

AUGUST 11, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, August 10, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

Shan Perry, Assistant City Attorney
Rosemarie Anderson, City Clerk
All available Division Directors

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the July 28, 2005 Regular Council Meeting and the August 2, 2005 Special 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 July 1, 2005 through July 31, 2005, after having been audited by the Fiscal Committee and paid by the Controller:

<u>FUND</u>	<u>TOTAL EXPENDITURE</u>
General Fund	\$ 697,038.61
Street Fund	37,972.98
Recreation Fund	52,976.09
Library Fund	25,194.00
Municipal Equipment Replacement Fund	48,227.00
Electric Light Public Purpose Fund	49,904.45
Business Improvement District Fund	11,400.00
Street Capital Improvement Fund	729,162.53
Water Capital Improvement Fund	29,063.57
Surface Drainage Fund	65,108.12
Airport Fund	479,419.70
Water and Sewer Fund	296,180.24
Sanitation Fund	1,469.28
Ambulance Fund	6,342.81
Electric Light Fund	2,915,901.01
Payroll Liability Fund	2,171,973.07
TOTALS	\$7,617,333.46

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The City Clerk presented several license applications, including a BEER TO BE CONSUMED ON THE PREMISES License to The Company Club (Transfer Only) 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 August 11, 2005.

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 Shurtleff to conduct a public hearing for consideration of an exchange of two parcels of property located in the South Half of the Northwest Quarter of Section 26, Township 2 North, Range 37, East of the Boise Meridian, between Bellin Road and I-15. At the request of Councilmember Shurtleff, the City Clerk read the following memo from the Public Works Director:

City of Idaho Falls
August 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: PROPERTY EXCHANGE – I-15 POND AND ELKHORN ESTATES
SUBDIVISION

As previously authorized, a hearing has been scheduled to consider the matter of a property exchange between the City and Becky Gili, developer of Elkhorn Estates. The proposed exchange allows for adjustment of property boundaries between the City's I-15 Storm Pond and property being developed as Elkhorn Estates.

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

s/ Chad Stanger

The Engineering Administrator appeared to explain the need for this property exchange with regard to expansion of the storm drainage pond. Following is a list of exhibits used in connection with this property exchange:

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Slide 1 Vicinity Map
Slide 2 Aerial Photo

The Engineering Administrator explained, further, that this trade is a square foot per square foot exchange.

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

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve this property exchange between the City of Idaho Falls and Becky Gili 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.

Mayor Milam requested Councilmember Groberg to conduct Annexation Proceedings for Elkhorn Estates Addition, Division No. 1. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
June 20, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, INITIAL ZONING OF R-1, AND FINAL PLAT FOR ELKHORN ESTATES ADDITION, DIVISION NO. 1

Attached are the Annexation Agreement, Annexation Ordinance, and Final Plat for Elkhorn Estates Addition, Division No. 1. This 8-acre subdivision contains 21 single-family residential lots, one storm water retention lot, and one canal lot. It is located east of Bellin Road and south of Ironwood Drive. The requested initial zoning is R-1 (Single-Family Residential). The Planning Commission considered this request in April, 2005, and recommended approval of the annexation and final plat with R-1 Zoning. This Department concurs in this recommendation. 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:

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Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo showing Preliminary Plat
Slide 3	Elkhorn Estates Preliminary Plat
Slide 4	Final Plat under consideration
Slide 5	Site Photo looking northeast across site
Slide 6	Site Photo of Bellin Road
Slide 7	Site Photo showing street section
Slide 8	Site Photo looking from Ironwood Drive towards site
Slide 9	Site Photo of barn
Slide 10	Site Photo showing existing pathway to Westside Elementary School
Exhibit 1	Planning Commission Minutes dated April 19, 2005
Exhibit 2	Staff Report dated April 19, 2005

The Planning and Building Director explained, further, that Staff has found this Final Plat to be in compliance with the Subdivision Ordinance and the Planning Commission has found this development to be in compliance with the Comprehensive Plan.

Barry Woodson, Harper-Leavitt Engineering, 985 North Capital Avenue, appeared as the representative for the developer. He stated that he was present to answer any questions from the Mayor and City Council.

There being no further comment 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 for Elkhorn Estates Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2610

ELKHORN ESTATES 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.

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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
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 Elkhorn Estates Addition, Division No. 1 as R-1 (Single-Family Residential) 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 Elkhorn Estates 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

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Motion Carried.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle to recess the public hearing for consideration of an appeal from the decision of the Board of Adjustment for a Conditional Use Permit to construct an animated sign on property located generally south of the Broadway and Lindsay Boulevard intersection, legally described as the Northwest Corner of Lot 4, Block 1, Eagle Rock Crossing to the September 8, 2005 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct Annexation Proceedings and Conditional Use Permit request for Fairway Estates Addition, Division No. 15. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, INITIAL ZONING OF R-1, FINAL PLAT AND
CONDITIONAL USE PERMIT FOR FAIRWAY ESTATES
ADDITION, DIVISION NO. 15

Attached are the Annexation Agreement, Annexation Ordinance, Final Plat, and Site Plan for a Conditional Use Permit for single-family attached homes on a parcel entitled Fairway Estates Addition, Division No. 15. This property is located south of 65th North and adjacent to 5th West and contains seventeen residential lots and three common lots. The Planning Commission, at its July 5, 2005 Meeting recommended approval of this annexation request. This 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 on connection with this annexation request:

Slide 1 Vicinity Map showing surrounding zoning

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Slide 2	Aerial Photo
Slide 3	Aerial Photo – Close Up
Slide 4	Aerial Photo – Close Up
Slide 5	Final Plat under consideration
Slide 6	Site Plan for single-family attached homes
Exhibit 1	Planning Commission Minutes dated July 5, 2005
Exhibit 2	Staff Report dated July 5, 2005

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

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 for Fairway Estates Addition, Division No. 15 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 Assistant City Attorney read the following Ordinance by title:

ORDINANCE NO. 2611

FAIRWAY ESTATES ADDITION, DIVISION NO. 15

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:

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Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Shurtleff
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 Fairway Estates Addition, Division No. 15 as R-1 (Single-Family Residential) 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 Fairway Estates Addition, Division No. 15 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.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Site Plan for a Conditional Use Permit to allow for single-family attached homes to be constructed in Fairway Estates Addition, Division No. 15. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a text amendment to the Zoning Ordinance to add SLUC 47, Communications, to permitted land uses in the PT-2 (Planned Transition-2) Zone, Section 7-18-2.A. of the Zoning Ordinance of the City of Idaho Falls. Councilmember Groberg indicated that he would abstain from the discussion and vote on this public hearing as he was notified that he was an owner of the adjoining property, even though this text amendment is a general application. At the request of Councilmember Hardcastle, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: AMENDMENT TO ZONING ORDINANCE, RADIO STUDIOS IN PT-2 ZONE

Attached is an Ordinance amending the PT-2 provisions of the Zoning Ordinance. This amendment permits radio studios in the PT-2 Zone provided any antenna and tower meets the following criteria:

1. Only one tower and associated antenna be located on-site.
2. The tower and antenna be less than seventy (70) feet in height.
3. No more than two microwave dishes of limited width be located on the tower; and,
4. The distance between any residential property line and the tower shall be at least the height of the tower.

On July 5, 2005, the Planning Commission recommended approval of this Zoning Ordinance Amendment. The Ordinance has been reviewed by the City Attorney's Office and is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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The Planning and Building Director submitted the following exhibits used to explain this Zoning Ordinance Amendment:

Slide 1	Proposed Text Amendment
Slide 2	Add 7-18-4.C.18 as Radio Studio
Exhibit 1	Planning Commission Minutes dated July 5, 2005
Exhibit 2	Staff Report dated July 5, 2005

The Planning and Building Director explained, further, that due to the fact that the PT Zones, in most cases, are directly adjacent to residential uses, that any added uses should not create a nuisance to the residential uses. Staff compared this request with the Communications Tower Ordinance and, from there, developed this text amendment.

Councilmember Lehto requested to know how far the tower would be from the overhead utility lines. The Planning and Building Director stated that this provision is not specified in the Ordinance. In the site plan or final plat process, Idaho Falls Power Division would have the opportunity to review the location of the tower to the overhead utility lines.

Bill Keith, 228 First Street, appeared to state that they would be excellent neighbors. They have agreed to complete a certain amount of landscaping. Mr. Keith explained that Fox Sports, KBGX and KGBM would be aired from this location. He stated that some concern was expressed about electrical interference. Technology is such that this is no longer a problem.

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

Mayor Milam stated that, with the consent of the City Council, this information will be applied to the request for the land use change to be addressed in the following public hearing.

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

ORDINANCE NO. 2612

AN ORDINANCE OF THE CITY OF IDAHO FALLS AMENDING SECTIONS 7-18-2 AND 7-18-4 OF ORDINANCE NO. 1941, CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR CERTAIN CHANGES TO THE ZONING ORDINANCE; DECLARING ORDINANCE METHODOLOGY; PROVIDING FOR SEVERABILITY OF SECTIONS AND SUBSECTIONS OF THE ORDINANCE; AND ESTABLISHING THE EFFECTIVE DATE OF THE ORDINANCE.

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

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Councilmember Hally
Councilmember Lyon

Nay: None

Abstain: Councilmember Groberg

Motion Carried.

Mayor Milam requested Councilmember Hardcastle to conduct a public hearing for consideration of a land use change in the PT-2 (Planned Transition-2) Zone from orthodontist to radio station, located generally on the north side of 17th Street, east of Juniper Drive, west of St. Clair Road (1327 17th Street), legally described as the West 117 Feet of Lot 4, Block 7, Lynhaven Addition, Division No. 2. At the request of Councilmember Hardcastle, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: APPLICATION FOR A LAND USE CHANGE IN THE PT-2 ZONE,
1327 EAST 17TH STREET

Attached is an application for a land use change from an orthodontist office to a radio studio at 1327 17th Street. The Planning Commission, at its July 5, 2005 Meeting, recommended approval of this application with five conditions which have been met on the site plan and the action of the Board of Adjustment. This application is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Aerial Photo – Close Up
Slide 4	Site Plan under consideration
Slide 5	Comprehensive Plan dated December, 2000
Slide 6	Site Photo showing existing station on First Street
Slide 7	Site Photo of antenna to be moved to proposed location
Slide 8	Site Photo of 1327 East 17 th Street
Slide 9	Site Photo of Remax driveway west of site
Slide 10	Site Photo of existing elevation of the building and the parking lot
Slide 11	Site Photo of stairwell to basement of building

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Slide 12 Site Photo of Remax building to the west and parking area
Slide 13 Site Photo of residential neighbors to the rear of subject property
Slide 14 Site Photo of property to the east of landscaping
Exhibit 1 Planning Commission Minutes dated July 5, 2005
Exhibit 2 Staff Report dated July 5, 2005

The Planning and Building Director submitted the following letter as an exhibit:

August 3, 2005

Lee Eslinger
1284 East 16th Street
Idaho Falls, Idaho 83404
(208) 522-9331

Dear Planning and Zoning Department:

My name is Lee Eslinger and I live at 1284 East 16th Street beside the orthodontist office that a zoning change request to become a radio station. I have included pictures of the views from the front door of my house looking directly into the back of the orthodontist office where the proposed radio antenna is to be located. I've also included a picture taken from the sidewalk on 17th Street showing how the heading lights of cars using the proposed shared access with the Page Insurance parking would be directed into my house.

In the latest letter that I received one of the recommendations requested for approval was "1) American Arborvitae or similar tall, narrow evergreen be planted immediately south of the utility on the north property line;" I would not be opposed to the zoning change and the placement of an antenna behind the radio station if the recommendation to plant the American Arborvitae or similar tall narrow evergreens would be extended to also include planting them immediately east of the west property line. These evergreens would block the radio station, antenna, and parking lots from the view of my house.

I am planning to attend the Public Hearing on August 11, 2005 to make this request for your consideration.

Sincerely yours,

s/ Lee Eslinger
Lee Eslinger

Lee Eslinger, 1284 East 16th Street, appeared to show the Mayor and City Council, via overhead projector slide, the view from his home. Mr. Eslinger requested that additional landscaping be placed to block the view of this building from his home. This would provide privacy at his home. Following a brief discussion regarding the landscaping and the utility easement located in this area, it was suggested that the landscaping be moved to the west side of the property, rather than the landscaping that is proposed on the east side provided that the utility easement is not being used or needed for future development.

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Bill Keith re-appeared to express his concern for providing additional landscaping to this area. He stated that it could limit their parking further.

Councilmember Shurtleff stated that if the developer would put the landscaping on the west side of this parking area and not put the landscaping on the east side of the parking area, it would not provide any additional cost for landscaping.

Councilmember Hardcastle stated that if the landscaping was moved from the east to the west side of the parking lot, an additional parking space could be provided for the radio station.

Jerry Cornwell, 3076 Mesquite Drive, appeared to state that he was not opposed to providing the landscaping on the west side of the parking lot instead of providing it on the east side.

Councilmember Lyon requested to know what radio stations would be provided with this radio station.

Mr. Keith stated that Fox Sports, KGTM, and Hot 106 would be the three radio stations that would be provided from this proposed location.

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

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to approve the Land Use Change in the PT-2 (Planned Transition-2) Zone from orthodontist to radio station, located generally on the north side of 17th Street, east of Juniper Drive, west of St. Clair Road (1327 17th Street), legally described as the West 117 Feet of Lot 4, Block 7, Lynhaven Addition, Division No. 2, with the addition that the landscaping be moved from the northeast corner of the property to the northwest corner of the property. Roll call as follows:

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

Nay: None

Abstain: Councilmember Groberg

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from LNC (Limited Neighborhood Commercial) to R-3A (Apartments and Professional Offices) of property located generally at the southwest corner of West Sunnyside Road and 5th West (Park Road), legally described as Lot 1, Block 1, Ridgewood Park Addition, Division No. 1. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE LOT 1, BLOCK 1, RIDGEWOOD PARK
ADDITION, DIVISION NO. 1, FROM LNC TO R-3A

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Attached is the application to rezone Lot 1, Block 1, Ridgewood Park Addition, Division No. 1, from LNC (Limited Neighborhood Commercial) to R-3A (Single-Family to Apartments and Offices). This parcel is located on the southwest corner of Sunnyside and Rollandet. The Planning Commission considered this request at its July 5, 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
Exhibit 1	Planning Commission Minutes dated July 5, 2005
Exhibit 2	Staff Report dated July 5, 2005

The Planning and Building Director stated that this parcel of land is the only LNC Zone in the City of Idaho Falls. She stated further that the R-3A Zone fits into the pattern in this area and complies with the Comprehensive Plan.

Councilmember Groberg requested the Planning and Building Director to provide more information as to what is allowed in the R-3A Zone.

The Planning and Building Director explained that drive-ins, branch banks, single family housing, 35 units per acre for apartments, office buildings for professionals, clinics and hospitals, drug stores, and pharmacies are allowed in the R-3A Zone. Mortuaries and funeral homes are allowed under a conditional use permit.

Councilmember Groberg stated that he wanted to have this clarified as all uses allowed in a zone are permitted without the public hearing process. He stated further that this is the extinction of the LNC Zone.

The Planning and Building Director stated that the LNC Zone was not designed to be located at the intersection of two arterial streets. It was designed to be located on an arterial and a local or residential collector street. It was designed for the local convenience store and gas station.

Councilmember Groberg stated that the LNC Zone was created in approximately 1987, and it was a thought generated by the Planning Commission. They believed that as the City grew, it would be desirable to have very small areas designated for things that would service a neighborhood. This did not seem to catch on with developers. A few years ago, the City Council approved the development of the Medical Services Zone which has taken over this type of zone.

The Planning and Building Director stated that the anticipated use for this parcel of land is for a credit union.

Councilmember Groberg stated that there would be a different community response to a credit union as compared to the 35 unit apartment complex.

Philip Sorenson, 580 Sycamore, appeared to state that he is not interested in constructing apartments at this location. He has been approached from two separate individuals about possibly locating a real estate office or an insurance office on adjacent property. He stated that his Board has contacted a Title Company regarding drawing up covenants on the type of building that could be built on the adjacent property. Once those covenants are established, they would then sell that portion of the property.

Mayor Milam stated that the City can not enforce covenants. That would be the responsibility of the developer.

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

Councilmember Groberg stated that conditions can not be attached to zones. The Planning and Building Director concurred. Councilmember Groberg said that the statement regarding covenants being attached to this property is not part of this proposal. The Planning and Building Director agreed.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the rezoning request from LNC (Limited Neighborhood Commercial) to R-3A (Apartments and Professional Offices) of property located generally at the southwest corner of West Sunnyside Road and 5th West (Park Road), legally described as Lot 1, Block 1, Ridgewood Park Addition, 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 Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon

Nay: None

Motion Carried.

Following a brief recess, the Municipal Services Director submitted the following memos:

City of Idaho Falls
August 4, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PUBLICATION OF "NOTICE OF PUBLIC HEARING"
IMPOSITION OF FEE INCREASES GREATER THAN 105% FOR
FISCAL YEAR 2005-2006

Municipal Services respectfully requests the Mayor and Council to authorize the publication of the attached "Notice of Public Hearing" regarding the imposition of fee increases greater than 105% for fiscal year 2005-2006, with publication dates set for August 14, 2005 and August 21, 2005.

The Public Hearing is scheduled for 7:30 p.m., Thursday, August 25, 2005, in the Council Chambers in the Idaho Falls Power Building at 140 South Capital Avenue in Idaho Falls, Idaho.

s/ S. Craig Lords

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PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the City of Idaho Falls proposes to increase existing fees by an amount that exceeds one hundred five percent (105%) of such fees collected in Fiscal Year 2004-2005. The fee increases are necessary to cover increased costs associated with these programs.

<u>SOURCE OF FEES</u>	<u>CURRENT FEES</u>	<u>PROPOSED NEW FEES</u>
Planning and Building:		
Planning		
Variance	\$ 50.00	\$150.00
Rezoning	\$175.00	\$350.00
Comprehensive Plan Amendment	--	\$100.00
Planned Transition Land Use Change	\$125.00	\$250.00
Conditional Use Permit (PC)	\$ 50.00	\$100.00
Conditional Use Permit (Council)	\$100.00	\$200.00
Zoo		
Non-Resident – Individuals		
Children (4 years – 12 years)	\$ 2.00	\$ 2.25
Adults (13 years – 62 years)	\$ 4.00	\$ 4.50
Seniors (62 years and over)	\$ 2.50	\$ 3.00
Non-Resident – Groups		
Children (4 years – 12 years)	\$ 1.50	\$ 1.75
Adults (13 years – 61 years)	\$ 3.00	\$ 3.50
Seniors (62 years and over)	\$ 2.25	\$ 2.75
City Residents		
Children (4 years – 12 years)	\$ 1.25	\$ 1.50
Adults (13 years – 61 years)	\$ 2.50	\$ 3.00
Seniors (62 years and over)	\$ 2.00	\$ 2.50
Stroller/Wagon Rental	\$ 2.00	\$ 3.00
Educational Programs		
45-Minute Class	\$ 7.50	\$ 10.00
1.5 Hour Class	\$ 10.00	\$ 12.50
3 Hour Class	\$ 15.00	\$ 17.50
4 Hour Week Class	\$ 50.00	\$ 55.00
4 Hour Week Class TPZS Member Rate	\$ 35.00	\$ 40.00
6 Week Long Class TPZS Member Rate	\$ 75.00	\$ 80.00
Overnight Safari	\$ 30.00	\$ 35.00
Junior Zoo Crew	\$ 80.00	\$ 85.00
Cemeteries		
Burial Space Fees		
Infant Under One Year	\$165.00	\$200.00
Disinterment		
Adult or Child	\$600.00	\$800.00
Burial Fees		
Saturday Burial Fees	\$ 50.00	\$100.00
Recreation Programs		
Ice Skating Fees		
Ice Fees for Tournaments and Events	\$ 85.00	\$ 90.00

AUGUST 11, 2005

Any person who desires to provide comments regarding such fee increases may appear at 7:30 p.m. on Thursday, August 25, 2005, at the City of Idaho Falls Council Chamber, Second Floor at the Idaho Falls Power Building, 140 South Capital Avenue, Idaho Falls, Idaho.

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

Publish: August 14 and August 21, 2005

Councilmember Lehto explained that this allows publication of the Notice of Public Hearing.

Councilmember Groberg said that Councilmember Lyon had questioned the reason for the large increase in fees in the Planning and Building Division. He explained that the requested fee increases related to the costs involved in rezonings and variances. These fees do not effect the application for a building permit.

Councilmember Lyon said that Councilmember Groberg's comments answered his questions. He said that when he sees huge increases, this is something else that will separate the taxpayer from his money.

Councilmember Lehto explained that this memo is to allow for publication of the public hearing notice so that these issues can be addressed under a public hearing.

Mayor Milam stated that this is an attempt to recover costs incurred by staff, along with recovering required publication fees.

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to give authorization to publish the "Notice of Public Hearing" regarding the fee increases greater than 105% for Fiscal Year 2005-2006 as presented. 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
August 5, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PUBLICATION OF "NOTICE OF PUBLIC HEARING" 2005-2006
FISCAL YEAR BUDGET

Municipal Services respectfully requests the Mayor and Council to tentatively approve the 2005-2006 Fiscal Year Budget in the amount of \$147,077,988.00.

AUGUST 11, 2005

Approval is also requested to publish the attached "Notice of Public Hearing" of the 2005-2006 Fiscal Year Budget with publication dates set for August 14, 2005 and August 21, 2005.

The Public Hearing is scheduled for 7:30 p.m., Thursday, August 25, 2005, in the Council Chambers in the Idaho Falls Power Building at 140 South Capital Avenue in Idaho Falls, Idaho.

s/ S. Craig Lords

NOTICE OF PUBLIC HEARING
PROPOSED BUDGET FOR FISCAL YEAR 2005-2006
CITY OF IDAHO FALLS, IDAHO

A public hearing pursuant to Idaho Code 50-1002, will be held for consideration of the proposed budget for the fiscal year from October 1, 2005 to September 30, 2006. The hearing will be held at the City of Idaho Falls Council Chambers, located on the second floor of the Idaho Falls Power Building, 140 South Capital Avenue, Idaho Falls, Idaho at 7:30 p.m., Thursday, August 25, 2005. All interested persons are invited to appear and provide comments regarding the proposed budget. Copies of the proposed budget are available at the Idaho Falls City Controller's Office during regular office hours (8:00 a.m. to 5:00 p.m., weekdays). City Hall is accessible to persons with disabilities. Anyone desiring accommodations for disabilities in order to allow access to the budget documents or to the hearing should contact the City Controller's Office at 612-8230 at least 48 hours prior to the public hearing. The proposed FY 2006 budget is shown below as FY 2006 proposed expenditures and revenues.

PROPOSED EXPENDITURES			
Fund Name	FY 2004 Actual Expenditures	FY 2005 Budget Expenditures	FY 2006 Proposed Expenditures
General Fund			
Mayor and Council	\$ 131,099	\$ 144,109	\$ 134,798
Legal	139,407	198,206	209,767
Municipal Services	3,720,893	7,438,598	7,564,048
Planning and Building	1,147,281	1,743,379	2,527,813
Police	8,712,506	9,485,976	9,851,692
Fire	7,133,146	7,612,525	8,171,539
Parks	5,878,610	9,952,657	10,573,733
Public Works	1,074,832	1,221,091	2,146,293
General Fund Total	\$ 27,937,774	\$ 37,796,541	\$ 41,179,683
Special Revenue Funds			
Street Fund	\$ 3,542,552	\$ 3,418,272	\$ 3,199,335
Recreation Fund	861,834	982,860	957,841
Library Fund	1,734,970	1,885,654	2,348,776
Passenger Facility Fund	448,885	425,000	455,000
Municipal Equipment Replacement Fund	1,103,810	2,812,300	3,788,200
Electric Light Public Purpose Fund	512,723	750,000	750,000
Business Improvement District Fund	132,725	60,000	60,000
Special Revenue Funds Total	\$ 8,337,499	\$ 10,334,086	\$ 11,559,152

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Capital Projects Funds			
Sanitary Sewer Capital Improvement Fund	\$ 584,929	\$ 2,850,000	\$ 3,350,000
Municipal Capital Improvement Fund	233,946	1,570,000	2,500,000
Street Capital Improvement Fund	625,835	6,485,000	5,000,000
Bridge and Arterial Street Fund	110,741	200,000	900,000
Water Capital Improvement Fund	1,323,751	350,000	950,000
Surface Drainage Fund	40,160	30,000	55,000
Traffic Light Capital Improvement Fund	89,060	610,000	1,000,000
Capital Projects Funds Total	\$ 3,008,422	\$ 12,095,000	\$ 13,755,000
Enterprise Funds			
Airport Fund	\$ 5,797,108	\$ 7,085,666	\$ 5,562,948
Water and Sewer Fund	11,885,388	10,660,841	10,732,942
Sanitation Fund	2,284,923	2,950,922	2,973,625
Ambulance Fund	2,209,469	2,302,139	2,600,675
Electric Fund	52,104,058	57,666,394	58,713,963
Enterprise Funds Total	\$ 74,838,946	\$ 80,665,962	\$ 80,584,153
Total Expenditures - All Funds	\$114,122,641	\$140,891,589	\$147,077,988
PROJECTED REVENUES			
Fund Name	FY 2004 Actual Revenues	FY 2005 Budget Revenues	FY 2006 Projected Revenues
Property Tax Levy			
General Fund	\$ 15,252,677	\$ 15,410,270	\$ 16,454,395
Recreation Fund	332,051	342,290	366,407
Library Fund	1,213,278	1,227,310	1,313,783
Municipal Capital Improvement Fund	487,621	491,819	526,472
Fire Retirement	739,992	750,000	843,287
Liability Insurance	558,000	667,054	670,000
Property Tax Levy Total	\$ 18,583,619	\$ 18,888,743	\$ 20,174,344
Revenue Sources Other Than Property Tax			
General Fund	\$ 12,610,432	\$ 14,105,560	\$ 16,654,192
Street Fund	2,576,098	3,018,000	3,199,531
Recreation Fund	568,268	611,150	607,200
Library Fund	678,500	660,000	1,004,090
Passenger Facility Fund	448,885	425,000	455,000
Municipal Equipment Replacement Fund	127,761	150,000	150,000
Electric Light Public Purpose Fund	569,164	650,000	750,000
Business Improvement District Fund	149,308	60,000	60,000
Electric Rate Stabilization Fund	131,118	75,000	150,000
Sanitary Sewer Capital Improvement Fund	251,093	188,750	193,750
Municipal Capital Improvement Fund	16,424	15,000	20,000
Street Capital Improvement Fund	512,810	35,000	2,000,000
Bridge and Arterial Street Fund	155,055	177,000	178,000
Water Capital Improvement Fund	204,891	238,750	238,750
Surface Drainage Fund	45,427	40,000	40,000
Traffic Light Capital Improvement Fund	519,292	521,000	540,789
Airport Fund	5,433,664	4,869,924	5,452,184
Water and Sewer Fund	10,211,942	9,037,800	11,364,000
Sanitation Fund	2,385,313	2,321,200	2,512,500
Ambulance Fund	2,085,883	2,183,924	2,477,686
Electric Fund	58,546,385	55,254,798	54,356,281
Fund Transfers	1,671,035	1,528,200	1,805,600
Fund Balance Carryover	16,817,613	25,836,790	22,694,091

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Other Revenue Sources Total	\$116,816,361	\$122,002,846	\$126,903,644
Total Revenues - All Funds	\$135,399,980	\$140,891,589	\$147,077,988

I, Rosemarie Anderson, City Clerk of the City of Idaho Falls, Idaho certify that the above is a true and correct statement of the proposed expenditures by fund and the entire estimated revenues and other sources of the City of Idaho Falls, Idaho for the Fiscal Year 2005-2006; all of which have been tentatively approved by the City Council on August 11, 2005 and entered at length in the Journal of Proceedings.

Dated this 12th day of August, 2005.

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

Publish: August 14 and August 21, 2005

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to tentatively approve the 2005-2006 Fiscal Year Budget in the amount of \$147,077,988.00 and, further, give authorization for publication of the "Notice of Public Hearing" for the 2005-2006 Fiscal Year Budget with publication dates set for August 14, 2005 and August 21, 2005. 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
August 4, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-05-22, ONE (1) NEW MUNICIPAL STREET FLUSHER MOUNTED ON A 2005 OR NEWER CAB AND CHASSIS

Attached for your consideration is the tabulation for Bid IF-05-22.

It is the recommendation of Municipal Services to accept the sole bid of Schow's Inc., to furnish One (1) New 2005 Omco Flusher Body Mounted on a New 2006 Cab and Chassis for an amount of \$152,174.33 which includes \$850.00 deduction for frame length reduction.

s/ S. Craig Lords

AUGUST 11, 2005

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the sole bid of Schow's Inc., to furnish One (1) New 2005 Omco Flusher Body Mounted on a New 2006 Cab and Chassis for an amount of \$152,174.33 which includes \$850.00 deduction for frame length reduction. Roll call as follows:

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

Nay: None

Motion Carried.

The Parks and Recreation Division Director submitted the following memo:

City of Idaho Falls
August 11, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Division Director
SUBJECT: LEASE AGREEMENT – SANDY DOWNS RACING, INC.

Attached for your consideration is a Lease Agreement between the City of Idaho Falls and Sandy Downs Racing, Inc. This Agreement is for the purpose of leasing facilities at Sandy Downs to conduct simulcasting. The term of this Lease is for one year terminating June 30, 2006. The City Attorney has drafted and reviewed the Lease Agreement.

It is respectfully requested that the City Council approve and authorize the Mayor to execute said Lease Agreement.

s/ David J. Christiansen

Councilmember Hally explained that this Lease Agreement fits into the multiple uses at Sandy Downs. The City Council will review all multiple uses when the study is completed on Sandy Downs. He stated that he would like to see the Lease Agreement approved at this time.

Councilmember Groberg stated that he would be voting "No" on this issue. He requested that the City Council consider that this is not horse racing. This Lease provides for an area under the grandstands for people to come and bet, with cash, on horse races around the country. He stated that this does not fit within the mission of the Parks and Recreation Division. He also understood that there are many concerns for making horse racing successful. That is something for the City Council to carefully consider.

Councilmember Hally stated that the purpose of the simulcasting activity is to increase the revenues and the purses, which makes horse racing more attractive. Should horse racing disappear, then the simulcasting would disappear also.

AUGUST 11, 2005

Councilmember Lyon requested to know how long this Lease Agreement has been in effect.

Councilmember Hally stated that this is the third year that simulcasting has been offered at Sandy Downs.

Councilmember Lyon requested to know what the justification for simulcasting was.

Mayor Milam stated that the City went for a time without horse racing. This was brought to the Mayor and City Council because in order to have purses large enough to attract good race horses, they needed to raise additional funds. They bring in more funds through simulcasting. During the last live horse racing, there were approximately 2,000 people per day at the track.

It was moved by Councilmember Hally, seconded by Councilmember Hardcastle, to approve the Lease Agreement between the City of Idaho Falls and Sandy Downs Racing, Inc. for Simulcast Racing and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle

Nay: Councilmember Groberg
Councilmember Lyon

Motion Carried.

The Planning and Building Director submitted the following memos:

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FIRST AMENDED PLAT OF PRESTWICH COUNTRY ESTATES ADDITION, DIVISION NO. 2

Attached is the First Amended Plat of Prestwich Country Estates Addition, Division No. 2, a four lot plat for single-family attached homes at the intersection of St. Clair Road and 25th Street. The Planning Commission considered this Final Plat at its July 19, 2005 Meeting and recommended approval. Staff concurs with this recommendation since this Final Plat complies with the Subdivision Ordinance and reflects the Conditional Use Permit previously approved by City Council. This Final Plat is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to accept the Final Plat for the First Amended Plat of Prestwich Country Estates Addition,

AUGUST 11, 2005

Division No. 2 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 5, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: CARRIAGEGATE, DIVISION NO. 2

Attached are the Development Agreement and Final Plat entitled Carriagegate, Division No. 2. This Final Plat contains 33 single family lots. The parcel is located west of South 5th West and east of Butte Arm Canal and is zoned R-1. The Planning Commission considered this Final Plat at its July 5, 2005 Meeting and recommended approval. Staff concurs with this recommendation since this Final Plat complies with the Subdivision Ordinance and Preliminary Plat. This Final Plat is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Development Agreement for Carriagegate Addition, Division No. 2 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

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It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to accept the Final Plat for Carriagegate Addition, Division No. 2 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

The Police Chief submitted the following memo:

City of Idaho Falls
July 11, 2005

MEMORANDUM

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

I respectfully request the attached ordinance amending Section 1-4-1 of the City Code of Idaho Falls, Idaho increasing the fine for a misdemeanor to an amount not to exceed one thousand dollars (\$1,000.00); providing for severability; preserving prior ordinance; and, establishing an effective date.

s/ J. K. Livsey

Councilmember Lyon stated that this is a massive increase and reflects what the State Legislature did. He stated that he has talked with a judge, City Prosecutor, members of the City Council, friends and neighbors about this. He has also listened to the case for this and the case against this. This comes down to a choice between sophisticated justifications of politicians and attorneys, as opposed to the common sense of the common man. He asked himself whether there were some provisions of the City Code that would justify \$1,000.00 fine. He was sure that there was, but a broad brush, blanket approach, that puts the citizens at the mercy of the whims of judges, many of whom are not subject to the public vote as to whether they are retained or not. He stated that those judges are virtually unaccountable to the people they are judging. Councilmember Lyon stated that he was personally aware of some ridiculous decisions that have been made over the past year. He stated that he could support a more thorough examination of the City Code, with specific increases for specific provisions. He could not support a broad brush, blanket approach that could put someone in a position to be fined \$1,000.00 for feeding an animal at the zoo, or lending a 15-year-old their sling shot, or lighting off a bottle rocket. It is the basic intention of our form of government that only the bare minimum amount of power should be delegated from the people to the government, and everything else should be reserved to the people. Councilmember Lyon stated that he would be voting "No" on this Ordinance amendment.

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Councilmember Groberg stated that it was his understanding that this was not an automatic imposition of \$1,000.00.

Councilmember Lyon agreed.

Councilmember Groberg requested the Assistant City Attorney to explain the flexibility that is given the judges in these cases.

The Assistant City Attorney stated that this is not a mandatory penalty. It is what the maximum penalty could be. It is up to the judge's discretion what the penalty would be. The Assistant City Attorney stated that misdemeanors are handled by magistrate judges and these judges are subject to retention votes. Unlike some federal judges, where terms are unlimited and they cannot be voted out, magistrate judges can be voted out.

Councilmember Lyon requested to know whether all magistrate judges that serve in Bonneville County were subject to retention votes from the citizens of Idaho Falls.

The Assistant City Attorney stated that there are a few judges that are retained from other counties, and they are not subject to retention votes from the citizens of Idaho Falls.

Councilmember Groberg stated that he wanted to understand Councilmember Lyon's concerns, there may be some misdemeanors that warrant a \$1,000.00 fine, and others that do not. This Ordinance amendment would authorize a judge to go to \$1,000.00 if he felt that the crime warranted it.

Councilmember Lyon stated that he would not be comfortable in putting all of the citizens in a position where it is at the whim of the judge. Judges do not have any divine dispensation of wisdom any more than any one else.

Councilmember Groberg stated that the penalty can not be imposed specifically; it needs to be authorized across the board.

Councilmember Hardcastle stated that she has reviewed all of the fines from the court in the past few months. Very rarely do the fines go near \$300.00. It is an interesting issue that the misdemeanor penalties are being considered, because the judges have been very conservative, unless it is a serious offense or repeated offenses.

Councilmember Lyon stated that he would entertain a graduated scale for repeat offenses. He stated further, that if fines have not been close to \$300.00 that would be a point in favor of not approving this Ordinance amendment.

Councilmember Hardcastle stated that this gives the judges prerogative if the offense is bad enough, to impose stiffer fines.

Mayor Milam commented that the State Legislature passed this enabling legislation and it is already in effect for state statute violations, which most of the City's arrests are. Many of the arrests that are made and the fines that are assessed, the City receives a portion of. The larger portion of those fines (approximately 90%) go to the court and 10% go to the state. People have, in their votes, supported tougher penalties for people who have broken the law. From a financial point of view, every property in this City and County pays a property tax. A portion of that property tax goes to support the courts. Only properties within the City of Idaho Falls have an additional burden. The City pays an additional \$113,000.00 from the General Fund which goes to support the magistrate courts in Bonneville County. She stated that her sense of this is that, certainly the judges should be reasonable, but to the extent that those courts can be supported by the people who broke the law, she would rather that happen. This is better than the regular citizen who has to pony up \$113,000.00 from the City's budget to support the courts.

Councilmember Hardcastle stated that most of the misdemeanors are under the State Code, not under the City Code.

Councilmember Lyon stated that if there is an egregious offense, it is simply charged under the State Code and not under the City Code.

Mayor Milam stated that they are not always duplicated.

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Councilmember Shurtleff thanked Councilmember Hardcastle for allowing this Ordinance amendment to be considered during the past three meetings. He stated that he has learned much during the last several weeks regarding this issue. After reviewing the records of the judges in Bonneville County, whether or not they have been elected in this County, they are not "cash-register" judges. They are respectful of the fines and have a great record. If a judge decides (under domestic violence, private property damage, reckless driving, driving without privileges) to go above the \$300.00 and all the way to \$1,000.00, the law dictates what happens to that money. That money will come back to Bonneville County in the form of support money for drug courts and for mental health courts. The drug courts in this area are some of the best. Councilmember Shurtleff seconded what the Mayor said about the fact that if someone is fined \$1,000.00 for domestic abuse, and that money comes back to support the drug courts, these are the people who should be paying for it. Councilmember Shurtleff stated that he is prepared to vote in favor of this Ordinance amendment.

Councilmember Hally commented on the repetitive misdemeanors. If the judges have discretion on repeat offenders, they need to have the latitude to deal out a harsher punishment.

Councilmember Lyon said that he was in favor of harsher penalties for repeat offenders and raising the fines for domestic battery and drug offenses. There are a lot of things in the City Code that would not justify receiving a large penalty. Everybody is human. He stated that he was sure that we have good judges, but we also have good people in all areas, judiciary and legislature, and they do ridiculous things all of the time.

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

ORDINANCE NO. 2613

AN ORDINANCE AMENDING ORDINANCE 1-4-1 OF THE CITY CODE OF IDAHO FALLS, IDAHO; INCREASING THE FINE FOR MISDEMEANOR TO AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000); PROVIDING FOR SEVERABILITY; PRESERVING PRIOR ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Hally 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 third and final reading, 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 Groberg

Nay: Councilmember Lyon

Motion Carried.

AUGUST 11, 2005

The Public Works Director submitted the following memos:

City of Idaho Falls
August 4, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AWARD – SOUTH IDAHO FALLS SANITARY SEWER TRUNK LINE, PHASE I

On July 21, 2005, bids were received and opened for the South Idaho Falls Sanitary Sewer Trunk Line, Phase I. A tabulation of the bid results is attached.

Public Works recommends award of contract to the low bidder, HK Contractors, Inc., in the amount of \$1,168,336.00; 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 accept the low bid from HK Contractors, Inc. in the amount of \$1,168,336.00 for completion of the South Idaho Falls Sanitary Sewer Trunk Line, Phase I Project 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
August 2, 2005

MEMORANDUM

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

Public Works recently requested proposals from real estate appraisers to perform right-of-way appraisals on the portion of Sunnyside Road Project from Yellowstone Highway to Holmes Avenue. In response to this request, only one proposal was received, that being from Thompson and Associates, in the

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amount of \$74,400.00. Time being critical to the project, Public Works gave Thompson and Associates a notice to proceed on August 1, 2005.

Public Works requests ratification of this action; 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 ratify issuance of the Notice to Proceed with Thompson and Associates to perform right-of-way appraisals on the portion of Sunnyside Road from Yellowstone Highway to Holmes Avenue and, further, give authorization for the Mayor and City Clerk 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.

City of Idaho Falls
August 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE INTERCHANGE TO I-15B, CHANGE ORDER NOS.
30 AND 32

Attached are proposed Change Order Nos. 30 and 32 to Idaho Transportation Department's Sunnyside Interchange to I-15B Project. These Change Orders involve City owned utilities and require City approval. The project required water line alignment changes and addition for a water valve, increasing the contract amount by \$3,531.76.

Public Works recommends approval of these Change Orders; 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 Change Order Nos. 30 and 32 to Idaho Transportation Department's Sunnyside Interchange to I-15B Project and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY CONTRACT – PARCEL NO. 47, EVERETT AND JANET AMES

Attached is a Right-of-Way Contract between the City and Everett and Janet Ames for purchase of Parcel No. 47 in the amount of \$135,000.00.

Public Works recommends approval of this contract; and, authorization for the Mayor and City Clerk to sign the Contract Documents.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Contract between the City of Idaho Falls and Everett and Janet Ames for the purchase of Parcel No. 47 in the amount of \$135,000.00 and, further, give authorization for the Mayor 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.

City of Idaho Falls
August 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SUNNYSIDE ROAD RIGHT-OF-WAY CONTRACT – PARCEL NO. 31, FRED AND PEARL HAHN

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Attached is a Right-of-Way Contract between the City and Fred and Pearl Hahn for purchase of Parcel No. 31 in the amount of \$85,000.00.

Public Works recommends approval of this contract; and, authorization for the Mayor and City Clerk to execute the necessary documents.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Contract between the City of Idaho Falls and Fred and Pearl Hahn for purchase of Parcel No. 31 in the amount of \$85,000.00 and, further, give authorization for the Mayor to execute the necessary documents. 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
August 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – BLUE RIDGE ESTATES LIFT STATION

As previously authorized, attached is an Ordinance and related documents prepared by the City Attorney to vacate an easement no longer needed for a lift station at Blue Ridge Estates.

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 Assistant City Attorney read the following Ordinance by title only:

ORDINANCE NO. 2614

AN ORDINANCE VACATING A CERTAIN EASEMENT WITHIN THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE SAID EASEMENT; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ON BEHALF OF THE CITY A QUITCLAIM DEED CONVEYING THE VACATED EASEMENT TO THE OWNER OF THE ADJACENT LAND, AND NAMING IT; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE.

AUGUST 11, 2005

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

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Hardcastle, that the meeting adjourn at 9:15 p.m.

CITY CLERK

MAYOR
