

JANUARY 16, 1964

The City Council of the City of Idaho Falls met in Regular Session, Thursday, January 16, 1964, at 8:00 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said Meeting: Mayor S. Eddie Pedersen; Councilmen Leahy, Page, Freeman, Nelson, Parish, Keller. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Donald Lloyd, Public Works Director; Ethan Axtmann, Traffic Engineer; Luther Jenkins, Controller; Milton Jones, Police Chief.

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

Mr. Bob Steiling, Manager of the local Chamber of Commerce, appeared before the Council with a reminder that he has previously registered a plea for passage of an ordinance which would prevent or control, through licensing an ordinance pertaining to house to house solicitors. It was moved by Councilman Nelson, seconded by Page, that the City Attorney be instructed to prepare such an ordinance for Council consideration. Roll call as follows: Ayes, 6; No, None; carried.

Mr. Steiling than announced that he had received an application from the National Commission on Community Health to conduct a public health survey in the City of Idaho Falls. He explained that this was a broad base study and that Idaho Falls was one of twenty communities in the United States so selected. He said consultants would be provided and that the survey would result in no cost to the City. It was moved by Councilman Page, seconded by Leahy, that the City Council go on record as supporting and endorsing this project. Roll call as follows: Ayes, 6; No, None; carried.

Messrs. Carleton Hedin and Leo Sommerville, both residing on the corner of 6th and Holmes, appeared before the Council to explain a parking problem in front of their respective homes, as well as others in the immediate area. It was noted that they reside across the street from the High School where congested or illegal parking is a common occurrence. After discussing the problem with Police Chief Jones and Traffic Engineer Axtmann, it was learned that the problem is limited to that of enforcing the existing parking ordinance. Mr. Hedin requested that the area in question be sign posted, as the painted curb is now covered during the winter months. This was referred to Police Chief Jones and Axtmann who agreed to investigate and correct.

License applications for BARTENDER, Boyd R. Roberts, James Scheets; PHOTOGRAPHER, Diane Sielinsky Photo, Ray's Camera Land, Melville's; RETAIL LIQUOR, Samoa Club, Jack's Chicken Inn; GAS CONTRACTOR, (previously approved by the Heating Inspector) Upper Snake River Valley Dairyman's Assoc.; JOURNEYMAN GAS FITTER, (previously approval by Heating Inspector) Edward Nixon, Lloyd Winn; APPRENTICE GAS FITTER, (previous approval by Heating Inspector) Arlo Belnap; JOURNEYMAN GAS FITTER, (previous approval by Heating Inspector) Lewis Thompson; FOUNTAIN, (previously approved by the City Sanitarian) North Hiway Café, Karmel Korn Shop, Foodarama; GROCERY STORE, (previous approval by City Sanitarian) Parker Brothers Poultry; MILK VENDOR, (previously approved by City Sanitarian) Fife Dairy, Cream Top Dairy, Challenge; ELECTRICAL CONTRACTOR, (previously approved by City Electrical Inspector) Griffith Electric, Dick Wheeler Electric; JOURNEYMAN ELECTRICIAN, (previously approved by Electrical Inspector) Griffith Electric, Babbitt Electric, Fonnesbeck Electric, Idaho Falls Electric, Winford E. Taylor were presented. It was moved by Councilman Page, seconded by Keller, that these licenses be approved. Roll call as follows: Ayes, 6; No, None; carried.

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License applications for HOTEL, Ross Hotel; TAXI DRIVER, Leonard E. Kelly, Frank Gibbons, were presented. It was moved by Councilman Nelson, seconded by Leahy, that these licenses be granted, subject to the approval of the Police Chief. Roll call as follows: Ayes, 6; No, None; carried.

It was noted that a recent memo from the Police Chief relative to dispensing beer at service stations had been referred to the City Attorney, who responded with the following legal opinion.

January 16, 1964

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

Dear Mayor:

Re: Legal Opinion - Subject Application for Beer Licenses

The letter of Chief Milton C. Jones, dates January 6, 1964, relative to the City policy concerning beer applications, was referred to this office for legal opinion. This office is aware that any action taken by the Council, relative to the subject matter will likely not be taken until later in the year, if at all.

The first question presented is whether a municipality in Idaho has the authority to enact an ordinance denying the issuance of a beer license for premises where gasoline is retailed to the public. It is the opinion of this office that it would be unlawful to deny a license to such premises as far as packaged beer is concerned because this would be a discrimination without a reasonable basis. Beer is not defined as an alcoholic beverage under the Idaho Statutes, and its sale not for consumption on the premises is ordinarily not to be interfered with by counties and cities through any store holding a store license.

Under the Police power granted municipalities under the Constitution of the State of Idaho, a municipality can probably forbid the sale of beer, to be consumed on the premises, at a place where the same is likely to jeopardize the safety of the community. The reason the term "probably" is used is that the Supreme Court of this state had not spelled this out in any decisions. Therefore, if the City Council should make a study of the matter in this community and should conclude that the sale of beer to be consumed on the premises at service stations is creating a safety hazard in the community, appropriate legislation by the City Council to eliminate the hazard would probably be held lawful by the courts. It should be pointed out, however, that any municipality which enacts such legislation must anticipate litigation to test the legality of the ordinance. The municipality should be prepared to defend its position in court through evidence of a comprehensive study.

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The subject letter also raised an issue as to whether the municipality may limit the number of beer licenses issued in the community. The legislature has enacted legislation relative to the number of liquor by the drink licenses which may be issued in the various municipalities of the state but the legislature did not see fit to legislate with respect to the number of beer licenses which might be issued. It is, therefore, the opinion of this office that legislation by a municipality relative to the latter subject is of doubtful legality. If the Council should deem it of considerable importance to limit the number of beer licenses issued in Idaho Falls, this office would be happy to make a more exhaustive study on the case law in the various states relative to the same.

Respectfully submitted,
s/ A. L. Smith
City Attorney

cc: Milton C. Jones

No Council action was considered necessary.

The following legal opinion from the City Attorney was then presented, relative to the need for a public works contractor's license for anyone who might contract for the removal of trees, vegetation, obstructions. etc., along the City's electric transmission lines, to-wit:

January 16, 1964

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

SUBJECT: LEGAL OPINION
PUBLIC WORKS CONTRACTOR'S LICENSE

This office was asked to render a legal opinion as to whether the City of Idaho Falls might contract for the removal of trees, vegetation, obstructions, etc., along its transmission lines, without requiring the contracting party to have a public works license. It is the understanding of this office that the approximate amount of the contract is in excess of \$1,000.00. It is also the understanding of this office that the contract in question is in the nature of a maintenance of existing public works' projects.

Under the provisions of 54-1901, I.C., as amended, it is the opinion of this office that the contractor must be licensed. He may obtain a "Class C" license, as defined in Section 54-1904, I.C.

The statute provides that all parties submitting bids to do public work shall be holders of a public works license. It has become the general practice, however, in most subdivisions of

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the state, to contract with the bidding party, provided he has a public works contractor's license at the time the contract is entered into. It would seem that no one would be in a position to raise the material legal issues relative to the contract provided the contractor is duly licensed at the time the contract is entered into.

In the letting of public works contracts, it should be noted, that careful consideration should be given to the question as to whether the bidder has the means and equipment reasonably to perform, whether the bidder has public liability insurance in an adequate amount, whether the bidder has complied with the workmen compensation laws of the State, and whether the bidder in a proper case can furnish a performance bond.

Respectfully submitted,
s/ A. L. Smith
City Attorney

cc: Howard Davis
Electrical Department

With the foregoing in mind, reference was made to certain tree trimming bids, opened January 7th, 1964, revealing the following:

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|---|-----------|
| Davey Tree Expert Co. Kent, Ohio | \$6390.00 |
| Wright Tree Service Des Moines, Iowa | \$5300.00 |
| J. D. Woolf Iona, Idaho | \$4505.00 |

It was moved by Councilman Leahy, seconded by Page, that J. D. Woolf be named the successful bidder, subject to his meeting all the requirements as stated in the foregoing legal opinion from the City Attorney. Roll call as follows: Ayes, 6; No, None; Carried.

The Mayor presented a miniature replica of a non-illuminated sign, 3' x 7', installation of which has been requested by the Metropolitan Life Insurance Company for their local headquarters at 17th and Boulevard. It was noted that this is R-3 zoning and the sign was larger than permitted by code. It was moved by Councilman Parish, seconded by Nelson, that the sign in question be limited in size to that which is legally permissible. Roll call as follows: Ayes, 6; No, None; carried.

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ORDINANCE NO. 1090

AN ORDINANCE AMENDING SECTION 1-10-1 OF THE CITY CODE OF IDAHO FALLS, IDAHO, TO PROVIDE THAT THE CITY COUNCIL SHALL MEET AT THE HOUR OF 7:30 P.M. REPEALING ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING WHEN THE ORDINANCE SHALL BECOME EFFECTIVE.

The foregoing Ordinance was presented in title. It was moved by Councilman Leahy, seconded by Freeman, that the provisions of Section 50-2004 of the Idaho Code requiring all ordinances to be fully and distinctly read on three several days be dispensed with. The question being, "SHALL THE PROVISIONS OF SECTION 50-2004 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, 6; No, None; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the Ordinance placed before the Council for final consideration the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, 6; No, None; carried.

This letter was read by the City Clerk:

January 15, 1964

The Mayor and City Council
City of Idaho Falls
P.O. Box 220
Idaho Falls, Idaho

Gentlemen:

Due to my recent appointment to the City Council it is, of course, necessary that I submit my resignation to the Idaho Falls Planning Commission.

I have had a lot of personal satisfaction from the many years service on this commission, and feel that Idaho Falls and the community has greatly benefited from the planning that has been derived.

I am sure that the proposed zoning ordinance, with some minor modifications, can be successfully presented to the people in March, and adopted.

Very truly yours,
s/ Dale D. Parish

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It was moved by Councilman Leahy, seconded by Nelson, that the resignation of Mr. Parish as a member of the Planning Commission be accepted and that a vote of thanks be extended to him for his dedicated service with the Commission. Roll call as follows: Ayes, 6; No, None; carried.

This memo from the City Clerk was read:

1-16-64

To the Honorable Mayor and City Council
Idaho Falls, Idaho

Gentlemen:

On December 16th, 1963, we turned the closed utility account of Katherine Mitchell in the amount of \$10.50 to a professional collector, who now reports that this party is deceased and the Estate is without assets. He has recommended that the amount owing be charged off as uncollectible.

We concur in this regard and so recommend to the City Council for proper authorization.

Respectfully submitted,
s/ Roy C. Barnes
City Clerk

It was moved by Councilman Leahy, seconded by Keller, that the account be charged off as uncollectible for the reasons as stated. Roll call as follows: Ayes, 6; No, None; carried.

Read by the City Clerk was the following:

1694 Juniper Drive
Idaho Falls, Idaho
January 15, 1964

Mayor Eddie Pedersen
Members of the City Council
City of Idaho Falls
Box 220
Idaho Falls, Idaho

Dear Sirs:

The League of Women Voters of Idaho Falls completed its study of Parks and Recreation and City Beautification in Idaho Falls in 1961. We made several recommendations

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at that time and have felt gratified because of the progress made in the City since then. We do have a parks and recreation director, ordinances to improve garbage collection and street cleaning have been passed, conditions in the zoo are improved, efforts at beautification have been noted, and we now have an expanded recreation program. The City of Idaho Falls is to be commended for all its efforts.

We hope the present City administration will continue this progress and therefore recommend that the City establish a Beautification Board to help. The Board would study, investigate, develop and propose plans for City beautification and cleanliness. It would be composed of 8 to 12 members, at least half of whom should be women, and which should include the park superintendent and representatives of the Planning and Recreation Commissions.

We hope, further, that the needs of parks, recreation, and beautification will be adequately financed and that serious consideration of these matters will be reflected in sufficient amount of money being allowed for them in the up-coming budget.

Again, we'd like to state how happy we are at what has been done and hope you will give serious thought to our recommendations.

Yours truly,
s/ Mrs. William Zelezny, President
League of Women Voters

s/ Mrs. Keith D. Taylor
Chairman Parks & Recreation &
City Beautification

It was moved by Councilman Nelson, seconded by Parish, that this be referred to the Parks Committee for study with the understanding that, as a result, a report eventually be made to the Council, relative to the proposed program in this regard. Roll call as follows: Ayes, 6; No, None; carried.

Mr. Ethan Axtmann, Traffic Engineer, appeared before the Council and presented two preliminary proposals for the development of the Johns Hole Interchange in connection with the overall construction of a freeway from Johns Hole to Ucon, to be designated State Highway 20-191. Assisting in the presentation were Messrs. Joe Laird, Howard Pelkington and Phil Marsh from the State Highway Department. It was learned that the initial and ultimate construction cost of the first Proposal, admittedly providing certain traffic advantages, was estimated as follows:

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Initial Construction:

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| Structure lengthening | \$ 42,000 |
| Pedestrian underpass | \$ 30,000 |
| Half-ramps and facilities | \$165,000 |
| Anderson Street relocation | \$ 70,000 |

Ultimate Construction:

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| Anderson Street relocation to four lanes | <u>\$ 7,000</u> |
| TOTAL: | \$314,000 |

The initial construction cost of Proposal No. 2, with certain cost, pedestrian and land use development advantages, was estimated as follows:

Initial Construction:

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|------------------------------------|-----------|
| Anderson Street underpass | \$165,000 |
| Anderson Higham Street improvement | 10,000 |

Ultimate Construction:

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|---|------------------|
| Anderson Higham Street - improvement to four lanes with median | \$108,000 |
| Signalization of Fremont interchange | |
| City | \$ 10,000 |
| State | <u>\$ 10,000</u> |
| TOTAL: | \$303,000 |

In this regard, the Mayor presented a rough draft of a letter to the State Highway Board but it was generally agreed that this should be preceded by verbal discussion between the Mayor, the Council and representatives from the State Highway Board as a means of determining financial responsibility to the City, prior to a written commitment from the City to the Highway Department.

The Mayor reviewed the Civil Service regulation which requires that all Civil Service employees live within the City limits. The City Attorney commended to the effect that, in his opinion, this is mandatory and that no deviation there from could be considered.

It was noted that bids had been opened January 15th on 12, 50 KVA transformers, 12, 37.5 KVA transformers, and 18, 25 KVA transformers, and that Jewell Electric was the low bidder with a total price of \$13,008.00. Other bidders, it was further noted, were General Electric Supply, Graybar Electric, Electrical Wholesale Supply, Wagner Electric, Electrical Contractors Supply, and Westinghouse Electric Supply. It was moved by Councilman Leahy, seconded by Keller, that the

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low bid of Jewell Electric be accepted and the purchasing agent be authorized to prepare a purchase order accordingly. Roll call as follows: Ayes, 6; No, None; carried.

The Mayor noted that the Utah Power and Light customer exchange agreement calls for a negotiating committee and proceeded to name the following to act in that capacity; Electrical Engineer Davis, Councilmen Leahy, and Keller. It was moved by Councilman Nelson, seconded by Page, that these appointments be confirmed. Roll call as follows; Aye, 6; No, None; carried.

The Mayor drew attention to a comprehensive report by the Greater Idaho Falls Committee with certain specific recommendation for the establishment of a traffic department. The Mayor called upon the Public Works Director Lloyd to comment. He indicated that, in his opinion, the responsibilities would not justify this action; instead, he proposed that, on a trail basis, the Traffic Engineer continue to function as part of the Engineering Department. For the benefit of the Mayor and Council, he outlined a proposed job description of that position which met with general Council approval. Traffic Engineer Axtmann supplemented this report by outlining a priority program. The reports of both Lloyd and Axtmann coincide, generally, with the recommendation as described by the Greater Idaho Falls Committee. Lloyd then proposed the appointment of a Steering Committee which would set up the area of activity for an appeal board, yet to be created, who would, working with the City Attorney, hear all grievances pertaining to traffic and make recommendations to the Mayor and City Council accordingly. The Mayor proceeded to appoint the members of said Steering Committee as follows: Bob Steering of the Chamber of Commerce, Police Chief Jones and Public Works Director Lloyd. It was moved by Councilman Nelson, seconded by Parish, that these appointments be confirmed. Roll call as follows: Ayes, 6; 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
