

MARCH 24, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, March 24, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

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

Mayor Milam and City Councilmembers honored Police Officer Victor Baldwin for having retired from the Police Department by presenting him with a Gift Certificate. Mayor Milam and Councilmembers then honored Jene Prudent for having retired from the Sewer Department by presenting him with a Gift Certificate.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the March 10, 2005 Regular Council Meeting.

The City Clerk presented several license applications, 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 March 24, 2005.

The Public Works Director submitted the following memo:

City of Idaho Falls
March 9, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – PAVING EQUIPMENT RENTAL

Public Works requests authorization to advertise to receive bids for Paving Equipment Rental; and, Adjustment of Manholes, Water Valves and Street Monuments.

s/ Chad Stanger

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Councilmember Lyon requested that the Minutes from the March 10, 2005 Regular Council Meeting be considered under the Regular Agenda.

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, that the Consent Agenda be approved, with the exception of the Minutes from the March 10, 2005 Regular Council Meeting, in accordance with the recommendations presented. Roll call as follows:

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

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Groberg to conduct Annexation Proceedings for The Village Addition, Division No. 11. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
March 18, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, FINAL PLAT, AND INITIAL ZONING FOR THE VILLAGE, DIVISION NO. 11

Attached are the Annexation Agreement, Annexation Ordinance, and Final Plat for The Village, Division No. 11. The requested initial zoning is R-3 (Single-Family through Multi-Family Housing). This Final Plat is located north of West Broadway and west and adjacent to Clarence Drive. The Planning Commission reviewed this annexation request at its October 5, 2004 Meeting and recommended approval. Staff finds the Final Plat to be in accordance with the Subdivision Ordinance and the proposed land use to be in accordance with the Comprehensive Plan. This annexation request is 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

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Slide 3 Final Plat under consideration
Exhibit 1 Planning Commission Minutes dated October 5, 2004
Exhibit 2 Staff Report dated October 5, 2004

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared as the representative of the Developer. He stated that he was present 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.

Councilmember Groberg explained that this land is being developed as single-family detached housing. Normally, that would have been zoned as R-1. Some years ago, the Developer requested R-3 Zoning for this development with the intent of putting single-family detached housing on the lots. The feeling was that the Developer could save some money on lot size, etc. This subdivision should be finished under this arrangement where eventually these houses that are built in an R-3 Zone are then grandfathered in once the zone is changed to R-1. This does not mean that he would recommend doing that in another subdivision. The City Council might consider if these requirements could be met in the R-1 Zone.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Annexation Agreement for The Village Addition, Division No. 11 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2591

THE VILLAGE ADDITION, DIVISION NO. 11

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

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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.

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 Village Addition, Division No. 11 as R-3 (Single-Family Residential through Multi-Family Housing) 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 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 accept the Final Plat for The Village Addition, Division No. 11 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

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Mayor Milam requested Councilmember Lehto to proceed with consideration of the Minutes for the March 10, 2005 Regular Council Meeting. Councilmember Lehto requested to know what changes or objections Councilmember Lyon had to the Minutes for the March 10, 2005 Regular Council Meeting.

Councilmember Lyon stated that his comments with regard to the discussion on Run-Off Elections were not complete. He stated that he did not have the time to request a copy of the tape recording of that meeting to review his comments. He stated that comments that he makes at the City Council Meetings are arbitrarily deleted when the transcription is done. This is not the first time that this has happened. Last year, he called and requested the City Clerk to include the deleted portion of his remarks. The City Clerk informed him that she would talk with the Mayor about inclusion of his remarks. When the City Clerk called him back, she informed him that the Mayor had those remarks deleted because the Mayor did not feel that his comments were germane to the discussion that was taking place. Councilmember Lyon stated that he was tired of this. When he speaks on the record, he speaks for the record.

Councilmember Lehto stated that those at the Council Table are a forgiving bunch. He requested Councilmember Lyon to review the minutes and bring his comments to him, Councilmember Groberg, or to a Municipal Services Council Committee Meeting if he is not finding satisfaction with the City Clerk. The minutes can be changed. That being said, Councilmember Lyon does not have to go that far. The minutes were distributed on Monday of the preceding week. Councilmember Lyon should have reviewed these minutes and requested whatever changes he saw fit to make and they would have been incorporated. Councilmember Lehto requested to know whether Councilmember Lyon had the opportunity review the minutes and make corrections with the City Clerk.

Councilmember Lyon stated that he did not have the time.

It was moved by Councilmember Lehto, seconded by Councilmember Lyon, to table consideration of the Minutes for the March 10, 2005 Regular Council Meeting to the April 14, 2005 Regular Council Meeting, allowing 3 weeks for Councilmember Lyon to review the Council Minutes and submit any changes to the City Clerk for Council consideration. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested those to come forward who had issues for the City Council that were not otherwise listed on the Council Agenda.

J. W. Everitt, 117 Whittier Street, appeared to echo the concerns of Councilmember Lyon regarding the minutes. The minutes were supposedly going to be amended to reflect the accurate statements that he made, without the editorial of the City Clerk. He understood that this change was going to take place. At some point there was a point of order that did not allow that to happen. When Councilmember Lyon requested that this change be made, he was informed by the City Clerk that the minutes have been approved and no modifications could take place. Mr. Everitt commented that if he makes a statement that is exactly like someone else makes a statement and the City Clerk can

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represent that Mr. Everitt's statement is a threat and the other is a comment, he found that to be editorial license that the City Clerk should not be taking. Mr. Everitt stated that he said the same thing that Ted Milton said that night with reference to holding the City Council personally responsible. Mr. Everitt stated that his comments were characterized as a threat while Mr. Milton's were not. The way that minutes are taken at these meetings is not appropriate. Editorial license should not be taken. He would like to see the City Council move forward, as quickly as possible, to put in a public access channel where people could view these proceedings from home. This would allow for an accurate reflection of the proceedings at a City Council Meeting. Mr. Everitt stated that he was on the Trish and Holly show on Wednesday evening, where he took the opportunity to announce his candidacy for Mayor of the City of Idaho Falls. One of the things that he will do when he is Mayor is to initiate some of the changes that he has discussed. He also took the opportunity to point out that it is a great privilege to serve all of the citizens of Idaho Falls.

Mayor Milam requested to know whether Mr. Everitt had other comments for the City Council on issues that they can address. It is eight months until the election. There are other candidates, some perhaps on this Council and some sitting in the audience. The Mayor stated that there will be no campaign addresses or plans for what is going to happen after an election to be conducted on the Council floor. City Council Meetings will not be turned into campaign forums.

Mr. Everitt encouraged the City Council to initiate many of the ideas that he has expressed over the last months during their tenure. These ideas need to be accomplished because there needs to be some accountability from the City Council.

Councilmember Lyon stated that Mr. Everitt is not appearing as a candidate, he is appearing as a private citizen.

Mayor Milam stated that Mr. Everitt is appearing as a candidate and was talking about candidate issues, not about issues that the City Council can make a decision on.

Councilmember Lyon stated that there is no public input that the City Council can make a decision on at this time. The Mayor and Council work for Mr. Everitt and the rest of the citizens of Idaho Falls.

Mr. Lyon stated that the Agenda states "Recognition of citizens from the floor". If the Mayor and Council are going to limit what he has to say, from the floor, then this is exactly why there are people who are disgruntled with what takes place at City Council Meetings. The Mayor and City Council are not allowing the input of people. The City Council closes public hearings and then has discussions after the public hears what the City Council has to say. This ought to be reversed. City Council should be heard first, with public comment to follow.

Councilmember Groberg stated that he understood that Mr. Everitt had a comment with regard to a public access channel.

Mayor Milam stated that the City of Idaho Falls adopted an Ordinance relating to cable franchises. That ordinance includes a provision for education, public access, and government channels. When an agreement with the cable provider is signed, that provision will be in that agreement. There will be a requirement, with attached funding, to do this.

Mr. Everitt explained that Coeur D'Alene, Idaho had a public access channel twenty years ago. This was a good thing because it gave the citizens an opportunity to see what was going on. Once Council Proceedings are broadcast to the public, there is a liability attached to it. People have to tell the truth. He would like to see more truth. It is important for the people of this community to feel involved in the process of government. There are 21,000 registered voters. Less than one-third of them took part in the last election. Most of the people that he has talked to feel disenfranchised. One of the ways that people can learn to participate is to give them the opportunity to see what goes on in a City Council Meeting.

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Mayor Milam restated that this provision is in the cable franchise ordinance.

Councilmember Groberg stated that the City Council has heard that Mr. Everitt is in favor of a public access channel.

Councilmember Lehto restated for Mr. Everitt the two points that he has made. The first was how the minutes were prepared of Council proceedings. Councilmember Lehto stated that Mr. Everitt's path for his issues with the minutes is through one of the City Councilmembers. It is the City Council that considers the minutes. It is the Municipal Services Council Committee that addresses the minutes. That is why he tabled consideration of the minutes until the next Regular Council Meeting, giving Councilmember Lyon 3 weeks to address his concerns. The second issue that Mr. Everitt addressed was the cable franchise agreement, which will be considered at the Municipal Services Council Committee at 8:00 a.m., April 26, 2005, Tuesday, in the Municipal Services Division Director's Office. Councilmember Lehto stated that he has a problem with where the City Council goes when having these types of discussions and not having a public hearing posted. These issues need to be addressed at the Committee level. If challenging issues are considered, then Council Work Sessions are available.

Mr. Everitt requested that all the public service meetings be posted on the City's website so people who would like to participate can.

Councilmember Lyon stated that Council Committee Meetings are posted on the City's website. Work Sessions do not appear to be posted.

The Airport Director submitted the following memos:

City of Idaho Falls
March 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: M. R. Humberd, Director of Aviation
SUBJECT: SUPPLEMENTAL AGREEMENT NO. 1 TO H-K CONTRACTORS, INC.

Attached for City Council approval is Supplemental Agreement No. 1 to H-K Contractors for the Fiscal Year 2005 Airport Project. After negotiation with H-K Contractors on their Bid, the amount has been reduced by \$26,000.00.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Mike Humberd

Councilmember Shurtleff requested to know what changed in the Contract that resulted in the \$26,000.00 reduction.

Councilmember Lyon requested the Airport Director to come forward to address this question.

The Airport Director appeared to state that there were two items in the bid where there were a lot of costs. H-K Contractors have re-evaluated those costs and have reduced the bid by \$26,000.00.

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to approve Supplemental Agreement No. 1 to H-K Contractors, Inc. for the Rehabilitate Air Carrier Terminal Apron and Rehabilitate T-Hangar Taxiways (Alternate I) Project and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. 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.

City of Idaho Falls
March 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: M. R. Humberd, Director of Aviation
SUBJECT: BILL DIXON, JR. – FARM LEASE

Attached for City Council approval is the renewal lease with Bill Dixon, Jr. to farm ninety-five (95) acres of airport property. The lease is for three (3) years.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Mike Humberd

Councilmember Groberg requested to know whether all of the farm land associated with the Airport is leased out.

Councilmember Lyon requested the Airport Director to come forward to address the question from Councilmember Groberg.

The Airport Director appeared to state that all farm land associated with the Airport is leased out. All farm land associated with the Airport has been leased out since he has been the Airport Division Director.

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to approve the renewal of the Farm Lease Agreement with Bill Dixon, Jr. 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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City of Idaho Falls
March 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: M. R. Humberd, Director of Aviation
SUBJECT: AMENDMENT TO WALTER PETERSEN FARM LEASE

Attached for City Council approval is the Amendment to the Walter Petersen Farm Lease. There was a change in the legal description. All other terms and conditions remain the same.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Mike Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to approve the Amendment to the Farm Lease Agreement with Walter Petersen and Tallene M. Petersen and, further, give authorization for the Mayor and City Clerk 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.

City of Idaho Falls
March 21, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: M. R. Humberd, Director of Aviation
SUBJECT: AIRPORT OPERATING AGREEMENT WITH AEROHAWK AVIATION

Attached for City Council approval is a new Airport Operating Agreement with Aerohawk Aviation to provide aircraft maintenance. The term of this agreement is for ten (10) years with a five (5) year extension.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Mike Humberd

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Councilmember Groberg requested an update on this company and the operating agreement.

Councilmember Lyon requested the Airport Director to come forward to answer Councilmember Groberg's request.

The Airport Director stated that Aerohawk Aviation has been at the Airport for approximately twenty years doing aircraft maintenance. They have operated under the name of Aeromark. Aerohawk has recently separated from Aeromark, so a separate operating agreement is needed.

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to approve the Airport Operating Agreement with Aerohawk Aviation 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.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
March 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: RUN-OFF ELECTIONS – ORDINANCE

Attached for your consideration is the proposed Ordinance providing for run-off elections for mayoral candidates.

s/ S. Craig Lords

This Ordinance was passed on the first reading only at the March 10, 2005 Regular Council Meeting.

Councilmember Lehto turned the consideration of this Ordinance over to Councilmember Hally, as he was Municipal Services Council Committee Chairman and has carried it from the beginning.

Councilmember Hally stated that there has been much discussion held among Councilmembers regarding run-off elections. There are arguable positions on both sides on whether to conduct run-off elections for the mayoral race in Idaho Falls.

J. W. Everitt, 117 Whittier Street, appeared to state that he was in favor of run-off elections. In a representative form of government, it is only fair to have someone at the helm and especially with the power of a strong Mayor, that person should be required to have 50% plus 1 vote. This ensures that there is a representation from the citizens. Many people feel disenfranchised when a Mayor is allowed to be elected with, for example, 38% of the vote. All council seats should be subjected to that same rule. All Councilmembers need

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to connect with the people, as he has connected with Councilmember Lyon. This would allow for people to get back to a feeling where they are not so disenfranchised that they do not have an opportunity to speak and that they do not feel that they are represented by the masses. Again, Mr. Everitt stated that there should be run-off elections for the Mayor and for the City Councilmembers.

Ted Milton, 635 Troy Avenue, appeared to state that it is a great idea and a step forward into the future to have run-off elections. He has seen many times where the Mayoral race has been between five or six people. This dilutes the vote, allowing for a small percentage to actually win the election. He also commented that it is almost impossible to unseat an incumbent. Anyone running ought to have the same opportunity to take a seat. Run-off elections should be conducted for the Mayor and Councilmembers. Mr. Milton stated that if the City Council did not vote for run-off elections, they are not looking out for the best interests of the City of Idaho Falls.

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

ORDINANCE NO. 2592

AN ORDINANCE OF THE CITY OF IDAHO FALLS,
IDAHO, PROVIDING FOR RUN-OFF ELECTIONS
BETWEEN CANDIDATES FOR THE OFFICE OF
MAYOR WHENEVER THE LEADING CANDIDATE
RECEIVES LESS THAN A MAJORITY OF THE
VOTES CAST; PROVIDING FOR SEVERABILITY;
AND ESTABLISHING EFFECTIVE DATE.

Councilmember Lyon stated that he appreciated the work that Councilmember Hally has done on this Ordinance. He stated that this is one of the issues that he ran on when he ran for City Council. He felt disenfranchised and not represented. One of most fundamental principles of the political system is that while the rights of the majority are protected, the voice of the majority is the voice that rules. Under the system that the City functions in now, the races become so crowded. A person could be elected where 65% of the people do not want them to serve in that position. This makes no sense. There is a minority of the registered voters that actually vote. To have a minority of the minority that votes elect the person who will serve in office is unacceptable. He expressed his concern for the potential for corruption in the present system. A candidate could be introduced not to win, but to split the vote and to act as a spoiler. A run-off election would discourage this. Councilmember Lyon stated that he is in favor of a run-off election for both Mayor and City Council. If it was up to him, he would have an ordinance for both positions. The consensus reached by the City Council was an ordinance for run-off elections for the Mayor and a resolution to provide for an initiative election with respect to run-off elections for the offices of City Councilmembers.

Councilmember Hardcastle stated that she has not heard from any constituents with regard to run-off elections. She was disappointed in that. She stated that she struggled with adoption of this ordinance for several reasons. She commented that Councilmember Groberg presented an idea that the City Council should get approval from the voters as to whether they wanted the City to conduct run-off elections for the mayoral race. Councilmember Hardcastle stated that she receives many telephone calls on many different issues, but has not received any feedback on this issue. She stated that she would vote in favor of this ordinance, if the City Council would adopt another resolution allowing for the voters of Idaho Falls to decide whether there should be run-off elections for the mayor.

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Councilmember Groberg clarified that if the City Council approved, there would be an initiative election with respect to run-off elections for the offices of City Councilmembers placed on the ballot in November. He stated that another resolution could be adopted to allow for an initiative election with respect to run-off elections for the office of mayor. This would allow for the public to cast their vote for or against run-off elections.

The foregoing Ordinance was presented by title only. Councilmember Hally 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 second and third readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
March 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: RUN-OFF ELECTIONS – RESOLUTION

Attached for your consideration is the proposed Resolution providing for an initiative election with respect to run-off elections for the offices of City Councilmembers.

s/ S. Craig Lords

RESOLUTION NO. 2005-2

**Providing for an Initiative Pertaining to Run-Off Elections
for City Council Seats.**

WHEREAS, pursuant to the provisions of Idaho Code § 50-707B, the holding of run-off elections may be provided for by ordinance with respect to candidates seeking election for the office of city councilmember;

WHEREAS, pursuant to the provisions of Idaho Code § 50-707, elections for the office of Idaho Falls city councilmember are conducted with respect to each council seat;

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WHEREAS, pursuant to the provisions of § 1-12-7, City Code of Idaho Falls, Idaho, the City Council may submit to the popular vote at any regular or special election any initiative, the subject of which is allowed by law;

WHEREAS, the City Council desires to determine the will of the people with respect to run-off elections for candidates seeking the office of city councilmember;

NOW, THEREFORE, be it resolved as follows:

1. **Run-Off Election for City Council Seats.** That the following initiative measure be submitted to the vote of the electorate at the November, 2005 General Election, in the manner provided by state law and as provided by the provisions of Chapter 12, Title 1, City Code, to wit:

SHALL THE FOLLOWING MEASURE BE ADOPTED AS SECTION 1-6-15 OF THE IDAHO FALLS CITY CODE?

1-6-15: RUN-OFF ELECTIONS CITY COUNCIL SEATS:

A majority of the votes cast for the office of city councilmember shall be required for election of any candidate to that office. In the event no candidate in any City Council seat race, receives a majority of the votes cast at any general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes cast. In the event of a tie between the candidates receiving the second and third highest number of votes cast, selection of the candidate to oppose the candidate receiving the highest number of votes, shall be decided by the toss of a coin. Such run-off election shall be conducted in the same manner as for a general election and within thirty (30) days of the general election, and shall not be subject to the limitations set forth in Idaho Code § 34-106 and 50-429. The first notice of election shall be published by the City Clerk in the official newspaper not less than twenty (20) days next preceding any run-off election, and the designation of polling places shall be made by the City Clerk prior to such publication. The results of such run-off election shall be subject to any change in outcome as a result of a recount of the ballots pursuant to Idaho Code § 50-471. If, as a result of such recount, a candidate receives a majority of the votes cast and such recount becomes final at least forty-eight (48) hours prior to the commencement of

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such run-off election, the run-off election may be cancelled by order of the City Council.

_____ YES

_____ NO

2. **Conduct of Election.** Such initiative election shall be conducted on November 8, 2005, in conjunction with the general election on such date. The conduct of such election and the publication of election notices with respect to such initiative measure shall be conducted in the manner provided by state law and by the provisions of Chapter 12, Title 1, Idaho Falls City Code.

DATED this 24th day of March, 2005.

s/ Linda M. Milam
Linda M. Milam
MAYOR

ATTEST:

s/ Rosemarie Anderson
Rosemarie Anderson
CITY CLERK

(SEAL)

Councilmember Hally stated that issue has been discussed among City Council. This would allow for an initiative to be placed on the November ballot for a binding advisory vote with respect to whether run-off elections should be held for the office of City Councilmembers. In addition, Councilmember Hally proposed that an initiative be placed on the November ballot as to whether or not the just-passed Ordinance should be retained or dispensed with.

J. W. Everitt, 117 Whittier Street, appeared to question whether the City Council passed the Ordinance regarding run-off elections. Councilmember Lehto stated that the Ordinance was passed and that a run-off election would be conducted in November.

Councilmember Groberg stated that unless the Ordinance was repealed between now and the time of the election, a run-off election would be conducted. The next issue before City Council is a resolution that proposes an initiative vote on whether the voters want to hold a run-off election for City Council seats. Councilmember Groberg stated that Councilmember Hally would also like to have a vote from the public for or against maintaining the ordinance just passed for run-off elections for Mayor.

Mr. Everitt highly encouraged the City Council to have an ordinance prepared for run-off elections to be conducted for City Councilmembers. This would provide the opportunity for voters to reflect on the two people that could possibly give them a majority. A representative form of government should be offered to the people anyway.

Eric Woolstenhulme, 687 Cedar Ridge Drive, appeared to ask whether there was any evidence that a person has been elected and would not have been elected in a run-off election.

Councilmember Hardcastle stated that there has only been one time in the State of Idaho, where the top vote getter did not win the run-off election. Mr.

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Woolstenhulme requested to know how much the run-off election would cost the City of Idaho Falls.

Mayor Milam stated that the cost of the run-off election would depend on the number of races that are being voted upon. If there were just one, it could be done on a paper ballot. If there were more than one race, it might not be done as easily with paper ballot. The City of Idaho Falls contracts with Bonneville County Election Office to conduct City Elections. The City of Idaho Falls uses the same precincts that Bonneville County does. The same format for precincts, as prescribed by law, is used for staffing.

Councilmember Lyon stated that he was in the Bonneville County Election Office a couple of weeks ago to discuss the cost of elections with them. The City of Idaho Falls gets an excellent value from the Elections Office for conducting elections. Councilmember Lyon stated that the City's budget last year was approximately \$141,000,000.00. The cost of a run-off election would be approximately \$25,000.00. The cost of a run-off election is miniscule in comparison to the City's budget. He commented that he conducted an internet search of other states that hold run-off elections for municipalities. California provides for run-off elections for municipalities. Texas provides for run-off elections for municipalities, even mandating run-off elections for municipalities whose population is 200,000 or greater. Louisiana provides for run-off elections for their entire congressional delegation. Councilmember Lyon stated that run-off elections need to be conducted to allow the people to speak.

Brett Manwaring, 2160 Aegean Avenue, appeared to state that if the City Council passes another Resolution regarding whether the public wants to confirm the Ordinance requiring run-off elections for Mayoral candidates, it will add total confusion to the public. To him, that appeared to be a back-peddle. Mr. Manwaring requested to know where the courage of making a decision and standing by that decision is.

Councilmember Hally stated that this will be a highly contested Mayoral race. It will also provide the opportunity for the public to see how run-off elections would be conducted.

Mr. Manwaring stated that another initiative should then be placed on the ballot stating, "Shall this initiative be effective with this election?"

Mayor Milam stated that State law does not provide for an instant run-off.

Mr. Manwaring stated that the City Council should stick with their guns, rather than having the public tell the City Council whether they like what was decided upon. He did not have a doubt that the public wants to have run-off elections. It does not show much courage on the part of the City Council to make a decision and then ask the public to confirm that decision.

Councilmember Hally commented that it sounded as though Mr. Manwaring did not want the consent of the public.

Ted Milton, 635 Troy Avenue, appeared to state that the City Council is hedging their bet. When a person plays poker, if that person thinks that he has the hand, then he moves all in. The City Council does not have the courage to move all in.

A brief discussion was held regarding how the initiative providing for Run-Off Elections for Mayoral Candidates would be addressed. The City Attorney recommended that the current resolution providing an initiative for run-off elections for City Councilmembers includes the actual language that would be on the ballot. He recommended that the City Council direct the City Attorney's Office to prepare a similar resolution for consideration of confirming the decision of the City Council with regard to mayoral candidate run-off elections. This would then come back before the City Council for a decision.

J. W. Everitt, 117 Whittier Street, appeared to clarify, again, whether there was an ordinance in place at this time for mayoral candidate run-off elections. The Mayor

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confirmed that indeed the ordinance was just passed providing for run-off elections for mayoral candidates.

Alisa Prudent, 2258 First Street, appeared to state that she agreed with the fact that the City Council is putting this issue on the ballot for the citizens to say yes or no. Presenting these issues to the public shows democracy and gives them the right to see what they are voting for.

Councilmember Lyon stated that he knows that Councilmember Groberg introduced the idea of an advisory vote for the run-off elections for mayoral candidates. He has not heard any other conversation among City Council as to whether that would actually take place. He shared the concerns of Mr. Manwaring. This is unprincipled politics at its worst. There have been a number of issues before the City Council which they have chosen to ignore. There was overwhelming public input in one direction for the Wild Animal Ordinance and the City Council chose to go in the opposite direction. Suddenly the City Council has developed this collective conscience where they are suddenly interested in the voice of the people. There has been no consistency in the voice of the City Council. Approximately two years ago, Mr. Manwaring received more than 1,000 signatures on petitions from people who wanted run-off elections.

Councilmember Groberg stated that from the time the City Council began discussing run-off elections, he did not have a concern for the run-off election being conducted for mayoral candidates. A mayoral candidate is making a commitment for a full-time job. He had a second concern relating to altering election laws by the City Council. The very people that are often seeking election are making the rules about the election. The Ordinance is so simple that he could support it. There is not any possibility that it could be misconstrued as representing the vested interest of those already elected. Still, in talking about the procedure in which people get elected, it is best to go to the people and ask whether this is the process that they would like the City to use. That would be applicable to everyone, those in office and those not in office. That is all that is being asked.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Resolution providing for an initiative election with respect to run-off elections for the offices of Councilmembers and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to direct the City Attorney to prepare a resolution using similar language that would deal with the issue of asking for a binding advisory vote from the public on whether or not they want to maintain the ordinance regarding run-off elections for mayoral candidates, to be placed on the November, 2005 ballot. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle

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Councilmember Lehto
Councilmember Groberg
Councilmember Shurtleff

Nay: Councilmember Lyon

Motion Carried.

City of Idaho Falls
March 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-05-10, NEW UTILITY/TELECOM DC TO AC INVERTERS

Attached for your consideration is the tabulation for Bid IF-05-10, New Utility/Telecom DC to AC Inverters.

It is the recommendation of Municipal Services to accept the low bid for Items 1 through 5 of Graybar Electric to furnish the various size inverters manufactured by Majorpower – Majorshine for a total amount of \$19,928.00.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the low bids for Items 1 through 5 from Graybar Electric to furnish the various size inverters manufactured by Majorpower – Majorshine as presented for a total amount of \$19,928.00. 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
March 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-05-11, DISTRIBUTION TRANSFORMERS

MARCH 24, 2005

Attached for your consideration is the tabulation for Bid IF-05-11, Distribution Transformers.

It is the recommendation of Municipal Services to accept the lowest evaluated bid item meeting specifications as per Attachment "A" for a total purchase amount of \$264,895.00.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to accept the lowest evaluated bid item meeting specifications for Distribution Transformers as per Attachment "A" for a total purchase amount of \$264,895.00. 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
March 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BOILER REPLACEMENT AT THE WASTE WATER TREATMENT PLANT CHANGE ORDER

Attached for your consideration is the information for the change order for the Boiler Replacement at the Waste Water Treatment Plant. This change order is a combination of three (3) adjustments to the contract throughout the project, totaling \$5,750.00.

It is respectfully requested that Council approve said change order and authorize the Mayor to execute the documents.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve the Change Order to Atlas Mechanical and Industrial, LLC for the Boiler Replacement at the Waste Water Treatment Plant and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Shurtleff

MARCH 24, 2005

Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls
March 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PURCHASE TRAFFIC LINE STRIPING PAINT

The State of Idaho has extended contract CPO01487-01 for Traffic Line Striping Paint to Pervo Paint Company for the period February, 2005 through February, 2006.

Municipal Services respectfully requests authorization to purchase the City's requirements for the aforementioned product per said contract.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve the purchase of the City's requirements for Traffic Line Striping Paint for the period from February, 2005 through February, 2006 from Pervo Paint Company per said contract. 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
March 16, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: AUCTION SALE TO DISPOSE OF IMPOUNDED, UNCLAIMED,
AND SURPLUS MERCHANDISE

MARCH 24, 2005

Municipal Services respectfully requests authorization to conduct a City Auction Sale for impounded, unclaimed and City surplus merchandise. The sale is scheduled for Friday, April 22, 2005.

Municipal Services also respectfully requests to retain Great Western Auctions International to set up said auction, tag merchandise, provide crew to man the auction, and provide accounting of sales and proceeds at the cost of five percent (5%) of net proceeds of the auction.

s/ S. Craig Lords

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to give authorization to conduct a City Auction Sale for impounded, unclaimed, and City surplus merchandise on Friday, April 22, 2005 and, further, retain Great Western Auctions International to set up said auction, tag merchandise, provide crew to man the auction, and provide accounting of sales and proceeds at the cost of five percent (5%) of net proceeds of the auction. 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 Director submitted the following memo:

City of Idaho Falls
March 24, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: COMMUNITY PARK PARKING LOT PAVING PHASE II
PROJECT NO. 2-38-29-3-PRK-2005-19

On March 12, 2005 at 2:30 p.m. bids were opened for Phase II of the Community Park Parking Lot Paving Project. It is our recommendation to award the contract to the apparent low bidder, TMC Contractors, Inc. of Idaho Falls, Idaho 83401 in the amount of \$47,370.50. The engineer's estimate on this project was \$50,806.25.

The Parks and Recreation Division respectfully requests approval of the plans and specifications and that the Mayor and City Clerk be authorized to sign and execute the contract documents.

s/ David J. Christiansen

MARCH 24, 2005

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to accept the low bid from TMC Contractors, Inc. to complete the Community Park Parking Lot Paving Project, Phase II and further, give authorization for the Mayor and City Clerk to execute the necessary contract documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

City of Idaho Falls
March 18, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT AND FINAL PLAT FOR
KINGWOOD ADDITION, DIVISION NO. 1

Attached are the Final Plat and Development Agreement for the Kingwood Addition, Division No. 1. The plat is within the City, is zoned HC-1 and C-1. It is located on the southeast corner of Hitt Road and Sunnyside Road. The Planning Commission reviewed this plat at its March 1, 2005 Meeting and recommended approval. Staff finds the final plat to be in accordance with the Subdivision Ordinance. This Development Agreement and Final Plat are being submitted to the Mayor and Council for acceptance.

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 Development Agreement and Final Plat request:

Slide 1 Vicinity Map showing surrounding zoning
Slide 2 Aerial Photo
Slide 3 Final Plat under consideration
Exhibit 1 Planning Commission Minutes dated March 1, 2005
Exhibit 2 Staff Report dated March 1, 2005

Councilmember Groberg requested to know whether the lots for the storm water retention pond and the bike path were adequately wide for a bike path. The Planning and Building Director stated that they were wide enough.

MARCH 24, 2005

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Development Agreement for Kingwood Addition, Division No. 1 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.

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

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

Nay: None

Motion Carried.

City of Idaho Falls
March 18, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FINAL PLAT ENTITLED FIRST AMENDED PLAT OF KING'S ISLAND, DIVISION NO. 1 AND DIVISION NO. 3

Attached is the Final Plat for the First Amended Plat of King's Island, Division No. 1 and 3. The plat is within the City, is zoned R-1, and is located adjacent to Shadow Creek Drive and north of Juniper Hills Drive. The Planning Commission reviewed this amended plat at its March 1, 2005 Meeting and recommended approval. Staff finds the final plat to be in accordance with the Subdivision Ordinance. This final plat is being submitted to the Mayor and Council for review.

s/ Renée R. Magee

MARCH 24, 2005

Following is a list of exhibits used in connection with this Final Plat approval request:

Exhibit 1 Planning Commission Minutes dated March 1, 2005
Exhibit 2 Staff Report dated March 1, 2005

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to accept the Final Plat for the First Amended Plat of King's Island, Division No. 1 and Division No. 3 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
March 9, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AWARD – 5TH STREET WATER LINE, SOUTH BOULEVARD
TO HOLMES AVENUE

On March 1, 2005, bids were received and opened for the 5th Street Water Line – South Boulevard to Holmes Avenue Project. A tabulation of the bid results is attached.

Public Works recommends award to the low bidder, HK Contractors, Inc. in the amount of \$399,954.00; 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 accept the low bid from HK Contractors, Inc. in the amount of \$399,954.00 to complete the 5th Street Water Line, South Boulevard to Holmes Avenue Project 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

MARCH 24, 2005

Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

The memo from the Public Works Director regarding the Amendment to the Annexation Agreement for St. Clair Estates Addition, Division No. 5 was withdrawn by the Division Director.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Hally, that the meeting adjourn at 8:50 p.m.

CITY CLERK

MAYOR
