

NOVEMBER 22, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Tuesday, November 22, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Milam requested Boy Scout Jonni Merrill to come forward and lead those present in the Pledge of Allegiance.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the November 10, 2005 Regular Council Meeting and the November 14, 2005 Special Council Meeting.

The City Clerk presented several license applications, including BEER LICENSES to A Little Bit of Mexico, Airport Lounge, Albertson's (Seventeenth Street), Albertson's (Broadway), Bargain Brew and Smokes, Boozer Quick Stop, Bubba's Bar-B-Que, Buck's, China Super Buffet, Common Cents Food Store (Seventeenth Street), Common Cents Food Store (Boulevard), Common Cents Food Store (Broadway), D. B.'s Steakhouse, Eagle's Lodge, Ford's Bar, Fred Meyer Stores, Inc., Gas-N-Grub, Get-N-Go Convenience Store, Golden Crown Lounge, Happy's Chinese Restaurant, Holiday Oil, La Hildalguense, Leo's Place, Maverick Country Store (Yellowstone Avenue), Pizza Hut (Seventeenth Street), Pizza Hut (Anderson Street), Pizza Hut (Broadway), Plum Loco, Pockets, Inc., Rutabaga's, Save Fast Gas, Save Fast Gas and Grocery, Seventeenth Street Car Wash (Fastway), Seventeenth Street Gas and Wash, Sizzler Family Steak House, Smith's Food and Drug, Tobacco Connection, West Coast-Red Lion, Winco Foods No. 42, and Wingers, 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 November 22, 2005.

Idaho Falls Power submitted the following memo:

City of Idaho Falls
November 22, 2005

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Jo Elg Fikstad, Power Manager
SUBJECT: AUTHORIZATION TO RECEIVE BIDS FOR TREE TRIMMING

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Idaho Falls Power requests authorization to advertise to receive bids for FY2006 Line Clearance Tree Trimming.

s/ Jo Elg Fikstad

Councilmember Lehto requested that the changes requested by Councilmember Lyon to the November 10, 2005 Regular Council Meeting Minutes be incorporated in those minutes.

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 Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from R-3 (Apartments) and R-3A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on property located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal and legally described as Linden Park Addition, Division No. 7, Block 11, Lots 6-17; also, R-3 (Apartments) with a PUD (Planned Unit Development) Overlay to R-1 with a PUD Overlay on property legally described as Linden Park Addition, Division No. 7, Block 12, Lot 8 minus Parkway Condo's Phase No. 1 (a portion of Lot 8, Block 12) (Tabled from the November 10, 2005 Regular Council Meeting). At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM R-3 TO R-1 AND R-1 WITH A PUD OVERLAY, PORTIONS OF LINDEN PARK ADDITION SOUTH OF FIRST STREET, NORTH OF NINTH STREET, AND WEST OF ST. CLAIR ROAD

Attached is the request to rezone from R-3 to R-1 Lots 6 through 17, Block 11, Linden Park Addition, Division No. 7. The request also includes rezoning Lot

8, Block 12, Linden Park Addition, Division No. 7, other than the existing Parkway Condos Phase 1, from R-3 with a PUD Overlay to R-1 with a PUD

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Overlay. At its October 4, 2005 Meeting, the Planning Commission recommended approval of this request. This rezoning application 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 and rezoning request for 7 acres

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

Councilmember Groberg stated that at the last meeting, the public hearing indicated that there was an owner of one of the lots that would have a non-conforming use if the area was rezoned. The City Council wanted to have a clarification that the owners of The Shepherd's Inn had received notice of the public hearing about the rezoning. He stated that the owners were aware of the public hearing for the rezoning. Councilmember Groberg gave a brief history of the land in the area.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the rezoning from R-3 (Apartments) and R-3A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on property located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal and legally described as Linden Park Addition, Division No. 7, Block 11, Lots 6-17; also, R-3 (Apartments) with a PUD (Planned Unit Development) Overlay to R-1 with a PUD Overlay on property legally described as Linden Park Addition, Division No. 7, Block 12, Lot 8 minus Parkway Condo's Phase No. 1 (a portion of Lot 8, Block 12) and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office.

Mayor Milam questioned whether the City Council had a clear understanding of the non-conforming use.

Councilmember Groberg stated that issue would be up to the owners of The Shepherd's Inn. The zoning change will take place as of this night. Whatever legal rights they have will be based on that. The City Council will not be making any motions regarding the non-conforming use.

Tom Zahn, 437 Parkway Circle, appeared as the President of Shepherd's Inn, and requested to know whether the vote being taken by the City Council would jeopardize their presence in the neighborhood. Mr. Zahn stated that The Shepherd's Inn is moved in and operational. He stated that he did not want any further action taken against The Shepherd's Inn as a result of the City Council's vote.

The City Attorney stated that this issue could not be decided at this time. The law regarding non-conforming use indicates that if a person has acquired property and has made expenditures and taken action with reliance upon the existing zoning, the law will recognize that they have a non-conforming use. Conversely, merely purchasing the property is not sufficient. A person needs to take some step above and beyond purchasing the property, such as making substantial expenditures, applying for a building permit or

operating the use. If that is done, then it would be likely that a court would find that there is a non-conforming use.

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Mike Glaser, 833 Coachman Drive, appeared as a member of the Board of Directors for The Shepherd's Inn and requested to know what the City Council would consider as "substantial".

The City Attorney stated that he could not give a dollar figure for "substantial".

Councilmember Groberg stated that this is an existing use and would qualify as a non-conforming use. However, in every case there are so many facts that would be presented in a court if someone brought it to court, that the City Council could not attempt to be that court at this time.

The City Attorney stated that the City Council cannot decide this issue. A hearing would have to be held on this issue and many things would have to be addressed that are beyond the scope of this public hearing.

Councilmember Groberg stated that it is the understanding of the City Council at this time that this is a non-conforming use.

Councilmember Shurtleff requested that the City Attorney give his professional opinion as to whether this is a non-conforming use that has been established.

The City Attorney stated that he could not give that opinion without knowing what the facts are. Testimony and evidence would have to be heard as to how much money has been spent and what has been done with building permits, etc.

Councilmember Shurtleff requested the City Attorney to render his best professional opinion.

The City Attorney stated that he could not render an opinion on facts that he did not know.

Following a brief discussion regarding whether it was appropriate for the City Attorney to render an opinion, Councilmember Shurtleff stated that this is why the City Council went through the process of tabling this matter to be sure that The Shepherd's Inn had the opportunity to become established.

Councilmember Lehto stated that he would probably vote "no" on this rezoning, as he was not completely assured that The Shepherd's Inn was protected. He stated, further, that months of proven operation would bear the test of non-conforming use. The applicant could return at a future date to request the rezoning.

Councilmember Shurtleff stated that he agreed with Councilmember Lehto. If there is any chance that The Shepherd's Inn is questionable, then he would vote against the rezoning.

Councilmember Lehto stated that this is all a matter of timing. He stated, further, that he appreciated the City Attorney for hesitating on providing an opinion as it is a matter of timing. He understood from the testimony provided, that The Shepherd's Inn property was recently purchased and improvements are being made at this time. If the improvements are followed through and this becomes the home that the owners say it is going to be, then three months from now there will be no question as to whether it is a non-conforming use.

Councilmember Groberg stated this matter has proceeded through the public hearings that have been advertised for the Planning Commission and the City Council. In addition, the owner of the lot has been contacted about this meeting. Councilmember Groberg requested to know whether the Planning and Building Director had any further information that needed to be provided to the City Council.

The Planning and Building Director stated that 437 Parkway Circle is the property that is in question. This is an existing single-family home that was built in approximately 1992. The Shepherd's Inn did not receive notice of the prior hearings because they did not close on the property until October 31, 2005. The utilities were put in The Shepherd's Inn name on November 1, 2005. The Planning and Building Director stated

that she contacted Julie Zahn after the last City Council Meeting. Her understanding from talking with Mrs. Zahn is that they moved into the house at 437 Parkway Circle and

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became operational on November 5, 2005. The Zahns were notified of this public hearing and are present at this public hearing to testify that they were in operation as of that date. The Planning and Building Director stated further that she went to 437 Parkway Circle and it appeared as though someone had moved into that home.

Councilmember Groberg stated that the City Council could request that a six-month period of time elapse to allow The Shepherd's Inn to become clearly established. In that six month period, there could be four or five others that could be in the same position that The Shepherd's Inn find themselves in at this time. It is not the City Council's intention to try to exclude this person from the neighborhood. Councilmember Groberg stated further that he did not feel that the zone change would exclude this business. He stated that he would not be able to try a case six months from now either. He stated that he doubted that it would end up in court. If this did end up in court, then all of the facts would come out under the rules of evidence and the applicable law. He stated that his intention was to push forward with this rezoning. The neighbors have done what the ordinance has asked them to do, to go through the public hearing process to change the zone in their neighborhood.

Councilmember Lyon requested Councilmember Groberg to render his opinion as to whether The Shepherd's Inn could be assured that they are safe in their operation.

Councilmember Groberg stated that he did not mind expressing his opinion because he is not the City Attorney. He also clarified that he was expressing his opinion as a City Councilmember. His impression, with what little bit he has been told about this, is that The Shepherd's Inn would be accepted as a non-conforming use. At some point, if they were to change the use to something else, and if that use was not allowed under the R-1 Zone that would be the expiration of their right.

Councilmember Hally stated that it was his understanding that to just be operational does not entitle them to a grandfather clause. The owners would have to have a substantial investment. To open their doors and put beds in the house, may not qualify as a substantial investment.

Councilmember Groberg stated that everyone could form their own opinion of that. His guess was that if this issue was actually taken to court, that the fact that these people purchased a piece of property relying on the rights that existed with respect to that property at that time, was a substantial commitment on their part that would assure them of their continued operation.

Councilmember Hally stated that would be contrary to the legal opinion that the City Attorney has given.

Councilmember Lyon stated that if he were sitting in the shoes of the owners of The Shepherd's Inn, he would be feeling nervous. He stated that to him, this seems like their American dream. He stated that he wanted to be careful not to cast a vote that might pull the rug out from under their American dream. Without assurance that they could be considered a non-conforming use and be safe and secure in their operations, then he would vote "no" on the rezoning request.

Councilmember Groberg stated that the City Council needs to consider that in addition to this owner, there are a dozen or so other owners who have complied with the process in asking for a rezoning. He stated that one alternative would be to not do anything and leave it as it is which permits many uses that he did not believe were appropriate for that neighborhood.

Councilmember Shurtleff requested to know how long the area had been zoned R-3.

Mayor Milam stated that this has been zoned R-3 since the condominiums were built.

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Councilmember Shurtleff requested to know from Councilmember Groberg whether more credence would be given to a non-conforming use the longer The Shepherd's Inn exists at this location.

Councilmember Groberg stated that he thought that by purchasing the property relying on the existing zone, it was sufficient to call this a non-conforming use.

Councilmember Shurtleff stated that he agreed with Councilmember Groberg, but that the City Attorney would not back that up and go on the record as stating that to be the case.

The City Attorney stated that he disagreed with Councilmember Groberg and Councilmember Shurtleff. He said that case law is very clear that merely purchasing the property alone in reliance upon the zoning is not sufficient. Something must be done in addition to that. That "in addition to" may take many different forms. It may take the form of applying for a building permit. It may take the form of incurring engineering costs. It may take the form of purchasing materials in reliance upon the zone. The City Attorney stated that it is correct that operation of the business may be taken into consideration.

Councilmember Lehto stated that in listening to the testimony at the last public hearing, he had to believe that this application for rezone is before the City Council because of what the neighborhood has heard might be coming to the neighborhood. He stated that he found it interesting that one of the options not discussed and that was to make a motion excluding this property from the rezone.

Councilmember Groberg stated that a motion could be made to exclude this property from the rezoning request. If this were done, then the City Council may want to rezone this property at a later date, as the single-family nature of the area should not be left as an R-3 Zone.

The Planning and Building Director came forward and identified which lot The Shepherd's Inn owns.

Mayor Milam gave a brief description of the options that were available to the City Council.

Councilmember Groberg requested to know from the City Attorney if the one lot that The Shepherd's Inn owns were to be excluded from the rezoning request, would the City Council, on its own, be able to rezone that lot at a later date

The City Attorney stated that the City Council would have the authority, under its own motion, to undertake a rezone even if the owner did not want to be rezoned. The City Attorney clarified why the purchase of the property is not sufficient. If that were the case, this City Council would not have the authority to rezone property because the owner would always be able to say that he purchased the property in reliance upon the existing zoning of the property. That is why the courts require more. The property owner would have to make an investment. The law is such that a governing body has authority to unilaterally rezone property, even against the wishes of the property owners. The protection is if the owner has made substantial expenditures, then a property right is granted to continue that existing use.

Councilmember Groberg stated that the City has dozens of non-conforming uses throughout the City of Idaho Falls where people have had that use and the City has changed the zone and allowed them to continue without any question.

A brief discussion was held regarding the options available to the City Council for a vote on the motion that was on the floor.

Roll call as follows:

Aye: Councilmember Groberg
 Councilmember Hally

Councilmember Hardcastle

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Nay: Councilmember Lyon
Councilmember Lehto
Councilmember Shurtleff

Due to a tied vote, Mayor Milam voted against the motion.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to rezone from R-3 (Apartments) and R-3A (Apartments and Professional Offices) to R-1 (Single-Family Residential) property legally described as Linden Park Addition, Division No. 7, Block 11, Lots 6-17; also, R-3 (Apartments) with a PUD (Planned Unit Development) Overlay to R-1 with a PUD Overlay on property legally described as Linden Park Addition, Division No. 7, Block 12, Lot 8 minus Parkway Condo's Phase No. 1 (a portion of Lot 8, Block 12) and, further, excluding the property owned by The Shepherd's Inn, 437 Parkway Circle, 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 an amendment to the Comprehensive Plan from employment center to commercial of property that is located generally south of West Broadway, west of Saturn Avenue, east of Skyline Drive, and legally described as Kingston Plaza, Division No. 1. Councilmember Groberg requested the City Council to think about the empty big box stores. It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to recess consideration of this amendment to the Comprehensive Plan from employment center to commercial of property that is legally described as Kingston Plaza, Division No. 1 to the January 26, 2006 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from HC-1 (Highway Commercial) to GC-1 (General Commercial) of property located generally south of West Broadway, west of Saturn Avenue,

east of Skyline Drive, and legally described as the south 417.01 feet of Lot 1 and Lot 2, Block 1, Kingston Plaza. It was moved by Councilmember Groberg, seconded by

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Councilmember Hardcastle, to recess consideration of this rezoning from HC-1 (Highway Commercial) to GC-1 (General Commercial) of property legally described as the south 417.01 feet of Lot 1 and Lot 2, Block 1, Kingston Plaza to the January 26, 2006 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for Annexation Proceedings for The Village Addition, Division No. 12. It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle to recess consideration of Annexation Proceedings for The Village Addition, Division No. 12 to the December 22, 2005 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for Annexation Proceedings Prior to Platting for Sunnyside Crossroads North Regional Center, 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
November 16, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION PRIOR TO PLATTING AND INITIAL ZONING, HC-1 AND R-3A, METES AND BOUNDS, SUNNYSIDE CROSSROADS NORTH REGIONAL CENTER

Attached is the Annexation Agreement Prior to Platting and Annexation Ordinance for approximately six acres north of 33rd South and west of Bellin

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Road. This annexation request involves two parcels referred to as the Fluke and Clark properties, both of which are contiguous to City boundaries. The applicant has withdrawn the final plat at this time. The requested initial zoning is HC-1 (Highway Commercial) and R-3A (Apartments and Offices). The R-3A is proposed on the northern portion of the site. The Planning Commission considered this request at its September 20, 2005 Meeting and recommended approval of the annexation and initial zoning. 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
Exhibit 1	Planning Commission Minutes dated September 20, 2005
Exhibit 2	Staff Reports (Both Fluke and Clark properties)
Exhibit 3	Aerial Photo

The Planning and Building Director stated that it was her understanding that this Annexation request was to annex leftover parcels of land from the process with the Idaho State Department of Transportation in constructing the Sunnyside Interchange.

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to answer any questions from the City Council. There were no questions or comments.

Frank Ohme, 3190 West 33rd South, appeared to state that his property is to the west of this annexation request. He questioned where the access would be to this property.

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, re-appeared to answer Mr. Ohme's question. He stated that this is a complicated question. The property initially had a mile of frontage. The State Department of Transportation wanted to purchase the property that has become the southbound off-ramp. When the State purchases property, they want to purchase it with a lot of restrictions on it. The restrictions on this parcel of land were that there would be no access to the southbound off-ramp. The State also wanted to be in the position to say that the property would not have any access because the City of Idaho Falls was not enthusiastic about having Bellin Road go through. Mr. Kofoed stated that Mr. Ohme was not interested in giving an access through his property. This resulted in a problem. In the purchase agreement, the State has indicated that access will be provided from the south. He did not know how that would be done. The Idaho State Department of Transportation has to solve that problem.

Councilmember Shurtleff clarified that the State has obligated itself to provide access from the south.

Mr. Ohme re-appeared to state that the Idaho State Department of Transportation has approached him about acquiring a parcel from him for their access; however, this property never had a legal access from 33rd South. Their only access was off of Bellin Road. Mr. Ohme stated that he was in negotiations with the State to see how that turns out.

Daryl Kofoed re-appeared to state that he did not know whether it had legal access or not, but there were accesses all along the portion of the frontage road that was along Bellin Road.

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Frank Ohme re-appeared to state that the access referred to was because the fence was let down. From Bonneville County, there was not legal access.

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

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Annexation Agreement Prior to Platting for the Metes and Bounds Parcels for Sunnyside Crossroads North Regional Center (Fluke and Clark Properties) and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2627

SUNNYSIDE CROSSROADS NORTH REGIONAL CENTER, 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 Lyon
Councilmember Hardcastle
Councilmember Groberg
Councilmember Hally
Councilmember Shurtleff

Nay: None

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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 the Sunnyside Crossroads North Regional Center, Division No. 1 as HC-1 (Highway Commercial) and R-3A (Apartments and Offices) 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 Lyon
Councilmember Shurtleff
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from C-1 (Limited Retail) to HC-1 (Highway Commercial) of property located generally on the west of I-15 and Pioneer Road, and legally described as Sunnyside Crossroads North Regional Center, 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
November 16, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE A PORTION OF SUNNYSIDE
CROSSROADS NORTH REGIONAL CENTER, LEGALLY
DESCRIBED BY METES AND BOUNDS, FROM C-1 TO HC-1

Attached is a request to rezone approximately one acre from C-1 (Limited Retail) to HC-1 (Highway Commercial). This parcel is located south of Bellin Road, west of I-15, and north of 33rd South. At its September 20, 2005 Meeting, the Planning Commission recommended approval of the request. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

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Slide 1 Comprehensive Plan
Slide 2 Vicinity Map showing surrounding zoning
Exhibit 1 Planning Commission Minutes dated September 20, 2005
Exhibit 2 Staff Report dated September 20, 2005

The Planning and Building Director explained that the Comprehensive Plan for this area should be commercial immediately adjacent to the Sunnyside Interchange, or large employment centers. The C-1 Zoning was proposed during the original annexation. This is as a result of the final negotiations with the State Department of Transportation. In order to make it consistent with the other properties in the area, the request is to go from C-1 to HC-1.

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 request from C-1 (Limited Retail) to HC-1 (Highway Commercial) of property located generally on the west of I-15 and Pioneer Road, legally described as Sunnyside Crossroads North Regional Center, Division No. 1, 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 Lyon
 Councilmember Shurtleff
 Councilmember Groberg
 Councilmember Hardcastle
 Councilmember Lehto
 Councilmember Hally

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
November 17, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-01, ONE (1) NEW 2006 AERIAL DEVICE – 45’ SINGLE
 BUCKET KNUCKLE BOOM DESIGN MOUNTED ON CAB AND
 CHASSIS

Attached is the tabulation for the above subject bid.

It is the recommendation of Municipal Services to accept the low bid of Hirning Truck Center to furnish a new 2006 GMC Top Kick Cab and Chassis to be mounted with a New 2006 Versalift Aerial Device for an amount of \$106,536.00 without trade-in.

s/ S. Craig Lords

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It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid of Hirning Truck Center to furnish a new 2006 GMC Top Kick Cab and Chassis to be mounted with a New 2006 Versalift Aerial Device for an amount of \$106,536.00 without trade-in. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
November 17, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-02, ONE (1) NEW 2006 OR NEWER SIDE LOAD
REFUSE CONTAINER BODY – 29 CUBIC YARD MOUNTED ON A
NEW 2006 OR NEWER CAB AND CHASSIS

Attached is the tabulation for the refuse truck listed above.

It is the recommendation of Municipal Services to accept the low bid of Hirning Truck Center to furnish one (1) new 2006 Mabar/Pendpac/Impac Refuse Container Body mounted on 2006 GMC Cab and Chassis for an amount of \$112,656.00 with trade-in Unit No. 773.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid of Hirning Truck Center to furnish one (1) new 2006 Mabar/Pendpac/Impac Refuse Container Body mounted on 2006 GMC Cab and Chassis for an amount of \$112,656.00 with trade-in Unit No. 773. Roll call as follows:

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

Nay: None

Motion Carried.

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MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-03, ROAD SALT

Attached for your consideration is the tabulation for Bid IF-06-03, Road Salt.

It is the recommendation of Municipal Services to accept the low bid of Morton Salt to furnish the required road salt for an amount of \$36.20 per ton.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid of Morton Salt to furnish the required road salt for an amount of \$36.20 per ton. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
November 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-04, ROAD SANDING MATERIALS

Attached for your consideration is the tabulation for Bid IF-06-04, Road Sanding Materials.

It is the recommendation of Municipal Services to accept the low bid of Rhodehouse Construction to furnish the required road sanding material for the amount of \$7.95 per cubic yard.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid of Rhodehouse Construction to furnish the required road sanding materials for the amount of \$7.95 per cubic yard. Roll call as follows:

NOVEMBER 22, 2005

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

Nay: None

Motion Carried.

City of Idaho Falls
November 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-06-05, AGGREGATE/CRUSHED GRAVEL

Attached for your consideration is the tabulation for Bid IF-06-05, Aggregate/Crushed Gravel.

It is the recommendation of Municipal Services to accept the low bid of T V Gravel Products to furnish approximately 20,000 ton of ¾" aggregate for the amount of \$4.25 per ton, extended to \$85,000.00.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bid of T V Gravel Products to furnish approximately 20,000 tons of ¾" aggregate for the amount of \$4.25 per ton, extended to \$85,000.00. Roll call as follows:

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

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
November 22, 2005

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: COMMERCIAL WATERCRAFT CONCESSION AGREEMENT

NOVEMBER 22, 2005

Attached for your consideration is an agreement between the City of Idaho Falls and Mr. Mike Melville for the purpose of operating a non-exclusive commercial watercraft concession. This agreement has been reviewed and approved by the City Attorney as well as by the Bonneville County Sheriff. The term of the agreement is for one year terminating December 31, 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

Councilmember Lehto requested to know what this agreement provided.

Mike Melville, 1424 Lindsay Boulevard, appeared to state that the agreement provides for him to use the boat docks and launch at John's Hole Recreation Area. He stated, further, that he has property upstream from this area. He provides boat rides around Keefer's Island, by Freeman Park, and then to his place to have a cook-out.

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Commercial Watercraft Concession Agreement between Mike Melville and the City of Idaho Falls and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
November 21, 2005

MEMORANDUM

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

The owners of Lots 3-8, Block 67, Highland Park Addition have requested vacation of a portion of the alley right-of-way located near their property. The right-of-way does not contain any utilities and does not provide access to any other property.

Public Works requests authorization for the City Attorney to prepare the documents needed to vacate this right-of-way.

s/ Chad Stanger

NOVEMBER 22, 2005

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to give authorization for the City Attorney to prepare the necessary documents to vacate a portion of alley right-of-way in Lots 3-8, Block 67, Highland Park Addition. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
November 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY CONTRACT – PARCEL 88,
NEUMEYER

Attached is a proposed right-of-way agreement between the City and Barbara J. Neumeyer for Sunnyside Road right-of-way Parcel 88, in the amount of \$9,007.00.

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

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Contract for Parcel 88 between the City of Idaho Falls and Barbara J. Neumeyer for Sunnyside Road right-of-way and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

NOVEMBER 22, 2005

City of Idaho Falls
November 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY CONTRACT – PARCEL 7A,
GRAY

Attached is a proposed Right-of-Way Agreement between the City and F. Scott and Vickey Gray for Sunnyside Road right-of-way Parcel 7A, in the amount of \$4,719.00.

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

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Contract for Parcel 7A between the City of Idaho Falls and F. Scott and Vickey Gray for Sunnyside Road right-of-way and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam thanked Councilmember Hardcastle for presiding at the November 10, 2005 Regular Council Meeting.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, that the meeting adjourn at 8:40 p.m.

CITY CLERK

MAYOR
