

DECEMBER 8, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, December 8, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Linda Milam
Councilmember Michael Lehto
Councilmember Joe Groberg
Councilmember Ida Hardcastle
Councilmember Bill Shurtleff
Councilmember Thomas Hally
Councilmember Larry Lyon

Also present:

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

CONSENT AGENDA ITEMS

Mayor Milam requested Council confirmation for the following Appointments and Re-Appointments: Re-Appointment of Dr. Jeff Baker to serve on the Parks and Recreation Commission (Term to expire on December 31, 2008); Re-Appointment of Paul Keele to serve on the Parks and Recreation Commission (Term to expire on December 31, 2008); Re-Appointment of Dr. Eric Perttula to serve on the Parks and Recreation Commission (Term to expire on December 31, 2008); Re-Appointment of Dr. Jeff Baker to serve on the Shade Tree Committee (Term to expire on December 31, 2008); Re-Appointment of Gerry Bates to serve on the Shade Tree Committee (Term to expire on December 31, 2008); Appointment of Julie Braun to serve on the Historic Preservation Commission (Term to expire on December 31, 2008); Appointment of George Boland to serve on the Planning Commission (Term to expire on December 31, 2010); Re-Appointment of Bruce Siqueiros to serve on the Plumbing Board of Appeals (Term to expire on December 31, 2007); Re-Appointment of Ron Summers to serve on the Plumbing Board of Appeals (Term to expire on December 31, 2007); Re-Appointment of Darwin Mathews to serve on the Plumbing Board of Appeals (Term to expire on December 31, 2008); Re-Appointment of George Smith to serve on the Mechanical Board of Appeals (Term to expire on December 31, 2007); Re-Appointment of Colvin Jergins to serve on the Mechanical Board of Appeals (Term to expire on December 31, 2007); Re-Appointment of Max Mora to serve on the Mechanical Board of Appeals (Term to expire on December 31, 2008); Re-Appointment of Richard Hanks to serve on the Building Code Board of Appeals (Term to expire on December 31, 2008); and, Re-Appointment of Scott Nielsen to serve on the Building Code Board of Appeals (Term to expire on December 31, 2008).

The City Clerk requested approval of the Minutes from the November 22, 2005 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 November 1, 2005 through November 30, 2005, after having been audited by the Fiscal Committee and paid by the Controller:

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FUND	TOTAL EXPENDITURE
General Fund	\$ 903,140.34
Street Fund	38,654.68
Recreation Fund	62,266.87
Library Fund	43,740.00
Municipal Equipment Replacement Fund	296,524.12
Electric Light Public Purpose Fund	42,679.87
Sanitary Sewer Capital Improvement Fund	190,219.05
Street Capital Improvement Fund	907,335.24
Water Capital Improvement Fund	1,910.75
Surface Drainage Fund	1,487.50
Traffic Light Capital Improvement Fund	1,252.50
Airport Fund	141,042.66
Water and Sewer Fund	248,049.21
Sanitation Fund	3,450.63
Ambulance Fund	20,363.37
Electric Light Fund	2,669,916.96
Payroll Liability Fund	2,289,860.10
TOTALS	\$7,861,893.85

The City Clerk presented several license applications, including BEER LICENSES to Applebee's Neighborhood Grill and Bar, Bowlero, Blue Wave, Chic's Lounge, Company Club, First Street Saloon, Flying J Convenience Store, Frosty Gator, Jakers of Idaho Falls, Jaliscos, Littletree Inn, Old Mezquite Mexican Grill, R & R Bar, Rite Aid No. 5406 (Broadway), Rite Aid No. 5405 (Northgate Mile), Sage Lakes Café, Sam's West Inc., Sand Creek Café, Sandpiper Restaurants East, Sneekers, T. L. C. Pizza/Godfathers, and Top Stop-Wind River Petroleum, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on December 8, 2005.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
December 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: AUTHORIZATION TO BID - REPLACEMENT OF SOFTBALL DRIVE BRIDGE IN TAUTPHAUS PARK

The Division of Parks and Recreation respectfully requests authorization to receive bids for the replacement of the bridge located on Softball Drive in Tautphaus Park.

s/ David J. Christiansen

The Public Works Director submitted the following memos:

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City of Idaho Falls
December 5, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – (RATIFY) – WATER LINE, 5TH EAST,
33RD NORTH TO 49TH NORTH

Public Works requests authorization and ratification of the Public Works Director's earlier decision to advertise to receive bids for installation of a Water Line in 5th East from 33rd North to 49th North.

s/ Chad Stanger

City of Idaho Falls
December 5, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – 25TH STREET AND WOODRUFF
AVENUE TRAFFIC SIGNAL

Public Works requests authorization to advertise to receive bids for the 25th Street and Woodruff Avenue Traffic Signal Project.

s/ Chad Stanger

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

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

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of an appeal from a decision of the Board of Adjustment for the following variances: Reduce the required rear yard from 25 feet to 6 feet; reduce the required area size from 5,000 square feet to 4,500 square feet; reduce the required rear yard from 25 feet

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to 4 feet; reduce the required area size from 5,000 square feet to 2,500 square feet; reduce the required side yard from 5 feet to 1-1/2 feet; permit required parking in the front setback. This property is located generally on the east side of Canal Avenue, west of Idaho Avenue, south of J Street, north of I Street, and legally described as Lot 1, Block 75, Riverside Addition (1208 Canal Avenue). At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: APPEAL FROM BOARD OF ADJUSTMENT – REQUEST FOR MULTIPLE VARIANCES, 1208 CANAL AVENUE

Attached is the appeal of Myron Davenport, 1360 Mound Avenue, from the decision of the Board of Adjustment. Mr. Davenport is requesting variances from six provisions of the Zoning Ordinance in order to convert a garage at 1208 Canal Avenue to a second residence on this parcel. The Board of Adjustment denied this variance request in a unanimous vote. The Findings of Fact, Conclusions of Law, and Decision from the Board of Adjustment are attached as well as the minutes. This appeal 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 appeal request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo – Close Up
Slide 3	Aerial Photo showing neighborhood
Slide 4	Site Plan submitted by the applicant
Slide 5	Site Photo of front of home
Slide 6	Site Photo of the side of the house
Slide 7	Site Photo of Canal Street south of the site
Slide 8	Site Photo southwest of the site
Slide 9	Site Photo west of site
Slide 10	Site Photo of garage proposed to be converted into a dwelling
Slide 11	Site Photo of proposed parking area for one vehicle
Slide 12	Site Photo of view from the alley, one parking space in garage has been converted from a parking space with a walk-in entrance
Slide 13	Site Photo of rear yard if this were converted into a single-family home
Slide 14	Land Uses in the area
Exhibit 1	Findings of Fact, Conclusions of Law, and Decision from the Board of Adjustment
Exhibit 2	Board of Adjustment Minutes dated October 18, 2005

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Exhibit 3	Staff Report dated October 18, 2005
Exhibit 4	Appeal Request dated October 28, 2005
Exhibit 5	Application for Variances
Exhibit 6	Vicinity Map

The Planning and Building Director stated that the parcel under consideration is 50' X 140' and houses one single-family home. At this time, this parcel is in compliance with the existing Zoning Ordinance. The single-family home was built in 1936. There is a detached garage on the rear of the property. At the time that the garage was built, it was built with two stalls. That brought this parcel into compliance in 1995 with the parking requirements. As this piece of ground sits at this time, it conforms to the R-2A requirements, as well as with today's parking requirements for single-family residential. There is a mixture of multi-family residential and single-family residential in this area. The Planning and Building Director stated that the applicant would like to convert the 816 square foot garage to a single-family home, and live in that home while a member of his family lives in the existing house. Ultimately, the new single-family home would be available as a rental. It would take six variances to make this garage conversion take place. The Planning and Building Director explained that this is an area where some single-family homes have been converted to multi-family. There are also lots in this area where two homes were built on a single lot. This was prior to the Zoning Ordinance being adopted in 1965. Once the Zoning Ordinance took effect, the minimum lot size required for a single-family home is 5,000 square feet. The Board of Adjustment found that, while the personal circumstances are very heart-gripping, there was nothing unique about this property that would justify turning a property that is presently conforming to the Zoning Ordinance, into property with two homes and creating the need for six variances.

Councilmember Shurtleff questioned whether the garage was built in conformance with the Zoning Ordinance in 1995. The Planning and Building Director stated that it was.

Myron L. Davenport, 1580 Canal Avenue, submitted the following statement:

Variance: - Testimony

There are several reasons why we are appealing to the City Council for this variance.

The Variance Committee told us, though they were sorry, they didn't have enough authority to grant the variance but that the City Council, being elected officials, did have that power. So we have hope that you will.

We are being relieved as caregivers to my wife's brother by his son and wife so we need a place to live. We would like to live in the building so that we can be next door to our son and family. We are in our eighties and will need their help sooner or later.

By living in our own building rather than renting we would be able to help our son more with expenses. He has had health problems and we have had to help them for many years. We built the building so we could do woodcrafts in the hopes that could provide him a livelihood but his poor health did not make that succeed.

Another reason is that the building will be a liability unless it can be useful. I understand that since it is large, well built with six inch walls, fully insulated,

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all finished inside with sheetrock and paint, with a gas furnace, and with rough plumbing for a bathroom, that the property taxes will be closer to that of a dwelling. It needs to be an asset not only to us but also to our son after we are gone.

In response to the several reasons the variance was not granted, we feel they are not justified in Zone R-2A. I spent quite a few hours walking the area to see why and accumulated the data that is an addendum to this testimony.

The lack of space around our building is the same as many of the dwellings surrounding it. The way the blocks were divided into lots resulted in lots too narrow to meet the new code regulations. But since ours is so similar to the rest, we feel it ought to be allowed to be useful as a dwelling. As I walked the area I found that there are 19 other single lots that have two houses.

As to the parking requirements of two off-street spaces we met that by making space alongside for one, and by planning on using half of the double garage for the other. Most people in this area have to park on the street.

Variance Map Data:

Block	Buildings	2 on 1 Lot	# Lots	# Living Area	Garages
H2	7	1	5	10	0
H3	8	1	6	10	1
H4	7	1	6	7	1
H5	7	1	6	8	1
H6	4	1	3	4	0
I2	12	0	12	17	2
I3	14	2	12	15	4
I4	13	1	12	16	1
I5	15	3	12	26	2
I6	6	0	6	9	0
J2	12	0	12	15	0
J3	13	1	12	16	1
J4	12	*	12	40	0
J5	13	1	12	24	1
J6	5	1	4	5	2
K2	14	1	12	18	0
K3	12	1	12	16	6
K4	12	1	12	15	2
K5	7	0	8	11	0
L2	11	0	11	10	2
L3	13	1	12	13	2
L4	12	0	12	12	1
L5	5	1	4	5	1
Hi3	5	0	5	6	3
Hi4	8	0	8	12	1
Totals	246	19	228	340	34

Percent of lots with 2 houses = 8 1/3%

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Percent of living units with a usable garage = 10%

Most houses don't have off-street parking, yet have more than one vehicle so most park on the street. Drivers are forced to take turns going through the space between the parked cars (and they are courteous about it too).

We provided two off-street parking spaces for the house about twenty years ago.

Vicinity Map showing where two houses are on one single lot.

Vicinity Map showing the location of useable garages. There are many small garages in the alleys that are not used for cars.

Mr. Davenport commented that if he could make his garage into a residence, then eventually it would provide low income housing for Idaho Falls. Mr. Davenport also requested to know whether there was anyone in the neighborhood who protested this request. He stated that he has not received any comments from the neighbors regarding his request. He stated, further, that as old people, they need a ground-level place to live.

Councilmember Lyon requested to know from Mr. Davenport what his options were if the City Council ruled against this request.

Mr. Davenport stated that he could live with one of his other sons. He stated that he and his wife needed to live close to the son that lived at 1360 Mound Avenue in order to help him as he has health problems.

There being no further discussion either in favor of or in opposition to this Board of Adjustment Appeal request, Mayor Milam closed the public hearing.

Councilmember Groberg stated that after studying the minutes from the Board of Adjustment and the materials presented by Mr. Davenport, he found that the house presently conforms to existing zoning. It is true that there are many non-conforming houses in that neighborhood. Those non-conforming houses were non-conforming before the zoning changes took place. Councilmember Groberg stated that based on the testimony from Mr. Davenport, he understood that it would be beneficial to use this garage as a detached living unit. By allowing that, the City Council would be moving in the opposite direction than was intended from the zoning changes. Councilmember Groberg stated that in visiting with the Planning Staff, there would be a possibility if the owner chose to explore it, to combine the house and the garage to become a single unit to be used as a duplex on the property. He believed that it could be done with one variance, instead of the need of 5-6 variances.

It was moved by Councilmember Groberg to uphold the decision of the Board of Adjustment in denying the following variances: Reduce the required rear yard from 25 feet to 6 feet; reduce the required area size from 5,000 square feet to 4,500 square feet; reduce the required rear yard from 25 feet to 4 feet; reduce the required area size from 5,000 square feet to 2,500 square feet; reduce the required side yard from 5 feet to 1-1/2 feet; permit required parking in the front setback. This property is located generally on the east side of Canal Avenue, west of Idaho Avenue, south of J Street, north of I Street, and legally described as Lot 1, Block 75, Riverside Addition (1208 Canal Avenue).

Councilmember Hardcastle stated that the Council Committee spent a lot of time on this issue. They have reviewed all of the information and spent time with the Planning and Building Division Director. She stated that this issue was a heartbreaker. She stated, further, that she supported what Councilmember Groberg has said. She seconded the above motion.

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Councilmember Shurtleff clarified that the homes in the area that are non-conforming were built before 1965. Councilmember Shurtleff requested to know, in the Council Committee's opinion, whether hardships of economics are part of the variance.

The Planning and Building Director stated that, by State Law, the reasons for a variance are related to the physical limitations of the lot. She stated, further, that there was one court case that stated that economics is not justification for getting a variance. That court case involved making a duplex into a triplex. The court stated that with a variance, there is something unique and different about the piece of ground that deprives the property owner of the ability to use the ground in the same way that the neighbors use theirs. The Planning and Building Director stated that this is missing with this variance request.

Councilmember Shurtleff requested to know whether economics and hardship were ruled out in order to consider a variance request.

The Planning and Building Director stated that hardship is not ruled out, because a hardship is necessary because of the physical limitations of the property.

Councilmember Shurtleff requested to know if the variance is granted, whether it would go with this ownership.

The Planning and Building Director stated that if the variances were granted, they would remain with this piece of ground. She explained, further, that if the variances were granted, two homes would be allowed on this lot. At some time in the future, they could be split to two ownerships.

Councilmember Lyon stated that in looking over the information that he had and listening to the testimony of Mr. Davenport, there are several things that will influence how he votes. One is the sentence found in the Board of Adjustment Minutes, "The Zoning Ordinance was put together to have consistency throughout the City and to maintain character of the neighborhoods." Then he looked at the map that showed a number of lots in this area where there are two houses on a single lot. To have another lot where there are two houses on one lot in this part of town is pretty consistent with what is already there. Councilmember Lyon stated that he understood the timing of the Zoning Ordinance. The Board of Adjustment Minutes also states, "The Zoning Ordinance was put together to maintain the character of the neighborhood." He stated, further, that having a lot with two houses on it is fairly typical for this neighborhood. The other thing that leads him to believe that the character of the neighborhood would not be degraded or disrupted if the City Council grants the variances, is that there is no one to speak in opposition to this request. This is the reason why there are Conditional Use Permits and Variances allowed under the Zoning Ordinance. There are any number of circumstances that may fall outside of the thinking of the people that wrote the ordinances in the first place. This is kind of the law of unintended consequences that operates so commonly in a political environment. Because he did not see how granting the variances would disrupt the neighborhood – there are a number of lots that have two houses on them already – and he did not see this as setting a precedent, Councilmember Lyon stated that in cases like this each case is isolated by its own unique circumstances. When these things come before the City Council that is the way that he views them. Voting in favor of one issue does not mean that he feels obligated to vote the same way on another issue, because the circumstances are different with each issue. Councilmember Lyon stated that one of his own personal mottoes that he tries to follow as an elected official is to put people first. He stated that he understood that rules and ordinances are put there for a reason, but people are the most important thing. He stated that he would vote to support granting this variance.

Roll call as follows:

Aye: Councilmember Lehto
 Councilmember Groberg

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Councilmember Hardcastle
Councilmember Shurtleff
Councilmember Hally

Nay: Councilmember Lyon

Motion Carried.

Councilmember Groberg encouraged the applicant to look at the other options that are available.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from R-1 (Single-Family Residential) to C-1 (Limited Retail) on property located generally east of Fremont Avenue, south of Energy Drive, and west of Energy Place and legally described as Lots 10-23 and Vacated Alley, Block 1, Highland Park Addition. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM R-1 TO C-1 – LOTS 10-23 AND VACATED ALLEY, BLOCK 1, HIGHLAND PARK ADDITION

Attached is the application to rezone 0.9 acres south of Energy Drive, west of Energy Place, and east of Fremont Avenue from R-1 (Single-Family Residential) to C-1 (Limited Commercial). The comprehensive land use map designation for this parcel is higher education/research center. The Planning Commission considered this application at its November 1, 2005 Meeting and recommended approval. This rezoning 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 rezoning request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan
Slide 4	Site Photo looking south from the site at the City well
Slide 5	Site Photo looking southeast across the site
Slide 6	Site Photo looking northeast towards the office buildings and multi-family housing
Slide 7	Site Photo looking north towards area zoned C-1
Slide 8	Site Photo looking northwest at the E. R. O. B. Building
Exhibit 1	Planning Commission Minutes dated November 1, 2005
Exhibit 2	Staff Report dated November 1, 2005

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The Planning Commission and the Planning Staff have found this to be in compliance with the Comprehensive Plan.

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

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the rezoning from R-1 (Single-Family Residential) to C-1 (Limited Retail) on property located generally east of Fremont Avenue, south of Energy Drive, and west of Energy Place and legally described as Lots 10-23 and Vacated Alley, Block 1, Highland Park Addition and 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 Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from I & M-1 (Industrial and Manufacturing) to GC-1 (General Commercial) on property located generally at the northwest corner of the intersection of Trask Street and Chamberlain Avenue and legally described as .615 Acres in the North Half of the Southeast Quarter of the Southeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian (Ball Storage and Ice). At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE 0.65 ACRES – NORTHWEST CORNER OF TRASK STREET AND CHAMBERLAIN AVENUE, FROM I & M-1 TO GC-1

Attached is an application to rezone 0.65 acres located on the northwest side of Trask Street and Chamberlain Avenue from I & M-1 (Industrial and Manufacturing) to GC-1 (General Commercial). The comprehensive plan designation for the area which encompasses this property is commercial. At its November 1, 2005 Meeting, the Planning Commission recommended approval of this rezoning request. This application is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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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 rezoning request:

- Slide 1 Vicinity Map showing surrounding zoning
- Slide 2 Aerial Photo
- Slide 3 Comprehensive Plan
- Slide 4 Site Photo looking south on Chamberlain Avenue
- Slide 5 Site Photo looking east across Trask Street towards site
- Exhibit 1 Planning Commission Minutes dated November 1, 2005
- Exhibit 2 Staff Report dated November 1, 2005

The Planning and Building Director stated that the Comprehensive Plan designates this area as commercial. This follows a pattern that is occurring in this area.

Leon Wolfram, 229 12th Street, appeared to state that he was in favor of this rezoning request. He stated that he would be purchasing the property if the zoning change is made.

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

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the rezoning from I & M-1 (Industrial and Manufacturing) to GC-1 (General Commercial) on property located generally at the northwest corner of the intersection of Trask Street and Chamberlain Avenue and legally described as .615 Acres in the North Half of the Southeast Quarter of the Southeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian (Ball Storage and Ice), and 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 Lehto
Councilmember Lyon
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of Annexation Proceedings Prior to Platting for Fairway Estates. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION AND INITIAL ZONING – FAIRWAY ESTATES PRIOR TO PLATTING

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Attached are the Annexation Agreement Prior to Platting and Annexation Ordinance for fifteen acres surrounded by the Sage Lakes Golf Course. The requested initial zoning is R-2 (One to Four Family Dwellings) with a PUD Overlay. The Planning Commission considered this annexation request at its November 1, 2005 Meeting and recommended approval of the requested zone with a PUD Overlay. This annexation 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 annexation request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan
Exhibit 1	Planning Commission Minutes dated November 1, 2005
Exhibit 2	Staff Report dated November 1, 2005
Exhibit 3	Vicinity Map

The Planning and Building Director stated that this is a fifteen acre triangular piece of land surrounded by the Sage Lakes Golf Course. There has been provision made for two access points to the property. These access points were provided for to meet the conditions of the Planning Commission when the Preliminary Plat was approved approximately 15 years ago. This triangular piece of land was always envisioned to be developed at a higher density. The requested zoning is in compliance with the Comprehensive Plan. The reason that the Planning Commission recommended the Planned Unit Development Overlay was due to the discussion that this might be a gated community, have attached housing, or have private streets.

Kevin Allcott, P. O. Box 3082, appeared to state that this triangular piece of ground has always been anticipated to be developed at a higher density residential. The Planning Commission recommended the Planned Unit Development Overlay as City property surrounds this development. This gives the City the opportunity to look at the development so that it does not devalue the golf course.

There being no further discussion either in favor of or in opposition to this annexation prior to platting request, Mayor Milam closed the public hearing.

Councilmember Groberg stated that the Planned Unit Development Overlay does not allow the City to impose any restrictions on the uses that are allowed under the R-2 Zoning. It allows for oversight for items such as landscaping and traffic circulation.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Annexation Agreement Prior to Platting for Fairway Estates and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

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Nay: None

Motion Carried.

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

ORDINANCE NO. 2628

FAIRWAY ESTATES ANNEXATION PRIOR TO PLATTING

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS, IDAHO; DESCRIBING THESE LANDS; REQUIRING THE FILING OF THE ORDINANCE AND AMENDED CITY MAP AND AMENDED LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND ESTABLISHING EFFECTIVE DATE.

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

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to establish the initial zoning of Fairway Estates as R-2 (One to Four Family Dwellings) Zoning with a Planned Unit Development Overlay as presented, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Lyon
Councilmember Lehto

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Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of Annexation Proceedings for Bowen 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
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, INITIAL ZONING, AND FINAL PLAT – BOWEN ADDITION, DIVISION NO. 1

Attached are the Annexation Agreement, Annexation Ordinance, and Final Plat entitled Bowen Addition, Division No. 1. The requested initial zoning is HC-1 (Highway Commercial) for this six lot plat located south of Lincoln Road, west of Woodruff Avenue, and south of Hollipark Drive. The Planning Commission considered this annexation request at its November 1, 2005 Meeting and recommended approval of the annexation, final plat, and initial zoning of HC-1. This annexation 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 annexation request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Comprehensive Plan
Slide 3	Aerial Photo showing Final Plat and Preliminary Plat
Slide 4	Final Plat under consideration
Slide 5	Site Photo showing Sherry Avenue and Jones Street
Slide 6	Preliminary Plat
Slide 7	Chaffin Addition
Exhibit 1	Planning Commission Minutes dated November 1, 2005
Exhibit 2	Staff Report dated November 1, 2005
Exhibit 3	Vicinity Map

Councilmember Hardcastle requested to know whether the canal was elevated in that area. The Planning and Building Director explained that the canal is elevated and separates this development from the single-family residential area.

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Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to state that governmental offices are being developed in this area. The Bureau of Land Management is already at this location, with the State Health Department following soon. Mr. Kofoed explained storm drainage for this area and discussed the reasoning for the HC-1 Zone to be in this area.

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

Councilmember Groberg stated that the Council Committee was surprised that HC-1 was being developed so far away from the highway.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Annexation Agreement for Bowen Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2629

BOWEN ADDITION, DIVISION NO. 1

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS, IDAHO; DESCRIBING THESE LANDS; REQUIRING THE FILING OF THE ORDINANCE AND AMENDED CITY MAP AND AMENDED LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Groberg moved, and Councilmember Hardcastle 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 Groberg
Councilmember Hardcastle
Councilmember Shurtleff

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Councilmember Hally
Councilmember Lyon

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to establish the initial zoning of Bowen Addition, Division No. 1 as HC-1 (Highway Commercial) Zoning as presented, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to accept the Final Plat for Bowen Addition, Division No. 1 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

The Fire Chief submitted the following memo:

City of Idaho Falls
November 30, 2005

MEMORANDUM

TO: Mayor Milam and City Councilmembers
FROM: Dean Ellis, Fire Chief
SUBJECT: EXTENDED LEAVE FOR VICKY EVANS

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The Fire Chief respectfully requests approval from the Mayor and Council to extend leave without pay for Vicky Evans, an employee of the Fire Department, to December 22, 2005.

s/ Dean Ellis

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to approve the extended leave without pay for Vicky Evans, an employee of the Fire Department, to December 22, 2005. Roll call as follows:

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

Nay: None

Motion Carried.

The Library Director submitted the following memo:

City of Idaho Falls
December 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Robert Wright, Library Director
SUBJECT: SURPLUS LIBRARY MATERIALS

It is respectfully requested that the Council approve the attached Resolution on removing surplus books from the Library and donating them to the Friends of the Library.

s/ Robert Wright

RESOLUTION NO. 2005-14

WHEREAS, the Idaho Falls Public Library has accumulated seven thousand one hundred and seventy one (7,171) books which are surplus, worn out, of little or no utility, or which are otherwise unneeded for public purposes;

WHEREAS, the Board of Trustees for the Library has recommended that such books be donated to the Friends of the Idaho Falls Public Library to be sold in their public book sale or disposed of in such other manner as may be determined by the Board of Trustees;

WHEREAS, it appears that such donation is appropriate under the circumstances.

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NOW, THEREFORE, be it hereby resolved that the Idaho Falls Public Library Board of Trustees be and hereby is authorized to donate, convey or dispose of said books in such manner as the Board shall deem appropriate.

DATED this 9th day of December, 2005.

s/ Linda M. Milam
Mayor

Mayor Milam commented that if these items were being destroyed, this would not come before the City Council, but as they are being donated to the Friends of the Library, Council approval is required. The Friends of the Library will be able to sell the materials, and they in turn purchase things for the Library.

Councilmember Hardcastle stated that even though this sounds like a lot of material is being donated, there are 250,000 items in the Public Library.

It was moved by Councilmember Hardcastle, seconded by Councilmember Groberg, to approve the Resolution allowing the Library Board to dispose of surplus library materials and, further, give authorization for the Mayor to sign said document. Roll call as follows:

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

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
December 2, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-06, TWO (2) NEW CAB AND CHASSIS FOR USE AS SEWER SLUDGE TRUCKS

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

It is the recommendation of Municipal Services to accept the low bid of Schow's Inc. to furnish two (2) New 2006 Sterling cab and chassis (only) for an amount of \$54,155.00 each. This price includes an \$820.00 deduct option per truck for accepting a Mercedes-Benz engine and the allowance for trade-in Units No. 165 and No. 176.

s/ S. Craig Lords

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It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid from Schow's Inc. to furnish two (2) New 2006 Sterling cab and chassis (only) for an amount of \$54,155.00 each which includes an \$820.00 deduct option per truck for accepting a Mercedes-Benz engine and the allowance for trade-in Units No. 165 and No. 176. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
December 2, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-07, ELECTRICAL CONDUCTOR

Attached is the tabulation for Electrical Conductor. It is the recommendation of Municipal Services to accept the low evaluated bid as listed on Attachment "A". You will find listed in the attached memo specific reasons for the evaluation of certain items.

s/ S. Craig Lords

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Craig Lords, Municipal Services Director
FROM: Willa Swim, Purchasing Agent
SUBJECT: BID IF-06-07, ELECTRICAL CONDUCTOR

Attached is the tabulation for Electrical Conductor. It is the recommendation of the Idaho Falls Power and the Purchasing Department to accept the low evaluated bid as listed on Attachment "A". You will find listed below specific reasons for the evaluation of certain bid items.

- Bidder No. 5: The Okonite Company bid for Items 2 and 3 is all or none. The calculated evaluation of these items, in comparison to the low bid from the other vendors, indicates to obtain the low purchase amount for both items; the recommended award will be to The Okonite Company.

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- Bidder No. 7: General Pacific's bid items furnishing Pirelli/Prysmian Products are not being considered. The prices bid for these products are not firm.
- Bid Item No. 8 and No. 9: The low bidder, Northern Power Equipment, has a freight restriction exception, which only allows freight on board for these items if awarded with either Item No. 1 or No. 4. Therefore, the award is recommended to the next low bid of Codale Electric Supply, Inc.

s/ Willa Swim

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low evaluated bid items on Attachment "A" for electrical conductor as presented. Roll call as follows:

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

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls
December 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: VETERINARY SERVICES INDEPENDENT CONTRACTOR AGREEMENT

Attached for your consideration is an independent contractor agreement between the City of Idaho Falls and Dr. Rhonda Aliah of Skyline Animal Clinic for the purpose of providing veterinary services for the Tautphaus Park Zoo. The contract has been reviewed and prepared by the City Attorney for a term of one year commencing January 1, 2006.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said contract agreement.

s/ David J. Christiansen

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It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Veterinary Services Independent Contractor Agreement with Dr. Rhonda Aliah from Skyline Animal Clinic for the purpose of providing veterinary services for the Tautphaus Park Zoo and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
December 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: TAUTPHAUS PARK ZOO CAT EXHIBIT EXPANSION – CHANGE ORDER NO. 1

Attached for your consideration is Change Order No. 1 for the Cat Exhibit Expansion Project at Tautphaus Park Zoo. The change order reflects a substitution for asphalt based damp-proofing in lieu of specified water-proofing resulting in a \$900.00 cost reduction and bringing total project costs to \$183,412.00.

It is therefore submitted for your approval.

s/ David J. Christiansen

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve Change Order No. 1 to D. L. Beck, Inc. for the Tautphaus Park Zoo Cat Exhibit Expansion Project and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

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The Planning and Building Director submitted the following memo:

City of Idaho Falls
December 1, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION -
CAT AND THE FIDDLE PRESCHOOL, CONDITIONAL USE
PERMIT, 344 NORTH WATER AVENUE

Attached is a draft of the Findings of Fact, Conclusions of Law, and Decision for the Conditional Use Permit for Cat and the Fiddle Preschool, 344 North Water Avenue. This document has been reviewed by the City Attorney and is being respectfully submitted to the Mayor and Council for adoption.

s/ Renée R. Magee

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Findings of Fact, Conclusions of Law, and Decision for the Conditional Use Permit for Cat and the Fiddle Preschool located at 344 North Water Avenue and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Police Chief submitted the following memo:

City of Idaho Falls
December 6, 2005

MEMORANDUM

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

I respectfully request the Mayor and City Council to approve the attached Memo of Understanding between the City of Idaho Falls and the Idaho Police Officer Standards and Training Council. This M. O. U. provides for designation of \$10.00 of the tuition for each enrollee in the traffic school that

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will be conducted by the Idaho Falls Police Department to be forwarded to P. O. S. T. on a quarterly basis. These funds will be used for peace officers standards and training.

Thank you for your consideration.

s/ J. K. Livsey

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to approve the Memorandum of Understanding between the City of Idaho Falls and the Idaho Police Officer Standards and Training Council providing for designation of \$10.00 of the tuition for each enrollee in the traffic school that will be conducted by the Idaho Falls Police Department to be forwarded to P. O. S. T. on a quarterly basis and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
December 5, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY CONTRACT

Attached is a proposed Right-of-Way Agreement between the City and Sunnyside Business Park LLC, c/o David Collette, for Sunnyside Road Right-of-Way, Parcel No. 9, in the amount of \$80,458.00.

Public Works recommends approval of this agreement; and, authorization for the Mayor and City Clerk to sign the document.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Agreement between the City and Sunnyside Business Park LLC, c/o David Collette for Sunnyside Road Right-of-Way, Parcel No. 9, in the amount of \$80,458.00 and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
December 5, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: RIGHT-OF-WAY VACATION – BLOCK 67, HIGHLAND PARK
ADDITION

As previously authorized, the City Attorney has prepared documents needed to vacate portions of right-of-way located in Block 67, Highland Park Addition.

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

s/ Chad Stanger

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

ORDINANCE NO. 2630

AN ORDINANCE VACATING A PORTION OF VISSING STREET BETWEEN BLOCKS 66 AND 67 AND THE ALLEY LOCATED IN BLOCK 67 OF THE HIGHLAND PARK ADDITION TO THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE STREET AND ALLEY; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER QUITCLAIM DEEDS CONVEYING THE VACATED ALLEY AND STREET TO THE OWNERS OF THE ADJACENT LAND; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE.

Councilmember Shurtleff explained that the Highland Park Addition was platted a long time ago under an old platting process. This addition was disrupted by Highway 20 when it was constructed.

Steve Stanfield, 1300 Vissing Circle, appeared to introduce his brother, Jeff Stanfield. Jeff Stanfield owned the home at 1300 Vissing Circle prior to Steve Stanfield

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purchasing it from him. Mr. Steve Stanfield explained that his brother, at the time that he owned the property, wanted to build a garage. Jeff Stanfield was told that he could not build a garage on the front portion of that property because it would affect the Greenbelt. Mr. Stanfield also stated that trees have grown in the alleyway that is intended to be vacated. Mr. Stanfield requested that the City Council allow the small portion of the alley where the trees are growing to remain intact. This will make the neighborhood a better place. Mr. Stanfield stated that this area is all part of the Greenbelt. The family that wants to build a house in this location has 27,000 square feet in that lot. There is plenty of room to build their home and not take out the trees. Mr. Stanfield stated that he visited with the property owner and was told that they did not intend to leave any of the trees on their property. He felt that was one-sided. The City Council gave Mr. Melville a Commercial Watercraft Concession Agreement to show people the natural wildlife along the river. He is only requesting that three trees be saved. The property has plenty of room to build their house and it would also save three trees from being destroyed.

Jeff Stanfield, 301 East 20th Street, appeared to state that when he owned the property he appeared before the Board in order to request building a double car garage. He stated that he was told that the Greenbelt was the most important thing and one of the biggest draws that the City of Idaho Falls has. There has been hundred of thousands, if not millions, of dollars spent on the Greenbelt for the taxpayers and the visitors of this community. He wanted to build his garage where the trees are located. That variance was turned down. The only place that was allowed for him to build his garage was in the backyard inside an existing fence. Mr. Stanfield was told that he could not build a garage in the location that he wanted because the aesthetics of the Greenbelt was the most important priority. Now the City Council is considering allowing a home to be built in this location. Mr. Stanfield stated that the property owner wants to look over the river and put money in their pocket. There are 27,000 square feet to place their home. Many people use and enjoy the Greenbelt. Mr. Stanfield stated that the City Council is going to allow someone to build a house on the corner and put up a big fence. This will be an eyesore compared to the rest of the area. He did not understand how in two years he can go from not allowing him to build a garage because the Greenbelt is the most important priority to allowing for this home to be built. This is public property. The taxpayers have paid for this property. Mr. Stanfield requested to know how the City Council would feel if someone came in and changed how their homes looked. The City Council has the power to say that the house is fine and it should be located in a certain area so that the Greenbelt is not affected. Mr. Stanfield stated that this house has come up for sale 2-3 times in the last four years. If the Claytons wanted to build a home in this location, they should have purchased his home from him. Then they could have approached the City Council for a variance to build a home where they wanted it. They could have resold the two homes and it would not have affected the people that live in this area. Mr. Stanfield stated that the Planning Commission told him, at the time that he wanted to build his garage, that the alleyway would not ever be vacated because of the Greenbelt. Now, there is an alley vacation request before the City Council because someone wants to build a house. Work is being done on the property at this time, and the City Council has not even approved this. He stated, further, that he thought that this was taking advantage of the City Council.

Mayor Milam stated that ground preparation can be done without a building permit. If the building permit is not issued, than that is the risk that the property owner takes and the cost is born by that property owner.

Cheryl Clayton, 408 Ash Street, appeared to state that the property that is being worked on is not public property. She stated that she has owned that property for 23 years, has maintained it and paid taxes on it. The lot goes down to the cul-de-sac. The trees that are being discussed are on the Clayton's property. There is one large tree that is

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growing in the alleyway. She stated that she has no intention of removing that tree. She has not been asked about removal of that tree. There are trees and bushes in the back portion of the property that are not beautiful that will be removed. If they are not removed, there would be no view of the river. After owning this property for 23 years, they hoped that they could build on it. Mrs. Clayton stated that they are doing everything possible to make this legal. She understood that the alley is being vacated to provide for construction of a huge cul-de-sac that will service both lots. They are trying to beautify this area. Mrs. Clayton explained that the Daniels are building on one side and they are building on the other side. She did not understand why the Stanfields would have any objection to removing the trees and bushes that are on the Clayton's property, as they block their view of the river.

Councilmember Shurtleff stated that the trees are in the alleyway that is being requested to be vacated. He also pointed out that the alleyway is not part of the Greenbelt. This alleyway was part of the platting of Highland Park Addition prior to Highway 20 being constructed. When Highway 20 was constructed, it dramatically changed the layout of the entire area. Councilmember Shurtleff explained that a cul-de-sac is being built at the end of Latah Avenue to service the lots. He stated, further, that trees are not to be placed in alleyways. If the City were to develop the land as platted under Highland Park Addition, all of the trees would come out of that alleyway. The question is not whether the trees stay or go. The question is whether or not the City Council will vacate an alleyway which is no longer required by the landowner at this point in time.

Councilmember Groberg requested to know whether Mr. Stanfield wanted to have that portion of the alley vacated that joins his property.

Steve Stanfield appeared to state that he was only requesting that the three trees stay.

Councilmember Groberg stated that there is a portion of the alley property that joins Mr. Stanfield's property. He requested to know whether Mr. Stanfield wanted to have that portion of the alley deeded to him.

Mr. Stanfield stated that if the City Council chooses to vacate the alley, he would like to have the portion that adjoins his property deeded to him so that he might save one tree. He, again, stated that there are 27,000 square feet of property on which to build a home. He again requested that the City Council allow the clump of trees to remain.

Councilmember Shurtleff explained that should the City Council vacate this property, Mr. Stanfield would receive that portion of the alley that adjoins his property and the one tree would be on his property.

Art Daniels, 3453 Sun Circle, appeared to state that he is one of the prospective homeowners in the area. He stated that the Daniels and the Claytons are trying to improve the beauty of that area. It has previously been neglected and an eyesore. They are trying to do a good thing. They want to build a home. Mr. Daniels stated that if there is a problem with the alleyway vacation versus the Latah Avenue vacation, he would like to see the City Council go ahead with the Latah Avenue vacation. He stated that the property owners have been trying to follow all of the rules and regulations of the City Council. This process has been a trial. They have been working on this since August, 2005.

Helen Stanton, 1020 Vissing Street, appeared to state that her land is intact and it is going to stay intact. She stated that the alleyway is in Block 67 of Highland Park Addition.

Brad Simonson, 2810 West Morningside, appeared to state that he was the contractor for the Claytons. He stated that it was a little disingenuous when the Stanfields state that the Claytons have 27,000 square feet of buildable area. That is not the case. The buildable envelope is dictated by the lava rock formation under the area. That forces building the homes toward the river. The one cedar tree is the only real obstacle that is

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faced at this time. The Claytons have invested a lot in their landscaping budget. They intend to beautify the area considerably.

Jeff Stanfield, 301 East 20th Street, appeared to state that Mrs. Clayton does not own the alleyway. It is up to the City Council to vacate that alleyway. If the alley is not vacated, they could still build their home. They would just not be able to build it on the hill. The Claytons purchased this property knowing that it had lava rock. The alley is public property and is not their property.

Councilmember Shurtleff stated that there is no misunderstanding on the City Council as to who owns the alleyway.

Art Daniels, 3453 Sun Circle, re-appeared to state when they appeared before the Planning Commission and the plat showed that they were going to build the cul-de-sac, the Claytons were gracious enough to build an off-set cul-de-sac which took a large portion of their property. That was a generous offer, so that they could proceed with construction of their homes.

Jeff Stanfield, 301 East 20th Street, re-appeared to state that the Daniels and the Claytons gave the City a piece of rock to build a cul-de-sac on and are requesting a valuable piece of land in the alley in return. This is not right. The citizens of Idaho Falls are not being taken care of on this deal.

Councilmember Groberg questioned Mrs. Clayton as to which trees were important to remove and which ones could stay.

Brad Simonson, contractor for the Claytons re-appeared to state that at this point in time, one tree may only need to be removed. They would not be certain on any others until the lava rock is removed. They will have a better idea in the near future how to orient the house.

Councilmember Shurtleff stated that if the City Council passes the action to vacate the alley, the Claytons will have the authority to move three trees that are there. They will not have the authority to move the fourth tree. That large pine tree will end up on property that will be owned by Steve Stanfield. The actual question before City Council at this time is the vacation of the alley, not whether or not it is needed in the development of this property.

Councilmember Groberg requested to know what process the City Council takes if one of the adjoining property owners does not want it vacated.

Councilmember Shurtleff explained that anyone can request a vacation of property. The City Council hears the evidence from both sides and makes a decision. The law states that when the property is approved for vacation, one-half of the property goes to each property on each side.

The City Attorney stated that when property is dedicated for an alley or for a street, the City holds the property in trust and the use of the property is limited to the purpose for which it has been dedicated. The purpose of this proceeding is to determine whether or not the City still finds need to use the property for those purposes. The City has discretion as to whether or not it vacates the alley. The City Council may do so, notwithstanding the objection of any adjoining property owner. The statute also provides that there is a presumption that half goes to each side, but the statute also gives the City discretion to vacate the street or alley in any other manner as it deems in the best interest of the public or the adjoining property owners.

Councilmember Lehto requested to know whether the alley was needed for utilities.

Councilmember Shurtleff stated that it is not needed for utilities.

Councilmember Groberg stated that he has looked carefully at this issue. He did not see a need for this access in the area. He stated that he is also conscious of how long it takes to grow trees. Regardless of how the City Council votes on this issue, at least

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one tree will be preserved. It may be possible to preserve the clump of trees depending on how the landscaping is done on the Claytons property.

Councilmember Lyon stated that as the property exists now, it is somewhat of an eyesore. He stated that he appreciated what the Claytons and the Daniels are doing to develop and beautify this area. He had the opportunity to walk this area. Councilmember Lyon observed that the primary tree might have branches that will cross over onto the Claytons property. He requested to know from the City Attorney whether the Claytons would be in their rights, if they so chose, to shear the branches that crossed over their property line.

The City Attorney stated that in his opinion, if a tree on one property encroaches onto another property owner's vertical space, that property has the authority to trim that tree.

Councilmember Lyon stated that if the City Council vacates this alleyway, there could be the potential to have one-half of a tree. He requested to know from Mrs. Clayton, as to what her options would be if the alleyway was not vacated.

Cheryl Clayton, 408 Ash Street, appeared to state that her property is in two parcels as it is split by the alleyway. She commented that she did not believe that she was the kind of person that would cut half of a tree down. She stated that she did not believe that one of the trees in the clump would live more than 3-4 years. The spruce tree, even without vacating the alleyway, is on her property. The spruce tree would have to come down as they would have no view of the river.

Following a brief discussion among City Council as to where the trees were located, Councilmember Lehto told Councilmember Lyon that this was not about the trees. He stated, further, that if the alleyway is vacated, the property owners could put a moat in.

Cheryl Clayton stated that they own five lots on the alleyway. Steve Stanfield would have approximately 1-1/2 lots. She commented that if this were determined on proportion of property size, the Claytons ought to have more say in this.

Councilmember Lyon stated that people get emotional about trees and pets. He stated that he hoped that some common ground could be reached to be considered a win-win for all property owners.

Cheryl Clayton stated that, according to the survey that was conducted on her property, the one large tree was the only tree that was in the alleyway. The rest of the trees were on the Claytons property.

Councilmember Lyon stated that in the absence of a resolution that would be a win-win for both parties, that he would vote "no" on the alleyway vacation. He stated that he appreciated what the Claytons were doing, and he also appreciated the position of the Stanfields.

Councilmember Shurtleff stated that trees in the alleyway are not a permitted use.

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

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Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Lehto, seconded by Councilmember Hally, that the meeting adjourn at 9:30 p.m.

CITY CLERK

MAYOR
