by Councilman Nelson, seconded by Page, that this matter be tabled, pending a budget study as to the source from whence the additional $1,050 might be forthcoming. Roll call as follows: Ayes, 5; No, None; carried.

License applications for NON COMMERCIAL KENNEL in the mane of H.P. Hill; GAS CONTRACTOR (previous approval by Heating Inspector), Aulden R. Kerr Plumbing and Heating; JOURNEYMAN GAS FITTER (previous approval of Heating Inspector), Max Conan, Ray Goyen; MASTER PLUMBER (previous approval of Heating Inspector), Aulden R. Kerr Plumbing; JOURNEYMAN PLUMBER (previous approval of Heating Inspector), Ray Goyen, G. G. Pendleton, Earl J. Carter; CLASS D REFRIGERATION CONTRACTOR (previous approval of Heating Inspector), Scotts Refrigeration Inc.; CLASS D REFRIGERATION JOURNEYMAN (previous approval of Heating Inspector) Josh D. Scott; CLASS C CONTRACTOR (previous approval of Heating Inspector), Conan & Landon Co.; CLASS C JOURNEYMAN (previous approval of Heating Inspector), Norman Conan, Darrell Landon; JOURNEYMAN ELECTRICIAN (previous approval of Heating Inspector), Harry Carlson, were presented. It was moved by Councilman Leahy, seconded by Page, that these licenses be approved. Roll call as follows: Ayes, 5; No, None; carried.

License application for MOTEL, Green and White Cabins was presented. It was moved by Councilman Page, seconded by Keller, that this license be granted, subject to the approval of the Chief of Police. Roll call as follows: Ayes, 5; No, None; carried.

These letters were read and made a matter of record.

Riverside PTA
Idaho Falls, Idaho
March 10, 1964

Dear Sir:

The Riverside PTA Executive Board feels as the National PTA Executive Board feels as the National Congress does in its guiding principles and policies—(Page 92 PTA Manual) that a school safety patrol's proper function is to aid in the direction and education of pupil pedestrians but that children should not assume adult responsibility in directing traffic. The Committee also agrees with the National PTA's resolution opposing the use of school safety patrol in place of traffic officers. This Committee therefore wishes to be on record as opposing the reinstatement of the schoolboy patrol in the Idaho Falls District #91 school system.

We favor expansion of the Education program on traffic safety in the home, school and community.

All efforts should be made to reinstate the radar system around schools and the City traffic department should make an all out effort to enforce traffic laws with punishment and fines for offenders and an enforcement of traffic education to these offenders.

Sincerely,
s/ Alfred Moir-PTA President
s/ Peggy Taylor-Safety Chairman
s/ James A. Peterson-Principal

March 10, 1964

Dear Dr. Shreve and School Board Members:

The Executive Committee of the O. E. Bell PTA, feel that children should not assume the adult responsibility of directing traffic and that school safety patrols should not be used in place of traffic officers. This Committee, therefore wishes to be on record as opposing the reinstatement of the schoolboy patrol in the Idaho Falls District # 91 school system.

Movement of traffic and pedestrians is a police matter and that all efforts should be made to enforce City traffic laws with punishment and fines for all offenders.

We are in favor of and will support a continuing and expanded traffic safety education program, in the home-school and in the community- and will support the traffic department utilization of adult crossing guard where needed.

Co-Presidents
s/ Mr. and Mrs. Earl Norton
O. E. Bell PTA

Copies: Mayor E. Pedersen
District #91 PTA Council

No Council action was considered necessary.

Reference was made to the Linus Young petition asking for a building variance, as originally presented at a Council Meeting dated March 9th, 1964. In this connection, the following legal opinion was read by the City Clerk:

March 18, 1964

S. Eddie Pedersen, Mayor
City of Idaho Falls
City Hall
Idaho Falls, Idaho

Re: Linus B. Young Building Permit

Dear Mayor Pedersen:

This office was recently requested to investigate and make recommendations concerning the problem of Linus B. Young and his duplex property at 603-607 "I" Street in the City. I have been unable to interrogate the previous building inspector, under whose jurisdiction this problem arose, but I think I have enough facts to make a recommendation.

It is not plain that the property was purchased upon the representation by any City official that a permit could be obtained for four apartment units instead of two. However, at about the time of the purchase, or very shortly thereafter, Mr. Young went to the Building Inspector and was assured that if the requisite number of neighbors signed his petition approving the "variance", there would be no problem concerning the approval of the application. In reliance upon that statement, the requisite number of abutting owners signed the petition which was duly filed with the Board of Adjustments. A further conversation was then had between Young and the building official to the effect that "all has been done which is required of the applicant", and that four units may be installed. Mr. Young then incurred expenses for labor and materials in the approximate amount of $1000.00 looking toward occupancy in four apartments. The Board of Adjustment actually approved the "variance". No action was had by the Council.

The interesting aspect of the case involves the language of the Zoning Code in effect at the time of the transaction. Under the existing code, which is still in effect, the Board of Adjustment is to act as a Board of Appeals from the ruling of the Building Inspector. There is no language in the existing code which would indicate that the granting of "variances" is permitted at all, at least to the extent to which was done in this case. Of course, under our present ordinance, the Board of Adjustment also makes recommendations to the Council as to proposed changes in zoning. This application was not handled as a "change in zoning" problem.

The proposed Zoning Ordinance which is coming up for Council consideration in the next few days, would give the Board of Adjustment very broad powers in granting "variances". Of course, I am not implying that the new ordinance will have any effect upon the rights of the parties before it went into effect, but I want the Council to be aware of what is proposed in the new ordinance. In that connection, it is the recommendation of this office that the Council carefully consider the question as to how much authority should be delegated to the Board of Adjustment in granting "variances".

In view of the fact that the adjoining property owners seem to have no objection to the "variance" which was heretofore granted by the Board of Adjustment, and in view of the fact that Mr. Young seems to be innocent in all respects in the premises, and in view of the fact that he has expended, or incurred expenses, of a substantial amount in reliance upon the action of the Building Official and the Board of Adjustment, it would appear equitable for the Council to approve this particular variance. If the Council should see fit to approve it, the record should be made plain that it is not to be considered a precedent for future action, but is done merely to prevent an injustice.

Sincerely,
s/ A. L. Smith
Albaugh, Bloem, Smith and Pike
City Attorneys

Following his recommendation, it was moved by Councilman Page, seconded by Keller, that the variance, as requested, be approved and the Building Official be authorized to issue a building permit accordingly. Roll call as follows: Ayes, Page, Freeman, Keller; No, Leahy; Abstain, Nelson; Carried.

This memo was read:

March 19, 1964

To: Mayor Pedersen
Councilman Freeman
Councilman Leahy

For your information, complete overhaul of Engine #404 has been accomplished and the Unit placed back in service on March 16, 1964. The total cost of the overhaul was $2724.

s/ Carl Poulter
Fire Chief

No Council action was considered necessary.

A claim voucher in the amount of $100 in favor of Utah Power and Light was presented, covering the purchase of street right of way at Gallatin Avenue and 23rd Avenue. It was moved by

Councilman Leahy, seconded by Nelson, that this expenditure be approved. Roll call as follows: Ayes, 5; No, None; carried.

This memo was read by the City Clerk:

RDP-22-64
March 19, 1964

TO: Honorable Mayor and City Council
FROM: Office of the Chief of Police
SUBJECT: NOTIFICATION OF TRANSFER OF CITY EMPLOYEE

This is notification to those concerned of the transfer of Mr. Carl L. Hiaring, City employee to become effective 22 March 1964 from City Parks and Recreation as Zoo Keeper to the Police Department to accept the position as Pound Master for the City of Idaho Falls. This transfer has been discussed and is agreeable to Mr. Ernest Craner, Supt. City Parks and Recreation as it is an advancement for Mr. Hiaring.

Upon reviewing the applications of sixteen applicants for the position of Pound Master after the summary investigation of each has been made, five applicants were selected as best qualified. Upon a more thorough review and interviews, it is found that the most desirable of the applicants is Mr. Carl Hiaring, age: twenty-six, married with six children, residing at 285 W. 20th Street in Idaho Falls. Hiaring was employed by the City in June 1963 and is highly recommended by both Mr. Craner and Earl Chapple as close supervisors.

Respectfully submitted,
s/ Robert D. Pollock, Captain
Acting Chief of Police

cc: Mayor
Councilman Freeman
Councilman Leahy
Controller
Ernest Craner
Carl L. Hiaring

The employment of Mr. Hiaring, as proposed, met with general Council agreement.

Mr. Brent Davis, acting Electrical Engineer, appeared and read a letter from the State Highway Department, relative to street lighting of the ramps and turns on the Johns Hole-Shelley Street connection. The proposition explained Davis would be similar to the arrangement between the City and the State for the lighting of Yellowstone Avenue, whereby the State would install and the City would furnish electric service and maintenance. Davis reported that the only installation expense to the City would be for certain conduit, in the amount of $300 to $400 and that this could legitimately be charged against the street lighting fund. It was moved by Councilman Leahy, seconded by Keller,

that the City enter into an agreement with the State accordingly, not to exceed $400 in cost. Roll call as follows: Ayes, 5; No, None; carried.

Councilman Keller presented and read the following memo:

3-19-64

TO: Mayor S. Eddie Pedersen
FROM: Don Lloyd
SUBJECT: LID # 32

Financing has been the one stumbling block encountered relative to the proposed sanitary sewer installation in Highland Park, Blocks 31 and 32. Be advised that we have recently obtained at least one firm bidder for the bonds for this improvement district. We are, therefore, requesting your authorization to proceed with the creation of a Local Improvement District for the installation of the sanitary sewers.

s/ DFL

It was moved by Councilman Keller, seconded by Freeman, that the City Attorney be instructed to prepare Resolution #1 for the creation of LID # 32, also the notice of intention to create said district, after which the City Clerk be authorized to publish said notice and mail a copy to each affected property owner. Roll call as follows: Ayes, 5; No, None; carried.

The City Attorney referred to a legal opinion as submitted and presented at a Council Meeting dated March 9th, 1964, relative to the LDS First Street Recreation Center and particularly, the lighting of same. He said his comments that night should not be construed to suggest that the new Zoning Ordinance would jeopardize or otherwise affect the rights of the complaints. He said he would renew his recommendation as set forth in said legal opinion. Instead, Councilman Leahy proposed, with general Council agreement, that no action be taken until all affected parties, including the complainants and representatives from the Church, meet with the Mayor and City Council for further discussion and study on the problem.

The City Attorney presented the following:

R E S O L U T I O N NO. 1 (Resolution No. 1964-02)

A RESOLUTION DECLARING THE INTENTION OF THE CITY OF IDAHO FALLS, IDAHO, TO CONSTRUCT STORM SEWERS TO SERVE CERTAIN STREETS AND ALLEYS AND PORTIONS OF THE CITY THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY; TO CREATE A LOCAL IMPROVEMENT DISTRICT TO BE KNOWN AS LOCAL IMPROVEMENT DISTRICT NO. 33 OF THE CITY OF IDAHO FALLS FOR THE PURPOSE OF MAKING SAID IMPROVEMENTS; TO DEFRAY THE COST AND EXPENSES OF SAID DISTRICT AND OF SAID IMPROVEMENTS BY SPECIAL ASSESSMENTS LEVIED ON AND

AGAINST THE LOTS, TRACTS, AND PARCELS OF LAND IN SAID DISTRICT SPECIALLY BENEFITED BY SAID IMPROVEMENT; PROVIDING THE BASIS ON WHICH SUCH SPECIAL ASSESSMENT SHALL BE LEVIED; STATING THE KIND AND CHARACTER OF SUCH IMPROVEMENTS AND THE ESTIMATED TOTAL COST THEREOF; FIXING THE TIME WHEN PROTESTS AGAINST SAID IMPROVEMENTS AND THE CREATION OF SAID DISTRICT MAY BE FILED IN THE OFFICE OF THE CITY CLERK, CITY OF IDAHO FALLS, AND WHEN SUCH PROTESTS WILL BE HEARD AND CONSIDERED BY THE CITY COUNCIL; AND PROVIDING FOR THE GIVING OF LEGAL NOTICE THEREOF.

WHEREAS, the CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, deems it for the best interest of said City, to construct storm sewers to service certain portions of streets, alleys and other parcels of land within the corporate limits of said City, hereinafter particularly described, and for the making of said improvements to create Local Improvement District No. 33 of the City of Idaho Falls, Idaho, and

WHEREAS, the estimated total cost of said District and of said improvements is $12,000.00, and

WHEREAS, the City Council is authorized by law to assess the entire cost of said District and of said improvements against the properties to be benefited thereby, and

WHEREAS, the City Council proposes to defray the cost and expenses of said District and of said improvements by special assessments to be levied upon and against all lots, tracts and parcels of land abutting, adjoining and adjacent and contained within said district specially benefited by such improvements and to defray the entire cost by such assessments.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Idaho Falls, Idaho, as follows:

SECTION 1. That the City of Idaho Falls, Idaho, does hereby declare its intention to construct storm sewers servicing certain areas within the corporate limits of said City, and for that purpose to create and establish a local improvement district therein, to be known as "Local Improvement District No. 33 of the City of Idaho Falls, Idaho", the boundaries of which district are described as follows:

Those boundaries which are the boundaries of Hughes Imperial Estates Addition, Divisions No. 1 and 2 to the City of Idaho Falls, Idaho, per the recorded plats thereof.

SECTION 2. The kind and character of said improvements are the construction of storm sewers, outfall lines, enlargement of existing drainage facilities and bypass installations within the boundaries of said District, as hereinafter described and located, all according to the plans and specifications thereof, to be filed in the office of the City Engineer and in the office of the City Clerk of the City of Idaho Falls, Idaho, on or before the day hereinafter fixed for the hearing of protests against the creation of said District and the making of said improvements.

SECTION 3. Said improvement is an original improvement.

SECTION 4. The estimated cost and expense of said District and of said improvement is $12,000.00, all of which is to be assessed against those lands in said District which will be benefited thereby.

SECTION 5. The cost of said District and of said improvement shall be paid by special assessments, levied and assessed against the lands of said District which will be benefited by said improvements as follows:

> The lots and lands benefited by such improvement and included in the improvement district hereinafter particularly described, in proportions to the number of the number of square feet of said lands as specially benefited, sufficient to cover the entire cost and expenses of said district and said improvements.

SECTION 6. The lots, parcels and tracts of land included in said District which will be benefited by said improvements and which will be assessed for such improvements, of said District are as follows:

The lots and lands proposed to be assessed for said District and said improvements are stated in said Resolution No. 1 and are described as follows:

IN HUGHES IMPERIAL ESTATES ADDITION
All Blocks and Lots

SECTION 7. Said improvement is to be made by the installation of a storm sewer line which will drain storm water from the following named streets within the boundaries of Divisions No. 1 and 2 of the Hughes Imperial Estates Addition to the City of Idaho Falls:

Westmoreland Drive
West Morningside Drive
North Morningside Drive
East Morningside Drive
Holly Place

SECTION 8. The cost and expenses of the improvements within the intersection will be paid from lands benefited thereby.

SECTION 9. That Thursday, the 9th day of April, 1964, at 7:30 o'clock P.M. of said day, in the Chambers of the City Council, in the City Hall in the City of Idaho Falls, Idaho, be, and the same are hereby designated as the time and place when and where protests against the creation of said District for the making of such improvements, shall be heard and considered by the City Council.

SECTION 10. All protests against the creation of said District or the making of said improvements to be considered must be in writing, filed in the office of the City Clerk, prior to the time set for the hearing thereof.

SECTION 11. The City Clerk shall give notice of the passage of this resolution and the time within which protests against said proposed improvement or creation of said District may be filed, and the date when such protests will be heard and considered by the Council, such notice to further describe the general character of the improvement or improvements proposed to be made, and the estimated total cost thereof, and shall refer to the resolution on file in the office of the City Clerk for further information in regard thereto. Said City Clerk shall cause such notice to be published in the Post Register, the official newspaper of this municipality in three consecutive issues, and shall cause a copy of such notice to be mailed to each owner of property, if known, or his agent, if known, within the limits of said proposed improvement district, addressed to such person at his post office address, if known, or if unknown, to the post office in the City of Idaho Falls, where said improvements are to be made, said notice to provide the expiration of the filing of protest shall be not less than ten days after the date of the last publication of such notice or of the posting and mailing of the same. Said City Clerk shall file and maintain in his office proof of publication and an affidavit showing posting and mailing of such notices.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF IDAHO FALLS, IDAHO, THIS 19 DAY OF MARCH, 1964.

ATTEST: s/ Roy C. Barnes
CITY CLERK

s/ S. Eddie Pedersen
MAYOR

It was moved by Councilman Keller, seconded by Page, that this resolution be accepted and adopted, that the date of the first protest meeting be scheduled for April 9, 1964, and the City Clerk be authorized to publish a notice of intention to create the District as described, as well as mail a copy to all affected property owners. Roll call as follows: Ayes, 5; No, None; carried.

Councilman Keller introduced a proposition for the removal of sixteen parking stalls and meters on Broadway at the intersections of Park and Shoup, to provide more adequate pedestrian and traffic safety and also to comply with State Highway standards. It was noted that this should be

a subject for consideration by the Traffic Appeals Board, yet to be established. Therefore, it was moved by Councilman Leahy, seconded by Freeman, that the matter be tabled. Roll call as follows: Ayes, 5; No, None; carried.

Reference was made to the Dewayne Lords damage claim, denied by the City Insurance Carrier, said denial of which was presented at a Council Meeting dated March 9th, 1964, and then referred to the City Attorney. In response, this legal opinion was presented:

Law Offices of
ALBAUGH, BLOEM, SMITH & PIKE

March 19, 1964

S. Eddie Pedersen, Mayor
City Hall
Idaho Falls, Idaho

Re: CLAIMANT----E. DEWAYNE LORDS
D/A----------12-18-63
INSURER--------WESTERN CASUALTY & SURETY
COMPANY OF KANSAS
INSURED-------CITY OF IDAHO FALLS

Dear Mayor Pedersen:

This office was asked to check the legal aspect of the above claim with particular emphasis on the question of whether the casualty company owed any duty under its policy. Review of the file would indicate that the insurance company would owe no duty relative to driving across a fence intentionally. You will recall that a City truck could not get to a certain transformer so it entered private property by driving across a low fence.

On the other hand, some damage was done to a small plumb tree by the truck. It would appear that the damage to the plum tree was an unforeseen occurrence and certainly not intended. It would be the opinion of this office that the insurance company should pay for the damage to the plum tree. The City should pay the balance of the damage.

Sincerely yours,
s/ Art Smith
Albaugh, Bloem, Smith & Pike
City Attorneys

cc: Gen. Adjustment Bureau
Attn: A. W. Knight

It was moved by Councilman Leahy, seconded by Page, that the City Building Maintenance Department be directed and authorized to repair the fence and that the City Attorney be instructed to notify the Insurance Carrier that, in the opinion of the City Council, the plum tree damage should be covered under the City's liability policy and, thus, honored by that agency. Roll call as follows: Ayes, 5; No, None; carried.

This communication from Petersen, Moss, and Olsen was presented by the City Attorney:

PETERSON, MOSS AND OLSEN

March 16, 1964

Mayor Eddie Pedersen
City of Idaho Falls
Idaho Falls, Idaho

Dear Mayor Pedersen:

Pursuant to the request that you made when I discussed the Driftwood Motel matter with you in your office, I am forwarding to you herewith a memorandum setting forth the details of the claim.

According to the information which we have received, there occurred a power fluctuation on the evening of August 15, 1963, which caused damage to various equipment owned by the Driftwood Motel. When the fluctuation occurred, the manager of the motel contacted the City Power Department and they sent a repairman out to check the matter. Upon checking the matter, he advised the motel manager that he thought that the ground connection for the transformer servicing the motel was not functioning properly and probably this was the cause or the power surge. However, the repairman advised the motel that he did not think there would be any problem and further advised the motel manager to turn his electricity back on.

Subsequently, that same evening, another power surge occurred and as a result the following damage was sustained, to-wit:

Damage to neon sign including the replacement of the transformer.	$ 45.00
Replacement of aid conditioning transformer and relay.	81.00
Replacement of 2 air conditioner transformers.	59.40
Replacement of T. V. sets.	54.10
Replacement of 100 watt flood bulbs.	2.50
Replacement of 100 watt lamp bulbs.	1.80
Replacement of air conditioner fan motors.	29.50
Replacement of electric alarm clocks.	20.25
TOTAL:	$293.70

A claim in writing was formerly submitted to the City Clerk on September 4, 1963. Subsequently the adjustor for the City insurance company advised the Driftwood Motel that they would not pay the claim, and suggested that he make contact the Harry N. Peabody who had reconditioned the transformer. We forwarded such a letter to Mr. Peabody and received from him a denial on the claim.

Inasmuch as we feel that the City is obligated to supply the users of its electrical current with the voltage requested by such users, and inasmuch as it is apparent that 220 volts rather than 110 volts were supplied to the Driftwood Motel, thus causing the damage; we feel that there is an obligation on the part of the City to make compensation for the damage that was incurred, and we are surprised that the insurance company has refused to make payment.

We would appreciate your giving this matter your consideration, and any effects on your part to help us to obtain a settlement from the insurance company will be very much appreciated. We hope that we can meet with success in this matter, and thus avoid the bringing of a suit.

Again, we thank you for your consideration in this matter.

Yours very truly,
Peterson, Moss, and Olsen
s/ Dennis M. Olsen

It was noted that this claim had been presented in September of 1963, denied by the insurance carrier, but never referred back to the City Council for official action. It was moved by Councilman Page, seconded by Nelson, that this be referred to the City Insurance Carrier for further study and investigation with specific instructions, in the event there be no reversal of the recommendation, that the claim be denied, that the adjustor so advise in writing so that the Council might be in a position to take proper steps for disposition of said claim. Roll call as follows: Ayes, 5; No, None; carried.

Reference was made to the William Cook damage claim denial as presented to the Council in a meeting dated March 9th, 1964. It was noted that said denial was made on the grounds that the frozen pipes in question was a problem of City maintenance, rather than one of liability and, in view of this report, was referred to the City Attorney who presented the following:

Law Offices of
ALBAUGH, BLOEM, SMITH & PIKE

March 19, 1964

S. Eddie Pedersen, Mayor
City Hall
Idaho Falls, Idaho

RE: Thawing of water lines--claim of William C. Cook Jr.---932 East Elva

Dear Mayor Pedersen:

The matter of obligation for the thawing of frozen water lines was referred to this office. This was in connection with a claim from a William C. Cook, Jr., at 932 East Elva, but the problem on the part of the City is a continuing one and this decision should resolve similar problems in the future.

Mr. Cook apparently called the City stating he had no water and suspected a frozen line….He was instructed to hire a private contractor at his expense to thaw the line out. He incurred an expense of $18.00 at West's Welding and Machine Company for thawing the line on his property. The water still would not run and so the City thawed the line from the main to his property line at which time the water did run. He then billed the City for his expense maintaining that the reason he got no water was because of freezing in the line outside his property.

It is the opinion of this office that the City owes a duty to thaw all lines up to the service main shutoff valve on or near the consumer's property line. The consumer has the duty where the line is frozen simply because the water will not run in a consumer's place of residence, and since the City as a public utility has the duty to furnish the water, it is the opinion of this office that when a complaint concerning a frozen line comes into the Department the City crews should immediately proceed to thaw the line from the service line shutoff valve to the main. If the water does not run then, the property owner at his expense should thaw from the shutoff valve to his place of use. If this procedure is followed in the future, it will avoid the type of claim which is filed herein.

Freezing water mains are not considered an accident or occurrence covered by casualty insurance. Rather it is a maintenance expense to be budgeted for and routinely paid by the service corporation or municipality.

I hope the City will see fit to follow this recommendation to the end that this type of problem will be avoided in the future. The City should pay the $18.00 to this consumer because the City did cause the expenditure.

Sincerely yours,
s/ A. L. Smith
Albaugh, Bloem, Smith & Pike
City Attorneys

cc: General Insurance Company of America
P. O. Box 2274
Idaho Falls, Idaho

Public Works Director Lloyd appeared and explained that the Water Department takes the position that the City is responsible for frozen water pipes from the main line to the shut off valve. He said that there are two other known damage claims with the same set of circumstances as was evident in the Cook claim pending the outcome of this claim.

It was moved by Councilman Nelson, seconded by Leahy, that the claim be approved for payment, as well as the other two that are pending, and that the Water Department be instructed to keep a log of their pipe thawing activities in the future, by location. Roll call as follows: Ayes, 5; No, None; carried.

There being no further business, it was moved by Councilman Leahy, seconded by Page, that the Meeting adjourn. Carried.

ATTEST: s/ Roy C. Barnes
CITY CLERK

s/ S. Eddie Pedersen
MAYOR

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