

MAY 19, 1961

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The City Council of the City of Idaho Falls met in Regular Session, Friday May 19, 1961 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 Foote, Page, Leahy, Creek. Also present: Roy C. Barnes, City Clerk; George Barnard, City Attorney; Harold Davis, Electrical Engineer; Don Lloyd, City Engineer; Don Ellsworth, Assistant City Engineer; Alva Harris, Building Official.

Minutes of the last Recessed Meeting, held May 8<sup>th</sup>, 1961 and a Special Meeting held May 15<sup>th</sup>, 1961 were read and approved as amended.

License application for SOFT DRINK for Melgaard Grocery and Hudson's Café and PHOTOGRAPHER license for Dun Bar Stanley Studios d.b.a. Pixie Pin Ups were presented. It was moved by Councilman Foote, seconded by Creek, that these licenses be approved. Roll call as follows: Ayes, 4; No, None; carried.

License application for JOURNEYMAN GAS FITTER for Elbert M. Willis was presented. It was moved by Councilman Page, seconded by Leahy, that the license be granted, subject to the approval of the Gas Inspector. Roll call as follows: Ayes, 4; No, None; carried.

License application for MEAT MARKET for Melgaard Grocery was presented. It was moved by Councilman Leahy, seconded by Creek, that this license be granted, subject to the approval of the City Sanitarian. Roll call as follows: Ayes, 4; No, None; carried.

License applications for the sale of CANNED & BOTTLED BEER (NTBCOP) were presented for the following: Melgaard Grocery and change of name only for Max's Market. It was moved by Councilman Foote, seconded by Page, that these licenses be granted, subject to the approval of the Chief of Police. Roll call as follows: Ayes, 4; No, None; carried.

The following memorandum from the Electrical Engineer was read:

May 18, 1961

To the Honorable Mayor and City Council  
City of Idaho Falls, Idaho

Dear Sirs:

Mr. Ben Williams has verbally committed the Upper Snake River Valley Dairymen's Association to a single meter industrial rate.

In order for this organization to have such a rate, they will be required to purchase approximately \$4,000 worth of City-owned electrical supplies. Therefore, I propose that the City Attorney be authorized to prepare a sales agreement, and once it has been prepared, that the Mayor and City Clerk be authorized to sign that agreement committing the City to certain fiscal arrangements for the single meter industrial rate. The fiscal arrangements have been based on a replacement cost less 3% per year for depreciation.

Respectfully submitted,  
s/ Harold W. Davis  
City Electrical Engineer

MAY 19, 1961

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It was moved by Councilman Creek, seconded by Leahy, that the City Attorney be instructed to prepare a sales agreement as stated. Roll call as follows: Ayes, 4; No, None; carried.

Next to be presented was the following:

May 18, 1961  
Acct. No. 3B-76  
Riviera Homes Addition

Honorable Mayor and City Council  
Idaho Falls, Idaho

Gentlemen:

We are submitting herewith for your review and approval the final First Amended Plat of the Riviera Homes Addition, Division No. 1.

Since the Planning Commission has approved this final amended plat, we are recommending that the Council authorize the Mayor and City Clerk to sign the City's approval, subject to final checking by the Engineering Department.

Respectfully submitted,  
Public Works Division  
s/ Donald F. Lloyd, P.E.  
City Engineer

It was moved by Councilman Leahy, seconded by Foote, that the plat be approved as presented. Roll call as follows: Ayes, 4; No, None; carried.

The following memorandum from the City Engineer was read:

May 19, 1961  
Acct. No. 15A-14

Honorable Mayor and City Council  
Idaho Falls, Idaho

Gentlemen:

Pursuant to a request by the Idaho Highway Department, we are submitting for Mayor and Council approval the sale of approximately 1.4 acres of land on the north side of the Airport for Interstate Highway use. The State appraisals have indicated they can pay \$700 for this parcel.

We are recommending that the Mayor and City Council authorized the City Attorney to prepare such sale agreement, and that the Mayor and City Clerk be authorized to sign when

MAY 19, 1961

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such documents are completed and approval of sale has been received from the Federal Aviation Agency.

Respectfully submitted,  
Public Works Division  
s/ Donald F. Lloyd, P.E.  
City Engineer

It was explained by Councilman Foote that the amount offered by the State is less than cost to the City but that property values have lowered because of the prescribed glide angle. It was moved by Councilman Leahy, seconded by Foote, that \$700.00 be accepted for the 1.4 acres as described and that the Mayor and City Clerk be authorized to sign the sale agreement when prepared by the City Attorney. Roll call as follows: Ayes, 4; No, None; carried.

A limousine service contract was presented, stating terms and conditions for the providing of limousine service at the Airport. It was noted that two applications had been received; namely, the Flamingo Motel & Restaurant and Bruce Stoddard through the Falls Cab Company. It was moved by Councilman Page, seconded by Foote, that the Falls Cab Company be awarded the contract. Roll call as follows: Ayes, 4; No, None; carried.

The Mayor noted that Mr. Ralph Cowham, had applied for a circus permit to cover all activities of the Seabrand Circus which is scheduled for a few days operation in front of the New Safeway Store, beginning May 29<sup>th</sup>. The City Clerk explained that the City Code provides only for rather clumsy and costly license coverage for circuses by requiring a separate license at \$10.00 a day for each ride, each side show etc. It was moved by Councilman Creek, seconded by Page, that the Code be waived, that a special license be issued in the amount of \$50.00 covering any and all legitimate activities. Roll call as follows: Ayes, 4; No, None; carried.

The Mayor appointed Mrs. Howard Peyton as a member of the Civic Auditorium Board, subject to her accepting the position. It was moved by Councilman Foote, seconded by Leahy, that the appointment, as stated, be confirmed. Roll call as follows: Ayes, 4; No, None; carried.

The Mayor noted that several vacancies exist in the Recreation Committee. He announced the appointment of Mr. Henry Mansfield to fill one of these, with Mr. Dean Daugherty as alternate. It was moved by Councilman Leahy, seconded by Foote, that the appointment and the alternate be confirmed. Roll call as follows: Ayes, 4; No, None; carried.

An announcement was made pertaining to an Inland Empire Sewage Works School to be held at the Washington State University June 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup>. It was moved by Councilman Creek, seconded by Leahy, that one man from the Sewage Treatment Plant be authorized to attend. Roll call as follows: Ayes, 4; No, None; carried.

The Mayor made the following appointments, both of which were on a temporary basis: Mr. Jack Young, Recreational Director, to be allowed \$450.00 for a three months period for car and travel expense; Mr. H. L. Jensen, Parks Superintendent, to be paid \$200.00 a month, plus \$75.00 a month car expense. It was moved by Councilman Page, seconded by Leahy, that the appointments be confirmed as stated. Roll call as follows: Ayes, 4; No, None; carried.

The Mayor noted that at an earlier Council Meeting it had been decided to send Mr. Mel Baird to a Safety Meeting in Moscow, Idaho on May 19<sup>th</sup>. The Mayor informed the Council that Mr. Baird is

MAY 19, 1961

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not planning on attending after it was learned that said conference was Regional, rather than National.

The Mayor announced that this was the time and the place for an informal hearing as announced at the Council Meeting of May 8<sup>th</sup>, 1961, to further discuss and review the amendment, as amended, to Ordinance #852.

Mr. Eugene Bush, local attorney, appeared before the Council representing himself and others who were also present. He acknowledged the amendment to the amendment as having some merit and being in line with that which he, as spokesman, proposed at the hearing on May 8<sup>th</sup>. He said his understanding of the amended amendment was to the effect that all construction on City property not in compliance with proper zoning would be preceded by a Public Hearing and that, after said hearing, there must be three fourths of the Council approving said construction if more than 25% of those present at the hearing objected to it. Mr. Bush noted, however, that publicity on the amended amendment gave no credence to those who attended the May 8<sup>th</sup> hearing for their having been at least partially responsible for its existence. Mr. Bush said that, in his opinion, the facts pertaining to the Twin Falls zoning case were not comparable to the problem facing this City regarding the location and the installation of chlorination tanks. He said he saw no serious problem in determining proper and appropriate locations for the chlorination tanks and that it should be possible to handle it under the new zoning ordinance now in the process of being drafted, working with and through the Board of Adjustments, assuming the new ordinance extends the jurisdiction and authority of the Board in the allowing of variances.

Mr. Bush concluded by saying that, in the event the Council deems it advisable to take action on the amendment as proposed, an additional change or amendment should be inserted, clarifying the necessity for showing a public need or public necessity, regardless of the outcome of a public hearing.

City Attorney Barnard commented briefly with regard to his interpretation of the Twin Falls case. He said the proposed amendment comes from good authority and is taken from the ordinance in effect in Dallas, Texas.

Mayor O'Bryant said the very purpose of the news releases was to keep the people informed as to development as they occurred.

Mrs. Molly Micek, 454 College, asked to what extent spot zoning to permit City construction would weaken zoning in the immediate area and was answered to the effect that if the amended ordinance were passed, spot zoning would not be necessary.

Mr. Bernard Oberlander, 2840 Westmorland Drive, said that in his opinion, the amendment does not protect the citizens. Legal notices are not sufficient. When City construction is contemplated, he commented further, all residents in the affected area should be notified by personal contact or letter. Mr. Oberlander also expressed concern about the architectural suitability to any given City construction to its conformance with the surrounding area.

Councilman Leahy answered in this regard by saying that this study is already progressing as pertaining to the chlorination tanks. He said that he had recently accompanied the Consulting Engineer and the City Engineer on a field trip. Surrounding areas in each instance were studied. Photographs have been taken and for purposes of press releases and pictures, the tanks will be superimposed into the photography. Installation in each instance will be discussed and explained to

MAY 19, 1961

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nearby residents. The Mayor explained that the Health Department frowns on tanks of this nature being entirely underground.

Other appearing either to protest the amendment, or the west side substation or protesting related or non-related City activities were: Mr. and Mrs. John Conley, 163 E. 24<sup>th</sup>, Eugene Smith, 2825 Westmorland Drive, Mrs. Grace Garrett, West Highway, W. R. Heald, 1157 Sahara, Richard Little, 756 Grace, James Kemper, 825 9<sup>th</sup>.

Mr. Joe Armstrong, 246 3<sup>rd</sup>, appeared and proposed that the Council should be given the opportunity of working this zoning problem out and advocated passing the ordinance as amended. He said the Council should be given a vote of confidence in this regard.

Mr. Richard Poitevin, 180 Tautphaus Drive, commented in behalf of the Planning Commission. He said that the Board is well pleased by the manner in which the Council is working with them and that, in his opinion, it is commendable that the Council has offered an amendment that would provide for a public hearing before acting on City construction.

Mr. LaGrande Marchant, 275 N. Water Avenue, offered an opinion that the Council is making every effort to be fair as proven by the fact that three out of four Councilmen as provided by the amended ordinance, must vote favorably before a protesting is overruled.

Mr. John Homer, 180 Marjacq, appeared and said that, in his opinion, Idaho Falls is ahead of other comparable sized cities, zoning-wise and that the present Council is looking after the public interest in a more commendable manner than have Councilmen in the past.

During the hearing from time to time, the Mayor and each Councilman offered comments of explanation covering the many facets of the problem at hand, the need for the amended ordinance as a protection of public and private interests or personal testimony relative to the many problems facing Councilmen, and that some of their decisions, although proven wrong or inadequate have, in every case, been weighed with the best interests of the people at heart.

The Mayor concluded this portion of the meeting by announcing that, in view of all circumstances, no action would be taken this night on the ordinance as amended but that it would be tabled for further study and review.

Mr. Isaac McDougall, Pocatello Attorney, appeared before the Council, together with his architect and several 17<sup>th</sup> Street residents with regard to Mr. McDougall's portion of the proposed 17<sup>th</sup> and Holmes shopping center. It was understood that certain things must be accomplished prior to annexation. Improvement drawings must provide a plan for utilities. A formal plat must be prepared which would provide for the dedicating of rights of way and easements to the City. The plat must conform to the contractual arrangement, now in the process of being drafted. It must be approved by the City Engineer and the Building Official. It must also be approved by the Planning Commission who will recommend adequate zoning. It was generally agreed that if all parties cannot come to agreement on zoning after annexation, the area would be de-annexed.

The plot plan was again studied by the 17<sup>th</sup> Street residents. They were unanimous in their thinking that said plan is more suitable from their vantage point than any other which has been presented, primarily because building orientation fronts Holmes Avenue instead of 17<sup>th</sup> Street. Still they were apprehensive as to how the other areas would be developed. Needless to say, neither Mr. McDougall or the Council were able to be of any assistance on this matter except to say that if the McDougall tract were annexed and developed, this would serve as a precedent for the processing of the other undeveloped areas.

MAY 19, 1961

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The residents committee chairman, Mr. Ed Reno, was not present. The residents who were present expressed general agreement with the plot plan and the mutual arrangement between Mr. McDougall and the City on the various problems of annexation. However, they told the Mayor he could expect a letter to this effect from Mr. Reno, providing he was of the same opinion with regard to the plot plan and the results of this night's meeting.

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

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ W. J. O'Bryant  
MAYOR

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