

JUNE 7, 2007

The City Council of the City of Idaho Falls met in Special Council Meeting, Thursday, June 7, 2007, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Fuhriman requested Boy Scout Austin Peila 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 May 24, 2007 Regular Council Meeting.

The City Clerk presented monthly reports from various Division and Department Heads and requested that they be accepted and placed on file in the City Clerk's Office.

The City Clerk presented the following Expenditure Summary dated May 1, 2007 through May 31, 2007, after having been audited by the Fiscal Committee and paid by the Controller:

FUND	TOTAL EXPENDITURE
General Fund	\$ 574,763.49
Street Fund	11,935.43
Recreation Fund	20,369.24
Library Fund	37,131.41
Municipal Equipment Replacement Fund	66,639.29
Electric Light Public Purpose Fund	29,421.34
Airport Fund	133,936.82
Water and Sewer Fund	1,172,199.07
Sanitation Fund	10,578.84
Ambulance Fund	7,446.37
Electric Light Fund	3,347,694.57
Payroll Liability Fund	2,600,178.56
TOTALS	\$ 8,012,294.43

The City Clerk presented several license applications, all carrying the required approvals, and requested authorization to issue those licenses.

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The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on June 7, 2007.

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

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

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

The Fire Chief submitted the following memo:

City of Idaho Falls
June 5, 2007

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Dean Ellis, Fire Chief
SUBJECT: CITY FIREWORKS ORDINANCE CHANGE

Attached for your review is the change requested to the City of Idaho Falls Fireworks Ordinance. This will correspond with the State of Idaho Statute for dates of fireworks sales. As it stands now, the dates are from twelve o'clock (12:00) Noon June 26 to twelve o'clock (12:00) midnight July 5 in the City Ordinance. The State Statute states sales can begin midnight June 23 and ending at midnight July 5. The request is to have the City of Idaho Falls sales begin and end on the same date and times as the State Statute.

The Fire Department respectfully requests approval and authorization for the Mayor and City Clerk to sign the documents to allow the change in the Ordinance.

s/ Dean Ellis

Councilmember Hardcastle stated that she was contacted last July to bring the City's Ordinance into compliance with the State Statute on fireworks sales. She stated that she was grateful to provide the following Ordinance Amendment for the change in fireworks sales to comply with the State Statute.

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

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ORDINANCE NO. 2701

AN ORDINANCE AMENDING SECTIONS 6-2-7 AND 6-2-8 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR AMENDMENTS TO THE PROVISIONS REGARDING FIREWORKS STANDS AND THE TIMES THEY MAY BE OPEN; PROVIDING FOR SEVERABILITY; PRESERVING PRIOR ORDINANCE; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Cornwell 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 Lehto
Councilmember Lyon
Councilmember Hardcastle
Councilmember Groberg
Councilmember Hally
Councilmember Cornwell

Nay: None

Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls
June 4, 2007

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jackie Flowers, Idaho Falls Power Director
SUBJECT: AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DAVID EVANS AND ASSOCIATES TO COMPLETE THE NORTH 161 KV TRANSMISSION LOOP ROUTE SELECTION STUDY

On January 18, 2007, City Council authorized Idaho Falls Power to solicit proposals for the North 161 kV Transmission Loop Route Selection Study. Attached is a copy of the project detail sheet from the Idaho Falls Power Capital Improvement Plan.

On May 18, 2007, four firms responded to our request for proposals. Attached is a list of firms who responded to our request. Idaho Falls Power staff was pleased by the amount of interest in the project and the quality of the proposals.

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Idaho Falls Power, in conjunction with Bob Mooney, has completed a thorough review of the proposals. Staff recommends awarding the project to David Evans and Associates, Inc. for an amount not to exceed \$47,700.00.

s/ Jackie Flowers

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to award the Professional Services Agreement to David Evans and Associates to complete the North 161 kV Transmission Loop Route Selection Study and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls
May 18, 2007

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-07-12, TWO (2) YEAR CONTRACT FOR TRAFFIC CONTROLLERS, CABINETS, AND RELATED EQUIPMENT

Attached for your consideration is the tabulation for the above subject bid.

It is the recommendation of Municipal Services to accept the low bid meeting specifications as listed on Attachment "A". The apparent low bid for Item 1, submitted by Intermountain Traffic, LLC, did not meet the required specification as described on Attachment "B"/Appendix I provided by Idaho Falls Power. Attachment "B"/Appendix I also describes the reasons Intermountain Traffic, LLC and Northwest Signal Supply, Inc. low proposals were not accepted for Item 2. Please note – all quantities of products required were estimates, therefore, actual purchase amounts will vary.

s/ S. Craig Lords

Councilmember Groberg requested to know whether there was anyone present who had an interest in this bid. No one appeared.

A letter of protest was filed with the City Clerk on June 6, 2007, as follows:

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Intermountain Traffic, LLC
1885 Three Mile Drive
Reno, Nevada 89509
(775) 322-6887
Fax (775) 329-7887

June 6, 2007

Mayor Jared Fuhriman
City Councilmembers
City of Idaho Falls
Idaho Falls, Idaho

VIA FACSIMILE: Rose Anderson, City Clerk 208-612-8560

Re: AWARD PROTEST – Bid IF-07-12, Traffic Equipment

Dear Mayor Fuhriman and City Councilmembers:

Intermountain Traffic, LLC adamantly opposes the recommendation and protests the award of Items 1 and 2 to the companies listed in the fax memorandum we received on May 14, 2007 and June 1, 2007 from City of Idaho Falls Purchasing.

Idaho Falls Power is recommending award on these two bid items spending \$246,729.50 additional City of Idaho Falls funding based on an inaccurate, incomplete, misleading and biased reviews. Idaho Falls Power has given a biased recommendation for award on this project due to Mr. Ken Marshall's personal relationship with our competitors.

Intermountain Traffic, LLC provided the best proposal, at the best price with the fewest exceptions. Therefore, we believe Intermountain Traffic, LLC should be awarded this job. Should not the award be given to the company providing the best proposal, the best price, with the fewest exceptions?

Initial Bid

- The Intermountain Traffic, LLC bid on Item 1 included six exceptions.
- The competitor's bid who Idaho Falls Power evaluation is recommending award to, Econolite Control Products, Inc., has eight exceptions.

Initial Idaho Falls Power Bid Review – Dated May 14, 2007

- Idaho Falls Power allowed one exception from Intermountain Traffic's bid.
- Idaho Falls Power further **created** four additional items which they deemed Intermountain Traffic did not meet in the specification and did not take exceptions.
- Idaho Falls Power diminished our offer by embellishing our exception list and further did not reference the same exceptions listed by our competition.

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- Idaho Falls Power did not give any weight to our competition's exceptions.
- Idaho Falls Power further created a new requirement not called for in the IFP specification or the referenced standard.

Protest Meeting May 29, 2007 and Review Dated June 1, 2007

- Idaho Falls Power now agrees two specification item exceptions are acceptable after Intermountain Traffic LLC proves the exceptions are the same as the competition.
- Idaho Falls Power retracts three of the four newly created items by Idaho Falls Power on their initial review.
- Idaho Falls Power creates a new requirement beyond the specification.
- **Only Four** items remain in question on bid item number one and **One Item** remains on bid item number two which are deemed to be cause for Idaho Falls Power to award to another supplier spending additional \$246,729.50. None of these items change the intent of the systems specification. Each of these items are addressed below:

Bid Item One

1. Section 6.3.3. At the protest meeting, a request beyond the specification was made by Jackie at Idaho Falls Power for Intermountain Traffic to provide a notarized letter from Naztec, the Manufacturer, indicating this requirement was met. A notarized letter was sent the day of the request indicating we meet and exceed all requirements stated under Page 10, Section 6.3.3 of the RFP.

The protest evaluation now indicates this response is not adequate with another new requirement. This requirement was not part of the Idaho Falls bid specification and should not be required after the bid. The new requirement is of the CRC check on isolated intersection not connected on the system.

2. Section 6.2.4. It should be first noted that both Intermountain Traffic and Econolite **BOTH** took exception to this specification bid item but not indicated so in the misleading evaluation. The evaluation does not mention that both suppliers will require rewiring of the cabinet and therefore both taking exception. The bid review further does not include the Intermountain Traffic LLC bid included the rewiring of existing cabinets where the Econolite bid did not. If both bids were evaluated equally and not biased, it would be VERY apparent the Intermountain Traffic LLC bid is actually better than the Econolite bid since our solution includes the labor to modify the cabinets where the Econolite offer does not include labor. Finally, if both proposals take exception and if both proposals require wiring changes due to the AC on the connectors in the existing cabinets, why is the Intermountain Traffic LLC bid considered to be non-responsive when the Econolite bid is acceptable?

3. Section 7.5.3. We wrote the following as a documented question for the mandatory pre-bid meeting:

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7.5.3. Sixteen (16) solid-state load switches shall be provided and shall contain a minimum of a 30 amp rated triac on each output. Each switch shall contain an indicator for each input and output on all three channels.

The NEMA TS2 standard calls for a minimum of rating of 10 amperes. While the NEMA TS2 is the minimum standard, we are not aware of a load switches manufacturer that use a triac rated at 30 amps. We are requesting one of the following:

- Manufacturer of this triac meeting this requirement as well as the NEMA specification.
- Load switch manufacturer meeting this requirement.
- Reduction in the rating to the NEMA standard rating of 10 amperes.

The reply we received at the mandatory pre-bid on Thursday, April 19, 2007 from Mr. Ken Marshall was to purchase these devices from our competition who was sitting two seats down from me at the meeting.

In our bid, we documented this specification item included parts which were no longer available and ratings beyond industry standard.

We discussed this further in the protest meeting. If Idaho Falls Power tells so strongly to have such a high rated device, we gave a very solid option for the City of Idaho Falls to simply purchase additional devices with this requirement. At the protest meeting, we gave the item quote from our competition, Northwest Signal, who Ken Marshall referenced at the pre-bid meeting. This biased bid review does not mention this option. If all cabinets were purchased on this contract, the additional cost for Idaho Falls is \$40,000 to purchase all 400 pieces from Intermountain Traffic's competitor as referenced by Mr. Ken Marshall.

4. As indicated in our exceptions section of our bid, the Naztec controllers contain a flexible and robust software program that is currently utilized throughout North America by hundreds of agencies. The Naztec controller software program provides flexibility without the need for external or internal logic processors separate from the Central Processor Unit (CPU) and therefore is not required on the Naztec controller.

There is no detail as to what this requirement is to be used for within the City of Idaho Falls. When asked for an example during the protest meeting, the only comment was flexibility in the future. We then discussed the following:

- Approximately 25,000 Naztec controllers are running traffic signal intersections in North America.
- Remapping capability is standard on the 2070 standard controllers, as opposed to the NEMA standard used by Idaho Falls, due to the limited number of input/output pins of 101 vs. 200 plus on NEMA.
- Naztec does have remapping capability on their 2070 standard software but it is not required on the NEMA controller.
- Our controller will **not** require the hiring of outside programmers as claimed by the Idaho Falls Power.

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Idaho Falls Power will not give any examples for this specification item other than flexibility in the future. Separate logic processors and these logic features are not industry standards and do not comply with (NTCIP) National Transportation Communications Interface Protocol as referenced in the Idaho Falls Power bid document and should not be heavily weighted in the bid evaluation.

Bid Item One – Econolite Exceptions

There are several more exceptions to the Econolite bid and some are substantial. On specification Section 8.4.14, the GIS file is to be supplied by the City of Idaho Falls to the successful bidder to develop a GIS based map of the system. A GIS based map system is a complex system that took Naztec many man years to develop into their system. The ICONS system from Econolite is not a GIS based system. Econolite did take exception to this specification item. Should this not be considered a major exception to the bid? Why was this not mentioned in the bid review?

Bid Item Two

The Idaho Falls Power bid evaluation indicates the Intermountain Traffic LLC bid for the 2.D module is non-compliant.

The proposed module, TP16H-CD, is compliant to the Idaho Falls Power specifications.

After the bid on May 8th, Ken Marshall at Idaho Falls Power added a new requirement to the Idaho Falls Power specification and required an **independent test lab report** on each LED module to certify the proposed modules meet the referenced ITE standard specification. This requirement is not part of the Idaho Falls Power specification, is not a requirement of the referenced ITE standard, and is therefore a new item requirement beyond the scope of this bid specification and should not be allowed.

In the protest meeting, the discussion was regarding the difference between an internal test report as opposed to the newly required independent test lab report. The protest evaluation done by Idaho Falls Power refers to testing but does not mention Ken Marshall's new requirement of an independent test lab report and is therefore misleading.

Attached is a test report from the manufacturer indicating compliance to the referenced specification of ITE PTCSI Part 2.

The non-compliant statement made in the Idaho Falls Power bid evaluation is not correct and the award should be given to Intermountain Traffic, LLC.

In the 25 years of doing business in the traffic signal industry, neither my business partner nor myself have ever protested an award on any bid. We feel this recommendation for award is so misleading and biased that we are compelled to protest to the Mayor and City Council of Idaho Falls, Idaho.

Thank you for your anticipated cooperation to a fair evaluation of our bid.

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If there are any questions, please do not hesitate to contact us.

Sincerely,

Scott G. Meyerhoff
Intermountain Traffic LLC
smeyerhoff@intermountaintraffic.com

Attachment – Test Report of LED Pedestrian Signal Module (14 Pages) on file in the City Clerk’s Office, 308 Constitution Way, Idaho Falls, Idaho

The following “Bid Evaluation” from Idaho Falls Power staff was provided and entered into the record as follows:

Bid Evaluation

Item One. Controllers, Cabinets, Server-Based Control Management Package, MMU’s and Communications Equipment to be awarded to **Econolite Control Products, Inc.**

Basis for rejection of proposal by Intermountain Traffic LLC.

2.0 General Requirements

Bids that propose equipment or software failing to meet the technical specifications shall be deemed non-responsive and may be rejected.

When exceptions are taken, the bidder shall include a statement of why the bidder believes the equipment and/or software is equivalent to or better than the equipment specified. This section provides that the City shall determine whether the equipment is equivalent to or better than the specification based upon the City’s best interest.

Intermountain Traffic LLC takes exceptions to the below specification requirements that IFP deems necessary for providing traffic control not only for the present but for the distant future.

Exceptions taken by Intermountain Traffic LLC:

6.2.4 Controller minimum requirements – Intermountain Traffic takes exception to requirement are specified. Intermountain Traffic proposal would require rewiring of the cabinet which is specifically prohibited in the specification. Specification is specific and states non-compliance shall be cause for proposal to be deemed non-responsive. Exception offered by Intermountain is not equal to equipment specified. Intermountain proposal based on this requirement is deemed non-responsive.

6.2.7 Intermountain Traffic takes exception to providing a separate logic processor in the operational hardware and software. Information on the software’s ability to meet the specification (minimum 200 logic statements stored with specific logic statements) is not provided. Intermountain does not offer a logic processor as required. Intermountain proposal based on this requirement is deemed non-responsive.

6.2.8 Exception taken by Intermountain Traffic LLC is acceptable.

7.5.3. Cabinet Controls and Control Devices – Intermountain Traffic takes exception to providing IFP required 30 amp triac as the current source of the field indications of the load switch packs, offering the standard load switch citing that it meets the industry standard as the reason. Industry standards are minimum standards. IFP reserves the right to require and receive items in excess of minimum standards based on experience; the specification was developed with that experience in mind. The exception offering by Intermountain (25 amp) is not equal to requirement specified. Intermountain Traffic proposal based on this requirement is deemed non-responsive.

13.3 Intermountain Traffic takes exception to the required ports. Exception is not acceptable for meeting future needs due to addition of cameras and programmable message sign utilizing IFP dedicated fiber.

13.4 Intermountain Traffic takes exception to the required ports. Exception is not acceptable for meeting future needs due to addition of cameras and programmable message sign utilizing IFP dedicated fiber.

Items deemed not meeting specification by IFP staff but exceptions not taken by Intermountain Traffic LLC:

Please note, per 2.0 General Requirements, failure to include the non-compliance requirements for any non-compliant item of equipment or software will be grounds for rejection of the bid as non-responsive.

6.1 Controller Specifications

The specification states that the controller shall be at or near the beginning of its life cycle. It also states that the controller offered shall not have been in use for more than 3 years. Intermountain took no exception to this requirement. Schematic drawings provided by Naztec show that the hardware of the controller dated in 1997. This makes the controller offer 10 years old, Intermountain Traffic is not in compliance with this section. General Requirements 2.0 states that failure to include non-compliance requirements for any non-compliant item or equipment or software will be grounds for rejection of the bid as non-responsive. Intermountain Traffic proposal based on this requirement is deemed non-responsive.

6.3.3 Controller documentation submittals provided by Intermountain Traffic do not indicate an ability to provide a CRC check on 8 pins of the D connector, indicating non-compliance with this portion of the specification.

6.3.5 Controller documentation submittals provided by Intermountain Traffic do not indicate an ability to inhibit the overlap red indication, indicating non-compliance with this portion of the specification.

7.1.2 Submittal provided by Intermountain Traffic does not reference the cabinet being U. L. approved, indicating non-compliance with this portion of the specification.

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In conclusion, Intermountain Traffic LLC takes exception to IFP requirements for which two other bidders meet or exceed the requirements by IFP. Under 2.0 General Requirements, non-compliant equipment and/or software determined by the City of Idaho Falls to not be equivalent or better WILL be rejected and deemed non-responsive. Therefore the proposal by Intermountain Traffic LLC is rejected and deemed non-responsive for all of Item 1 in the City of Idaho Falls Invitation to Bid Number: IF-07-12.

Item One exceptions taken by Econolite were minimal and primarily focused on computer operating system (8.0). Econolite (along with other bidders) identified an exception on the AC interconnect for the D connector. IFP has determined these exceptions are acceptable.

Item Two. LED indication modules to be awarded to **Advanced Traffic Products, Inc.**

Intermountain Traffic proposed non-compliant module for Item 2.D. and requested that IFP change the module to one that did comply. Intermountain Traffic proposal for all of Item 2 is rejected.

Northwest Signal provided report for same Item 2.D. with a report that was not a certification verifying compliance. Northwest Signal proposal for all of Item 2 is rejected.

Note: IFP used the ITE standard specification as the basis for the specification in this bid. Therefore, this independent certification is required.

Item Three. Pre-emption and detection equipment contract to be awarded to **Advanced Traffic Products, Inc.**

Item Four. Service pedestals and UPS pedestals contract to be awarded to **Northwest Signal Supply, Inc.**

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to accept the low bid meeting specifications as listed on Attachment "A"; reject the apparent low bid for Item 1 submitted by Intermountain Traffic, LLC which did not meet the required specification as described on Attachment "B"/Appendix I provided by Idaho Falls Power; and reject the bid from Northwest Signal Supply, Inc. for Item 2 as presented in the memo from the Municipal Services Director. Roll call as follows:

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

Nay: None

Motion Carried.

JUNE 7, 2007

The Police Chief submitted the following memos:

City of Idaho Falls
June 4, 2007

MEMORANDUM

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

I respectfully request approval of the attached Ordinance amending Section 5-10-7 of the City Code of Idaho Falls, Idaho; providing changes to the time frame in which a denied applicant can re-apply for a kennel license. This Ordinance Amendment will be presented for your approval at the City Council Meeting of Thursday, June 7, 2007.

s/ J. K. Livsey

Councilmember Lyon expressed his concern that an applicant, upon making a material change in their circumstances, should be able to re-apply sooner than one year from the date of application.

Irene Brown, Animal Control Supervisor, 2405 South Charlotte Drive, appeared to question what the material change in circumstances would entail. She stated that she was not certain that material changes could be made within a short period of time that the residents would be happy with. It takes approximately six to eight weeks from the date of application to conduct the required survey of neighbors. Seventy-five Percent (75%) of the surrounding neighbors within 200 feet of the property line need to approve the applicant to have a kennel license. Ms. Brown explained, further, that she has established a policy that would allow a denied applicant, upon making a significant change, to request a re-poll of the neighbors within 20 days of the denial. That 20-day period also allows the applicant to get rid of the additional dogs that were denied in the application process, before a citation is issued. She stated that when a person applies for a kennel license, she advises them to talk to their neighbors about their plans. This allows for the neighbors to understand what the applicant is planning to do.

Councilmember Lyon requested to have a provision placed in the ordinance that would allow a lesser time frame should a substantive material change be made in the applicant's circumstances.

The City Attorney stated that he shared Ms. Brown's concern in that it would be very difficult to determine what a material change is, and should a material change be made whether it has been made for a long enough period of time. To render this type of provision meaningful, the applicant would have to appear before the City Council under an appeal. That wording would also have to be included in the Ordinance Amendment. The City Attorney explained that as a general rule, the Police Department is very respectful of peoples circumstances. They try to solve the problem before it occurs. The Police Department will only issue citations when it is absolutely necessary. There are circumstances where this Ordinance Amendment is very helpful.

Councilmember Lyon stated that he appreciated the work that Irene Brown has done on this Ordinance Amendment, but he would not be able to support this Ordinance Amendment.

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

JUNE 7, 2007

ORDINANCE NO. 2702

AN ORDINANCE AMENDING SECTION 5-10-7 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR THE TIME FRAME IN WHICH A DENIED APPLICANT CAN RE-APPLY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Cornwell 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 Groberg
Councilmember Hally
Councilmember Lehto
Councilmember Cornwell
Councilmember Hardcastle

Nay: Councilmember Lyon

Motion Carried.

City of Idaho Falls
June 4, 2007

MEMORANDUM

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

I respectfully request approval of the attached Ordinance amending Section 5-9-4 of the City Code of Idaho Falls, Idaho; providing for further conditions constituting cruel impoundment of animals. This Ordinance will be presented for your approval at the City Council Meeting of Thursday, June 7, 2007.

s/ J. K. Livsey

Councilmember Groberg commented that he had no idea why the City Council would want to pass such a broad series of criteria for treatment an animal. Each item could be the subject of argument, such as "proper shelter and protection from the weather, appropriate veterinary care to prevent suffering and the spread of disease, a sanitary living environment, or who otherwise confines or houses the animal in an inhumane environment or manner, and fails to protect the animal from known abuse". He requested to know what each of these items meant.

Councilmember Cornwell stated that the Police Chief has received complaints regarding people who have their animals in tight quarters and not allowing them to be out

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of that confinement very often for exercise. She stated that she knows that this is written broadly, but it is better than what is in the City Code at this time.

Councilmember Groberg stated that he would like to allow the City to enforce some Ordinance that would rescue animals that are being treated in a manner that is wrong. This Ordinance Amendment is too open-ended. He would like to have it more concise and to the point.

The City Attorney stated that Councilmember Groberg has a legitimate concern. He stated that he had the same concern when he reviewed the amendment. Having wrestled with this issue for a time, he stated that he was not sure that he could define it better than what this amendment does.

Irene Brown gave an example of a circumstance that took place last summer. A dog was left in the yard. There was no where to go to get out of the sun, but the dog had food and water. The dog died due to being overheated and not having anywhere to go to get out of the sun. Animal Control could not cite the owner, as the Ordinance only addressed the dog having food and water. Ms. Brown stated, further, that Animal Control would only require shade for the dog. She explained that she reviewed the Ordinances from Boise, Salt Lake City, Pocatello and the State Statute to provide the wording for this Ordinance Amendment. She stated, further, that Animal Control does not write a citation on the first instance. They give the owner of the dog a ten-day warning and instruction as to what to do to comply with humane treatment of animals. At the end of that ten days, if the conditions have not improved, then a citation is written.

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5-9-4 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR FURTHER CONDITIONS CONSTITUTING CRUEL IMPOUNDMENT OF ANIMALS; PROVIDING FOR METHODOLOGY, SEVERABILITY; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Cornwell seconded, that the Ordinance be passed on the first reading only. Roll call as follows:

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

Nay: Councilmember Lyon

Motion Carried.

The Public Works Director submitted the following memos:

JUNE 7, 2007

City of Idaho Falls
June 4, 2007

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – BONITA PARK ADDITION, DIVISION
NO. 1/PHILIPS EDISON ADDITION

Owners of property with utility easements in Bonita Park Addition, Division No. 1/Philips Edison Addition, have requested vacation of certain easements in exchange for recently platted easements.

Public Works requests authorization for the City Attorney to prepare documents needed to vacate these easements.

s/ Chad Stanger

It was moved by Councilmember Lyon, seconded by Councilmember Lehto, to give authorization for the City Attorney to prepare the documents necessary to vacate an easement in Bonita Park Addition, Division No. 1/Philips Edison Addition. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
June 4, 2007

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: RIGHT-OF-WAY VACATION – PORTION OF PAYNE STREET
AND ALLEY LOCATED IN BLOCK 13, MAYFLOWER ADDITION

As previously authorized, the City Attorney has prepared documents needed to vacate a portion of Payne Street and alley right-of-way located in Block 13, Mayflower Addition.

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

s/ Chad Stanger

JUNE 7, 2007

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

ORDINANCE NO. 2703

AN ORDINANCE VACATING A PORTION OF PAYNE STREET AND A PORTION OF THE ALLEY IN BLOCK 13 OF THE MAYFLOWER ADDITION WITHIN THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING SAID STREET AND ALLEY; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ON BEHALF OF THE CITY A QUITCLAIM DEED CONVEYING THE VACATED STREET AND ALLEY TO THE OWNERS OF THE ADJACENT LAND, AND NAMING THEM; PROVIDING FOR EFFECTIVE DATE OF THE ORDINANCE.

The foregoing Ordinance was presented by title only. Councilmember Lyon moved, and Councilmember Lehto 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 Lehto
Councilmember Lyon
Councilmember Hardcastle
Councilmember Groberg
Councilmember Hally
Councilmember Cornwell

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Groberg to conduct a public hearing regarding the Annual Report for the City of Idaho Falls Community Development Block Grant (CDBG) Program. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
June 5, 2007

MEMORANDUM

TO: Mayor and Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNUAL REPORT – COMMUNITY DEVELOPMENT BLOCK GRANT

Attached is the Annual Report for the Community Development Block Grant. Comments will be received on this annual report until June 22, 2007, and a resolution adopting the annual report will be presented on June 28, 2007.

s/ Renée R. Magee

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Jan Blickenstaff, Grants Administrator, appeared to present the following information:

- Slide 1 Listing of Major Accomplishments for 2006 CDBG Program:
 - Highland Park Street Paving
 - Housing Rehab Program started
 - Habitat for Humanity home constructed
 - Neighborhood Cleanup Program expanded
 - TRPTA Handicapped Access Bus purchased
 - Second Playground made accessible
 - Uptown Trailer Park Relocation Assistance provided
 - Downtown Façade Program started
 - IFDDC BID Renewal Petitions
 - Yellowstone Highway Median Landscaping designed
- Slide 2 Every CDBG Project must meet the Department of Housing and Urban Development National Objectives
- Slide 3 Four main priorities:
 - Community Development Priority
 - Economic Development Priority
 - Housing Development Priority
 - Public Service Priority
- Slide 4 LMI Neighborhood Map
- Slide 5 Financial Summary
- Slide 6 Financial Summary, continued
- Slide 7 City of Idaho Falls Neighborhood Cleanup
- Slide 8 Eastern Avenue Parking Lot completed in first year
- Slide 9 Highland Park Paving – Canyon Avenue - Before
- Slide 10 Highland Park Paving – After
- Slide 11 Aerial Photo showing areas that were paved in Highland Park
- Slide 12 Habitat for Humanity house
- Slide 13 House on South Water Street after Handicapped Ramp was added
- Slide 14 Eagle Rock Playground
- Slide 15 Uptown Trailer Park
- Slide 16 Overall Plan for the Idaho Falls Downtown Development Corporation for the Urban Design Consultant's Study
- Slide 17 Proposed Yellowstone Median Landscaping Project
- Slide 18 Façade Project – Chesbro's
- Slide 19 Façade Project – Raymond Jones Financial
- Slide 20 Façade Project – Repaint Old Grand Hotel
- Slide 21 Façade Project – MusiCare Instrument Company
- Slide 22 Façade Project – Corner of Broadway and Park Avenue
- Slide 23 Façade Project – Salisbury Building
- Slide 24 Façade Project – Snake Bite Restaurant
- Slide 25 Façade Project – Park Avenue Antique Mall

Councilmember Cornwell expressed her appreciation for Eastern Idaho Community Action Partnership (EICAP) transferring \$50,000.00 to assist the Uptown Trailer Park residents. This helped many of the residents move into first home ownership. Councilmember Cornwell also questioned what it would take for the remainder of property owners in the downtown area to apply for the 75/25 match for façade improvements.

Mr. Blickenstaff is checking with property owners every two weeks to determine what progress they are making with the façade improvements.

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Councilmember Lyon requested to know whether additional grant funds will be used to continue the remainder of the paving project in the Highland Park Addition.

Mr. Blickenstaff stated that the City Council could direct him to hold additional funds for such projects. The City Council has not done that. There is a high cost in continuing the paving project. It would take approximately \$1,200,000.00 to complete the paving on the other eight blocks remaining in the Highland Park area. The issue is not the "willingness" to complete the paving; it is that the Community Development Block Grant is not large enough to tackle such a big project.

Councilmember Lyon stated that he would like the paving project to move forward, even if small increments could be saved each year.

Councilmember Groberg stated that if the City Council devoted \$200,000.00 every year to complete the paving in this area, it would take many years to accomplish that task. He questioned whether this would be the best use of the funds.

Dennis Patterson, 2965 Bluebird Lane, appeared to state that he was pleased to hear the discussion with regard to unpaved streets. Having grown up in the Highland Park neighborhood, this issue was dear to his heart. He encouraged the City Council to continue to pave the streets in that area. He understood that this would have to be done in a graded approach. It may not make sense to pave the streets where there is only one home. The community would need to look at this and make sound decisions where the paving would make sense.

There being no further comment either in favor of or in opposition to the Annual Report for the Community Development Block Grant, Mayor Fuhriman closed the public hearing.

Councilmember Hally stated that there is a fifteen-day written comment period for any further concerns. These could be submitted to the Grants Administrator, Jan Blickenstaff.

Mayor Fuhriman requested Councilmember Groberg to conduct a public hearing for consideration of a rezone of 9.817 acres from R-3A (Apartments and Professional Offices) to R-3A with a PUD Overlay (Apartments and Professional Offices with a Planned Unit Development Overlay) of property located generally south of East Sunnyside Road, north and west of Woodking Drive, west of South 25th East (Hitt Road), east of Crestwood Lane and legally described as First Amended Valencia Park Addition, Division No. 1. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
June 3, 2007

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR A PUD OVERLAY AND FINAL PLAT – FIRST AMENDED PLAT OF VALENCIA PARK ADDITION, DIVISION NO. 1

Attached is the request for a Planned Unit Development Overlay and approval of a Final Plat entitled First Amended Plat of Valencia Park, Division No. 1. The property owner is requesting to subdivide one lot into three lots, two of which will not have access to a public road. Therefore, the owner is requesting a Planned Unit Development Overlay. When and if Lots 2 and 4 of this property are developed, a site plan for the planned unit development will be

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submitted and public hearings held. The Planning Commission, at its May 1 Meeting, recommended approval with the condition the covenants be amended to reflect the new legal descriptions. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this Planned Unit Development Overlay and Final Plat request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Aerial Photo Close-Up showing Final Plat
Slide 4	Comprehensive Plan
Slide 5	Final Plat under consideration
Exhibit 1	Planning Commission Minutes dated May 1, 2007
Exhibit 2	Staff Report dated May 1, 2007
Exhibit 3	Copy of Vicinity Map
Exhibit 4	Copy of Final Plat

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to state that the owner is considering this development to be a housekeeping matter. He could build a little less as he would have side yards involved. A concern has been expressed that the owner has plans to create a dense population of buildings, and that is not the case. Neighbors have expressed their concerns that this development would cause the extension of Channing Way (Crestwood Lane). This land is already part of a Preliminary Plat that is designed to connect through this area. It is not under this ownership. Mr. Kofoed explained the existing 35-foot public easement in this location.

The Planning and Building Director appeared to state that the easements for the path on Sand Creek are on the east side of Sand Creek through the commercial development.

There being no further discussion in favor of or in opposition to this rezoning request, Mayor Fuhrman closed the public hearing.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the rezone of 9.817 acres from R-3A (Apartments and Professional Offices) to R-3A with a PUD Overlay (Apartments and Professional Offices with a Planned Unit Development Overlay) of property located generally south of East Sunnyside Road, north and west of Woodking Drive, west of South 25th East (Hitt Road), east of Crestwood Lane and legally described as First Amended Valencia Park Addition, Division No. 1 and, further, that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

Aye:	Councilmember Groberg Councilmember Hally Councilmember Lyon Councilmember Lehto Councilmember Cornwell Councilmember Hardcastle
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Nay:	None
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Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to accept the Final Plat entitled First Amended Plat of Valencia Park Addition, Division No. 1 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Hally to conduct a public hearing for consideration of a Conditional Use Permit for Teton Pilates Studio, Alpine Tailoring, and Tammy's Tailoring in an R-3A (Apartments and Professional Offices) Zone located generally south of Cleveland Street, north of Gladstone Street, east of Holmes Avenue, west of Freeman Avenue, and legally described as Lots 20-24, Block 23, Capitol Hill Addition. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
June 3, 2007

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT, R-3A ZONE -
LOTS 20-24, BLOCK 23, CAPITOL HILL ADDITION

Attached is the request for the commercial uses, Teton Pilates Studio, Alpine Tailoring, and Tammy's Tailoring, to be located as a Conditional Use Permit on Lots 20-24, Block 23, Capitol Hill Addition. This property is zoned R-3A and the Zoning Ordinance allows uses permitted in the RSC-1 Zone under a Conditional Use Permit. The Planning Commission, at its May 1 Meeting, recommended approval with the conditions no more than six clients be permitted at any one time at the Pilates Studio and, as requested by the Fire Marshall, letters be submitted describing the nature of the businesses. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this Conditional Use Permit request:

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Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo of site
Slide 3	Site Photo showing building – northern elevation
Slide 4	Site Photo showing homes east of the site
Slide 5	Site Photo showing parking lot to the rear of the building
Slide 6	Site Photo showing Holmes Avenue elevation
Slide 7	Site Photo showing existing uses – Hours of Dental Office
Slide 8	Site Photo showing existing uses – Hours of Counseling Center
Slide 9	Site Photo showing existing uses – Mortgage Company which is closest to homes
Slide 10	Conditional Use Permit Request
Exhibit 1	Planning Commission Minutes dated May 1, 2007
Exhibit 2	Staff Report dated May 1, 2007
Exhibit 3	Copy of Vicinity Map
Exhibit 4	Copy of Applicant’s Materials

The Planning and Building Director explained, further, that a Conditional Use Permit can be granted to a specific business to be conducted in an R-3A Zone at a specific address, but it has to be an existing building. The business has to be in the building without significant exterior remodeling. After reviewing this request, staff found that it was in compliance with those standards. The Planning Commission conducted a lengthy public hearing on this Conditional Use Permit request and recommended that these uses do meet the nature of an R-3A Zone and a Conditional Use Permit should be permitted to these three specific businesses.

Anna Larson, 220 Lincoln Drive, appeared to state that she owns the Pilates business. She stated that her business operates as a professional service. She never has more than six clients at one time. There is plenty of parking for her business. Her hours are at times when the other businesses in the area are typically closed.

Dennis Hendricks, 646 Crestview Avenue, appeared as the owner of the building. He stated that he has owned the buildings since the mid-1970’s. Over time, the needs for the building have changed. They used to be doctors offices, dentists offices, and business machines offices. In renting these offices, he has tried to meet the needs of the community while staying within the bounds of the R-3A Zone. Mr. Hendricks requested the City Council to approve this Conditional Use Permit.

There being no further discussion either in favor of or in opposition to this Conditional Use Permit request, Mayor Fuhriman closed the public hearing.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Conditional Use Permit for Teton Pilates Studio, Alpine Tailoring, and Tammy’s Tailoring in an R-3A (Apartments and Professional Offices) Zone located generally south of Cleveland Street, north of Gladstone Street, east of Holmes Avenue, west of Freeman Avenue, and legally described as Lots 20-24, Block 23, Capitol Hill Addition. Roll call as follows:

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

Nay: None

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Motion Carried.

There being no further business, it was moved by Councilmember Lyon, seconded by Councilmember Groberg, that the meeting adjourn at 9:00 p.m.

CITY CLERK

MAYOR
