

AUGUST 22, 1962

The City Council of the City of Idaho Falls met in Recessed Regular Session, Wednesday, August 22, 1962 at 8:00 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said Meeting: Mayor W. J. O'Bryant; Councilmen Leahy, Creek, Foote; absent, Councilman Page. Also present: Roy C. Barnes, City Clerk; George Barnard, City Attorney; Don Lloyd, Public Works Director; Luther Jenkins, Controller; Harold Davis, Electrical Engineer; Alva Harris, Building Official.

In the interests of time, the reading of the minutes of the last meeting were dispensed with.

The Mayor announced that this was the time and the place for a public hearing, as advertised, on certain areas in need of zoning or rezoning.

First to be considered were Lots 29, 30, 31, and 32, Block 22, Orlin Park Addition, Division #6. There were no protests. It was moved by Councilman Foote, seconded by Creek, that these Lots be zoned R-1. Roll call as follows: Ayes, 3; No, None; carried.

Next were Lots 26, 27, and 28, Block 22, Orlin Park Addition, Division #6. There were no protests. It was moved by Councilman Leahy, seconded by Creek, that zoning action on these Lots be tabled, pending further discussion with the Planning Commission, and also further study on the part of the Council on the grounds that the proposed R-3 would represent spot zoning. Roll call as follows: Ayes, 3; No, None; carried.

The next area for rezoning consideration was described as follows: Lots 38, 39, and 40, Block 49, Crows Addition. There were no protests. It was moved by Councilman Leahy, seconded by Creek, that these Lots be rezoned from R-1 to C-Limited. Roll call as follows: Ayes, 3; No, none; carried.

Lot 1 and the North 55 feet of Lot 2, Block 2, Edgemont Gardens Addition, Division #1 was then reviewed for possible rezoning. There were no protests. It was moved by Councilman Creek, seconded by Leahy, that this area be rezoned from R-2 to R-3. Roll call as follows: Ayes, 3; No, None; carried.

Last to be considered for zoning was the following areas, described in a metes and bounds legal description:

Beginning at a point on Section line lying 697.4 feet East of the SW corner of the SE $\frac{1}{2}$ SW $\frac{1}{4}$ Section 8, T2N, R38, E.B.M., said point being on the Northwesterly Right-of-Way line of the North Yellowstone Highway, and running thence N 50°54' E 315 feet more or less; thence N 38°48'06" W 164 feet; thence N 50°45' E and parallel to said highway 575.4 feet, to the North South centerline of Section 8; thence N 0° 39' W along said centerline, 46.06 feet; thence N 50° 45' E and parallel to said highway 130 feet more or less; thence N 23° 54' W 192.6 feet; thence N 50°45' E 701 feet; thence S 23°54' E 493.3 feet; thence S 39°15' E 20 feet to the Southeasterly Right-of-Way line of the aforesaid highway; thence S 2°12' E 975.80 feet to the North Right-of-Way line of the Lincoln Road; thence East 20 feet; thence N 2°12' W 341.7 feet; thence N 69°08' E 566.7 feet more or less to the Westerly bank of the Idaho Canal; thence in a Southerly direction along said canal bank, 657 feet more or less to the South line of Section 8, and said point lying 1,122 feet more or less, East of the South $\frac{1}{4}$ corner of Section 8; thence West along the South line of Section 8, 546 feet; thence N 2°31' W 779 feet to the Easterly Right-of-Way line of North Yellowstone Highway; thence S 50°45' W along said Right-of-Way line 319.6 feet; thence S 0°09' E 578.5 feet to a point of the South line of Section 8, said point lying 293.3 feet East of the South $\frac{1}{4}$ corner of Section 8; thence West along the Section line 908 feet more or less to the point of beginning, containing 42 acres, more or less.

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Beginning as a point that is S 89° 31' 30" E 639.7 feet from the SW corner of Section 8, T2N R38, E.B.M.; and running thence N 19° 31' 30" E. 232.75 feet; thence S 89° 31' 30" E and parallel to the South line of Section 8, 379.5 feet; thence S 0° 06' E, 220.01 feet, to the South line of Section 8; thence N 89° 31' 30" W, 457.16 feet, more or less, to the point of beginning, containing 2.113 acres.

No protests were registered. It was moved by Councilman Leahy, seconded by Foote, that these areas be zoned H-C L'td. Roll call as follows: Ayes, 3; No, None; carried.

This concluded the zoning hearing portion of the meeting. The Mayor instructed the Building Official to incorporate the foregoing zoning hearing portion of the meeting. The Mayor instructed the Building Official to incorporate the foregoing zoning or rezoning on the official map, located in his office.

The Mayor announced that this was the time and the place for a public hearing, as advertised, relative to the construction of a night lighted soft ball field and recreation area, as requested on a petition by Grant and Florence Packer, on property legally described as Lots 8 to 19 inclusive, Block 14, Lots 1 to 7, inclusive, Block 15, Packer Addition, Division #3.

Mr. Hugh Jennings, 1135 Koster, appeared before the Council and presented a petition with 164 signers, which read as follows:

P E T I T I O N

We protest the proposed construction and operation of a night-lighted softball field (Recreation Area), at the L.D.S. future church site on Twelfth Street - on land described as Lots 8 to 19, inclusive, of Block 14, and Lots 1 to 7, inclusive of Block 15, Packer Addition, Division No. 3, Idaho Falls, Idaho

The undersigned, property owners and residents in the vicinity of the proposed recreation area are opposed to this installation. The lights, dust, noise, traffic and confusion of a night athletic program will seriously interfere with the use, possession and enjoyment of our property.

We feel the use to which the athletic field will be put, and the projected use of the athletic field is in violation of the City Zoning Ordinance and constitutes a nuisance.

We respectfully request the City Council to prohibit the use of the premises as proposed by the sponsors of the plan.

As a means of determining the ones in the Council Chambers who were present to protest said recreation area, it was requested that those in that category stand. Thirty four were counted, all signers of the foregoing petition.

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Mr. Reed Bowen, local attorney, appeared in behalf of the petitioners favoring the recreation area. It was learned that he was, in fact representing the LDS Church whose intention it was to construct said recreation area. In answer to a question as to why, then, was the petition signed by the Packers instead of the Church, Mr. Bowen then commented that it wasn't the intention of the Church to construct a recreation area if it was to be justifiably, reasonably, and overwhelmingly protested by the nearby residents. However, he said, the Church was of the opinion that this would be an asset to the entire community. There would be no dust problem, he continued, as the surface would be blacktop or grass.

The Church, he said, would be willing to cooperate with the City on the lights, even to the point of effecting a 10:00 P.M. curfew. He said the area would be available to all the public. The school District, he explained, intended to construct a school on an adjacent area by September of 1963. Several questions and comments were directed to Mr. Bowen, including the following: How can this be considered a public playground when operated by the Church? What is meant by the work temporary as used in the petition? What assurance would the Community have that the area could be used by the public? Has the Church considered the possibility of establishing future recreation areas outside the City limits, where nearby residents pose no problem? Only one nearby property owner was represented as a petition signer. Nearby residents purchased their residential property with full assurance that at no time in the future would they be subjected to disturbances of this nature.

Mr. Bowen answered or replied to all of these question and comments and concluded by saying that, in view of the obvious objections, he was authorized to say that the Church would concede the lighted feature of the recreation area.

Most of those who had previously registered protests then re-emphasized their position that they were protesting the recreation area in its entirety, not simply the lighted feature.

It was then moved by Councilman Leahy, seconded by Creek, that the Grant Packer petition as presented be denied in its entirety because of the numerous protests to the recreation area in question and on the grounds that the development would represent, in its truest sense, something other than a recreation area for public use. Roll call as follows: Ayes, 3; No, None; carried.

The Mayor referred to certain petitions or appeals presented to the Board of Adjustments and considered at their July 30th meeting together with the Board's recommendation.

First to be considered was the following:

SECOND PETITION:

A petition was presented by Earl Nelson requesting a change of zone on the South 65 feet of Lots No. 45, 46, 47 and 48 of Block 63, Brodbeck's Addition. The purpose of this petition was to construct a building to be occupied by a commercial dry cleaning plant, operated by Golden Nelson. Earl Nelson's petition was tabled until Mr. Nelson could get the signature of the people in Block Nos. 63 and 64 of the Crows Addition and Block No. 1 and 2 of the Brodbeck's Addition on both sides of 17th Street, from South Boulevard to Emerson Avenue, one half block deep. The Board felt that this would be approved and passed so as to zone a larger area and eliminate spot zoning. Carried.

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It was moved by Councilman Foote, seconded by Creek, that the request be denied on the grounds that Mr. Nelson had failed to obtain the signatures as indicated. Roll call as follows: Ayes, 3; No, None; carried.

Next to be considered was the Fullmer appeal, as follows:

FIRST APPEAL:

An appeal made by Estus R. Fullmer was presented to the Board in order to get permission to build a garage 1 foot from the East property line to have a better and safer entrance to the garage from the driveway, if the building was required to setback 5 feet from the East property line it would create a hardship and not afford proper utilization of the property. This would be on the East 22 feet of Lot 11, West 33 feet of Lot 12, Depth 133 feet from the Street to the alley, Rappleye Addition, Block 12. Fullmer's appeal was granted because at the time the Rappleye Addition was developed all the homes were located in the center of the lots and at that time they made no provisions for garages. Due to the limited clearance on the side property line to erect a garage the Board approved this appeal and a motion was made by Orland Buck that this be granted, seconded by Grover Bennett. Approved and carried by the Board.

It was moved by Councilman Creek, seconded by Leahy, that the request be granted for the reasons as stated. Roll call as follows: Ayes, 3; No, None; carried.

The last appeal from the Board of Adjustments and their recommendation was read as follows:

SECOND APPEAL

An appeal was made by Mr. Lavon Nichels of 457 "L" Street to build a second living unit on the front portion of Lot 9, Block 92, Riverside Addition. The Board felt that because this home was being located next to the alley there would be ample room to construct this living unit and that a new residence on the front of this property would be an improvement and asset to the area. This motion was made by Dick Poitevin, seconded, and unanimously approved by the Board. Carried.

It was moved by Councilman Leahy, seconded by Creek, that the request be granted for the reasons as stated. Roll call as follows: Ayes, 3; No, None; carried.

Dr. Robert Butz, 193 E. 21st Street, appeared before the Council and presented a petition with 431 signers, together with a covering letter, as follows:

Idaho Falls, Idaho
August 22, 1962

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL:

Gentlemen:

AUGUST 22, 1962

The attached petition is submitted to you in the hope and belief that you share our concern for the serious sewer problem confronting the City and that you are as anxious as we are to arrive at a satisfactory solution.

This petition is not to be construed as an acceptance of any plan previously submitted by the City to any residents of this area, inasmuch as many of us are not familiar with the provisions of such a plan.

In requesting that "steps be taken to initiate and improvement district", we understand that the City will call a public hearing to advise us what can be done and how it may be financed. WE DO NOT INTEND THAT THE SIGNATURES ON THIS PETITION IN ANY WAY OBLIGATE PROPERTY OWNERS TO ANY ASSESSMENT WHATEVER UNTIL THEY HAVE HAD AN OPPORTUNITY TO THOROUGHLY CONSIDER THE CITY'S PROPOSAL AND HAVE BEEN ADVISED OF THE AMOUNT OF ANY ASSESSMENT INVOLVED THEREIN.

Page 1 of a petition

**PETITION TO THE MAYOR AND COUNCIL OF THE CITY OF
IDAHO FALLS, IDAHO
AUGUST 1962**

We, the undersigned property owners in the Brodbeck Addition and certain other Additions immediately adjacent thereto, most urgently request that the City initiate steps to create an improvement district at the earliest possible time for the purpose of installing a system of adequate storm sewers in this repeated flooding of homes with raw sewage following even brief heavy rains has resulted in untold hardship and expense. More important, it is impossible to assess the magnitude of the public health hazards. We are aware that a similar situation exists in many areas of the City and that a City wide study will soon be undertaken. However, inasmuch as the City Engineer's Office has already formulated a plan for this district, we request that remedial action in this area not be delayed pending the study for the rest of the City, but that it proceed at once . . . provided a plan acceptable to the property owners can be devised, for the purpose of financing this work.

We understand that work undertaken in an improvement district must be financed at least in part by assessment against the property owners in the area. In this connection we wish to make our position clear. We feel that the problem with which we are faced should never have existed. Surface water has been consistently diverted to sanitary sewers probably already being overtaxed by the rapid construction of new homes. The resulting flooding situation has been permitted to grow increasingly worse, in spite of the fact that it undoubtedly could have been corrected years ago at a fraction of today's cost. We believe the City stands in grave error in this regard.

However, our concern is not to establish blame, but to arrive at a workable solution immediately. We have been advised by you that it is impossible for this work to be financed

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with City funds alone . . . therefore it would seem that if we are to protect our families from further serious threat to their health and well being, and if we are to preserve the financial investment we have in our homes, we have no alternative but to consider an improvement district. We believe that it will be possible to secure the cooperation of a majority of property owners involved and that they will agree to a reasonable participation in this project. As our elected representatives we believe you will give this petition your immediate and careful consideration and advise us concerning the action you will take.

City Attorney Barnard spoke briefly as to the necessary engineering and legal steps, preparatory to the formulation of an improvement district.

After some discussion and comment, it was moved by Councilman Foote, seconded by Creek, that this matter be referred to the Engineering Department with instructions to take immediate action to determine boundaries of this proposed improvement district and to report to the City Council with their findings and recommendation. Roll call as follows: Ayes, 3; No, None; carried.

License applications for GROCERY STORE (change of ownership only) for Albert Jensen, JOURNEYMAN ELECTRICIAN (previously approved by the Electrical Inspector) Melvin C. Green and Kay Thurman, were presented. It was moved by Councilman Creek, seconded by Leahy, that these licenses be approved. Roll call as follows: Ayes, 3; No, None; carried.

License application for BEER (change of ownership only) for Albert V. Jenson was presented. It was moved by Councilman Leahy, seconded by Foote, that this license be granted, subject to the approval of the Chief of Police. Roll call as follows: Ayes, 3; No, None; carried.

The following damage claim was read by the City Clerk:

August 22, 1962

To the Honorable Mayor and City Council
Idaho Falls, Idaho

Gentlemen:

This morning, August 22nd, 1962, at approximately 10:00 A.M., my wife was driving eastbound on West Broadway and was stalled in traffic on the west approach to the Broadway bridge, due to construction on the bridge.

Two overhead directional signs fell from above and struck the right front fender, causing damage estimated at \$20.00 to \$25.00.

Please consider this letter as a claim for damages accordingly. Your prompt consideration on this matter will be appreciated.

Yours very truly,
s/ Donald Wieland
403 Starlite Avenue
Idaho Falls, Idaho

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It was moved by Councilman Foote, seconded by Creek, that this be referred to the City Insurance Carrier for investigation and recommendation. Roll call as follows: Ayes, 3; No, None; carried.

The following was presented:

NOTICE OF COMPLETION OF PUBLIC WORKS

NOTICE IS HEREBY GIVEN that the City of Idaho Falls, Idaho has, on the 7th day of July, 1962, accepted the work as completed, by Pickett and Nelson Construction Co., Contractor, on that certain Public Works Contract with said City, known as Contract No. 19A-2, for the construction of tennis courts at 7th Street and Wabash Avenue.

Notice is further given, that any person, company or corporation who has furnished labor, or material or supplies used in said work, payment for which has not been made, may within ninety days from said date of completion of the work, file with the City Clerk of said City an itemized statement of his claim for all amounts due and unpaid by said Contractor. Failure on the part of any claimant to file his claim within such period will constitute a waiver as against the Contractor's surety.

Published: 8/12, 8/13, 8/14, 8/15, 8/16/62

s/ Roy C. Barnes
CITY CLERK

The City Clerk explained that, in the interest of time, this was published without Council approval. It was moved by Councilman Foote, seconded by Creek, that the City Clerk's action in this regard be duly ratified. Roll call as follows: Ayes, 3; No, None; carried.

The ordinance annexing a portion of the Knights of Columbus and the Mel Brown properties was presented, as follows:

ORDINANCE NO. 1035

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE
CITY OF IDAHO FALLS: DESCRIBING SAID LANDS AND
DECLARING SAME A PART OF THE CITY OF IDAHO
FALLS, IDAHO

It was moved by Councilman Foote, seconded by Leahy, that this ordinance be passed on its third and final reading. Roll call as follows: Ayes, 3; No, None; carried.

The following memo from the City Engineer was read:

August 22, 1962
Acct. No. 4A-34

Honorable Mayor and City Council
Idaho Falls, Idaho

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Gentlemen:

On August 21, 1962, bids were opened for the seal coating of various roadways within the City. Three bids were received as follows:

Pickett & Nelson, Inc.	\$11,100.00
Burggraf Construction	11,700.00
Carl E. Nelson Construction	15,600.00

On the basis of analysis of costs, we would recommend that the low bid of Pickett & Nelson, Inc. for the sum of .185 per square yard, with the total project of \$11,100.00 be accepted and that the Mayor and City Clerk be authorized to sign the Contracts.

Respectfully submitted,
Engineering Department
s/ Don Ellsworth, P.E.
City Engineer

Concurred by: s/ Donald F. Lloyd
cc: Donald F. Lloyd

It was moved by Councilman Leahy, seconded by Creek, that the low bid of Pickett & Nelson be accepted. Roll call as follows: Ayes, 3; No, None; carried.

This letter was read:

255 3rd Street
Idaho Falls, Idaho

Milton C. Jones
Chief of Police

Dear Sir:

Due to being called to military duty with the U.S. Navy Reserves, effective September 12, 1962, I would like to request leave from employment with the City of Idaho Falls. I have worked for the City for the last five years, partially as a part time employee and for the last year and half as a full time employee with the Police Department's street paint and sign crew.

My tour of military duty will be for two years or more. I would appreciate being afforded the opportunity (sic) to return to (sic) City employment upon my release for military duty should an opening be available.

I have enjoyed (sic) my service with the City and wish to thank you for having worked under you.

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Very truly yours
s/ Dale F. Perrin

cc: Mayor W. J. O'Bryant

It was moved by Councilman Creek, seconded by Leahy, that the request for a leave of absence without pay be approved, subject to job availability when Mr. Perrin returns. Roll call as follows: Ayes, 3; No, None; carried.

It was noted that bids had been opened earlier on a catch basin vacuum cleaner and truck chassis and that the Council had, at an informal meeting, awarded the bid on the chassis to Snake River Equipment Company in the amount of \$10, 500.00 and the body to Engineering Sales and Service, Milwaukee, Wisconsin, in the amount of \$14, 250.00. It was moved by Councilman Leahy, seconded by Creek, that this action be duly ratified. Roll call as follows: Ayes, 3; No, None; carried.

The following letter, accompanied by an easement signed by Mr. Brunt, was read:

August 17, 1962

W. J. O'Bryant
City of Idaho Falls
Idaho Falls, Idaho

Dear Mayor O'Bryant:

A deed was granted to the City of Idaho Falls for a walkway between Lots 15 and 16, Block 2, Rivera Homes Addition, Division No. 1. This deed was recorded in Book 141 of Deeds, Page 113. It was our intention to grant this walkway in the form of an easement, which was agreeable to the company that is making us loans on these homes.

We have discussed this matter with Mr. Lloyd and Mr. Barnard, and have prepared, and are enclosing herewith, an easement covering this walkway.

In order to complete the financing on these homes, we hereby request that the City of Idaho Falls deed back to us the walkway, and accept this easement in lieu thereof. Mr. Lloyd and Mr. Barnard feel that the needs of the City will be met through this easement and enable us to complete the transactions on these two homes.

Sincerely yours,
s/ A. W. Brunt

cc: Donald Lloyd
George Barnard
D. E. Benton

This matter was tabled pending an investigation to determine if a waiver of the side yard requirements would suffice.

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An easement agreement was presented from William and Beulah Hatch covering right-of-way for purposes of constructing, maintaining and operating a sewer line upon, over and across certain lands, legally described as follows:

Beginning at a point that is 1,329.17 feet East and 1,316.73 feet South of the NW corner of Section Thirteen (13), Township Two (2) North, Range Thirty-seven (37) East of the Boise Meridian, running thence S 29° 56' 32" E 543.90 feet; thence S 18° 52' 38" E 45.85 feet to the West boundary of interstate right of way; this being the centerline of a 16.0 foot permanent easement and 50.0 foot construction easement for a sanitary sewer.

It was moved by Councilman Leahy, seconded by Creek, that this instrument be accepted. Roll call as follows: Ayes, 3; No, None; carried.

A proposal was presented from Cornwell, Howland, Hayes, & Merryfield covering terms and conditions for the preparation of designs covering the change in location of the Templeview Substation and the necessary alterations to the area served by the Crowley Substation required to convert the operating voltage to 4160 volts. It was moved by Councilman Leahy, seconded by Foote, that the proposal be accepted and the Mayor be authorized to sign with the understanding and condition that the Electrical Engineer confer with these consulting engineers in an attempt to obtain a more favorable price on a per diem basis . . . Roll call as follows: Ayes, 3; No, None; carried.

Electrical Engineer Davis appeared before the Council to explain a problem which exists at the lower power plant and which needs correcting, concurrent with converting the plant to a remote control operation. He pointed out that there is improper ventilation causing the upper guide bearing on each generating machine to heat and that this could be overcome by the installation of roof exhaust fans. It was moved by Councilman Leahy, seconded by Creek, that Davis be authorized to prepare and sign a purchase order accordingly for the equipment. Roll call as follows: Ayes, 3; No, None; carried.

The following was presented, serving as a denial recommendation from the City Insurance Carrier to a damage claim:

August 17, 1962

Mr. Vernon P. Strecker
465 Tabor
Idaho Falls, Idaho

Dear Mr. Strecker:

Your letter of 7/26/62, addresses to the Honorable William J. O'Bryant, Mayor of Idaho Falls, Members of City Council, has been referred to this office as we represent the liability carrier for the City of Idaho Falls.

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Our investigation of the situation described indicates the lack of water pressure was beyond the control of the City, and there is no negligence involved.

We are therefore unable to assist you further.

Yours truly,
s/ A. W. Knight
Manager

cc: Mayor & City Council

It was moved by Councilman Leahy, seconded by Foote, that the claim be denied. Roll call as follows: Ayes, 3; No, None; carried.

A letter of appreciation from Reverend Arthur Johnstone was read, relative to the City's swim training program.

The Mayor explained that a \$60.00 offer has been submitted for the pump facilities under the Airport house which included dismantling and removal. It was moved by Councilman Leahy, seconded by Creek, that the offer be accepted, subject to receipt of a letter in the form of a written agreement that the purchaser be responsible for damage to the house and its contents. Roll call as follows: Ayes, 3; No, None; carried.

It was moved by Councilman Leahy, seconded by Foote, that the Mayor be authorized to attend the Bonneville Power Administration Advisory Council meeting in Spokane, Washington, September 17th, 1962. Roll call as follows: Ayes, 3; No, None; carried.

It was moved by Councilman Leahy, seconded by Foote, that Blue Cross hospitalization insurance coverage for City employees be renewed for another year. Roll call as follows: Ayes, 3; No, None; carried.

It was moved by Councilman Leahy, seconded by Creek, that the City Engineer be authorized to attend the American Society of Civil Engineer's Convention in Detroit, Michigan, October 8th, through October 12th, 1962. Roll call as follows: Ayes, 3; No, None; carried.

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

ATTEST: s/ Roy C. Barnes
CITY CLERK

s/ W. J. O'Bryant
MAYOR
