

FEBRUARY 10, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, February 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

Absent was:

Councilmember Mike Lehto

Also present:

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

Mayor Milam requested Andrew Benson to come forward and lead those present in the Pledge of Allegiance.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the January 27, 2005 Regular Council Meeting.

The City Clerk presented monthly reports from various Division and Department Heads and requested that they be accepted and placed on file in the City Clerk's Office.

The City Clerk presented the following Expenditure Summary dated January 1, 2005 through January 31, 2005, after having been audited by the Fiscal Committee and paid by the Controller:

<u>FUND</u>	<u>TOTAL EXPENDITURE</u>
General Fund	\$ 1,587,182.24
Street Fund	117,778.68
Recreation Fund	23,875.21
Library Fund	30,071.03
Municipal Equipment Replacement Fund	117,986.00
Electric Light Public Purpose Fund	38,349.70
Business Improvement District	22,865.00
Sanitary Sewer Capital Improvement Fund	11,524.00
Street Capital Improvement Fund	152,464.04
Water Capital Improvement Fund	10,450.00
Surface Drainage Fund	66,526.52
Airport Fund	135,503.71
Water and Sewer Fund	228,657.61
Sanitation Fund	2,944.74

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FUND	TOTAL EXPENDITURE
Ambulance Fund	10,499.18
Electric Light Fund	3,542,537.87
Payroll Liability Fund	<u>1,947,187.27</u>
TOTALS	\$8,046,402.80

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 February 10, 2005.

Councilmember Lyon requested that the Council Meeting Minutes for the January 27, 2005 Regular Council Meeting be considered under the Regular Agenda.

It was moved by Councilmember Groberg, seconded by Councilmember Lyon, that the Consent Agenda be approved, with the exception of the Council Meeting Minutes for the January 27, 2005 Regular Council Meeting, in accordance with the recommendations presented. Roll call as follows:

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

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the Council Meeting Minutes for the January 27, 2005 Regular Council Meeting.

Councilmember Lyon stated that he forwarded the minutes from the January 27, 2005 Regular Council Meeting to J. W. Everitt. Mr. Everitt had some concerns about the Council Minutes, so Councilmember Lyon requested Mr. Everitt to come forward to express those concerns.

J. W. Everitt, 117 Whittier Street, appeared to state that when he reviewed the synopsis prepared by the City Clerk, he found that it was inaccurate in what was said by Mr. Everitt and the Police Chief. He requested that the testimony that was given by Mr. Everitt and the Police Chief be included in their entirety as to what was actually said.

Mayor Milam explained that it was not a public hearing and, generally, minutes are condensations of the events. If the City Council would like to have the minutes reflect the content of the citizens' comment time by Mr. Everitt and the Police Chief, the motion could be amended to that effect.

The City Attorney stated that the City Clerk retains copies of the tape recordings for the Council Meetings for a period of at least 6 months. The tapes could be retained for a longer period of time, if that would facilitate the matter.

Councilmember Lyon stated that he would like to see the tape recordings kept for a longer period of time. Mayor Milam stated that the tapes have been kept for a year.

Mr. Everitt stated that keeping the tape would be accepted providing that nothing happened to the tapes.

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It was moved by Councilmember Hally to approve the Council Meeting Minutes for the January 27, 2005 Regular Council Meeting, with the stipulation that the tapes be kept for one year.

Councilmember Lyon stated that he did not like that idea. He empathized with J. W. Everitt in that he has felt at times his comments have been edited for political correctness.

Mr. Everitt stated that he agreed with Councilmember Lyon. There is one specific comment at the beginning of his conversation with the Council, where the City Clerk states that he "threatened" the Council. Mr. Everitt stated that it was a simple comment as to how he would proceed if the Police Chief failed to act on it. There were other items as well.

Councilmember Hally requested to know from Mr. Everitt whether the keeping of the tape recordings for one year would be sufficient.

Mr. Everitt stated that if there was a disagreement with what was said in the Council Minutes, that the tapes could be referred to.

Councilmember Lyon stated that there is not one person in 10,000 that references the tape recordings. When things are on the record and on the website, they are more easily accessible and transparent to the public. That is the principal that the City Council should live by. If Mr. Everitt wants to have his comments in the record, word for word, that is fine with Councilmember Lyon.

Councilmember Groberg stated that he was not inclined to amend his motion. Preserving the tapes is one process that is available to the City Council. The City Council has discussed in the past the process of writing minutes and it was decided at that time that the discussion would be summarized, unless a Councilmember or a citizen had something that they wanted to have placed verbatim in the Council Minutes. A statement should be prepared in writing to be added to the Council Minutes. It is not fair to ask the City Clerk to make a transcription of the record. That is not part of what is done. Councilmember Groberg stated that if Mr. Everitt had a statement that he would like to have entered into the record, the process would be for Mr. Everitt to prepare that statement to be submitted to the City Council.

Mr. Everitt stated that he understood what Councilmember Groberg said. He did not believe that it was necessarily right. The City Clerk gets paid for doing her job, and that job includes accurately reflecting what the citizens of Idaho Falls have to say to the City Council.

Councilmember Groberg stated that included in the policy was that any Councilmember can ask to have specific parts of the minutes amended if they do not feel that they are accurate. He, again, stated that he was not inclined to go to a verbatim transcription of the Council Meetings. If Councilmember Lyon feels that there are parts of the Council Minutes that are inaccurate, then he should present what is necessary to correct them.

Councilmember Lyon stated that Mr. Everitt should be provided with a copy of the tape recording for the January 27, 2005 Council Meeting and let him prepare the corrections that he would like. He could then present those at the next City Council Meeting.

Councilmember Groberg explained to Mr. Everitt that the City Council had a discussion six months ago regarding the process for amendments to the City Council Minutes. A Councilmember could correct any item that was necessary. If a Councilmember had a specific statement, that statement should be prepared and then could be entered into the Council Minutes as part of the record.

Mr. Everitt requested a copy of the tape recording for the January 27, 2005 Regular Council Meeting, so that his comments could be reflected. He agreed with Councilmember Lyon in that the meetings could be more transparent and one of the things

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that the City Council could consider is the possibility of offering Council Meetings in a closed circuit television venue.

Councilmember Groberg stated that to be a different issue. He explained that there is a process of recording minutes. The City Council has determined that they are not to be a transcription of the entire meeting, but that they should be accurate. Opportunities should be provided if they are inaccurate. The City Council can follow that procedure. Councilmember Groberg requested to know from the City Attorney whether the minutes needed to be approved at this time.

The City Attorney stated that the City Council could approve the minutes as they now stand, subject to subsequent amendment by any Councilmember if they so desire, or alternatively, the City Council could defer approval of the minutes until a subsequent meeting. There is no requirement under State Law that they be approved within a certain time frame.

Councilmember Groberg requested to know from Councilmember Lyon whether he wanted the City Council to wait to approve the minutes until he has had a chance to make specific recommendations for change.

Councilmember Lyon stated that he was not prepared with the changes that need to be made to the Council Minutes at this time. He felt that his own comments were reflected accurately. He was sensitive to the fact that he works for the citizens. If a citizen requested something from him, he would do his best to accommodate them.

Councilmember Groberg stated that Mr. Everitt's comments would still have to be a summary form correction.

Councilmember Lyon stated that he understood that.

Mr. Everitt questioned whether a private citizen could record the meeting.

The City Attorney stated that there would be no objection with respect to the recording, providing that it does not impair the orderly conduct of the meeting. There have been concerns in the past, when media is present, that they not impair the ability to conduct business.

Mayor Milam stated that the City Clerk has indicated that the copy of the tape recording would be ready on Friday afternoon.

It was moved by Councilmember Groberg, seconded by Councilmember Lyon, to defer the approval of the January 27, 2005 Regular Council Meeting Minutes to the February 24, 2005 Regular Council Meeting. Roll call as follows:

Aye: Councilmember Groberg
 Councilmember Lyon
 Councilmember Shurtleff
 Councilmember Hardcastle

Nay: Councilmember Hally

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct Annexation Proceedings for City of Idaho Falls – Parcel of land in the Southwest Corner of Section 16, Township 2 North, Range 38 East of the Boise Meridian – Idaho Canal/Hatch. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

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City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION AND INITIAL ZONING – PORTION OF IDAHO CANAL, NORTH OF FIRST STREET AND SOUTH OF GARFIELD STREET

Attached is the Annexation Ordinance for a portion of the Idaho Canal north of First Street and south of Garfield Street. The proposed initial zoning is R-1 (Single-Family Residential). The Planning Commission considered this annexation at its January 4, 2005 Meeting and recommended approval. This Department concurs with the Commission recommendation. This annexation 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
Exhibit 1 Planning Commission Minutes dated January 4, 2005
Exhibit 2 Staff Report dated January 4, 2005

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

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

ORDINANCE NO. 2583

**CITY OF IDAHO FALLS – PORTION IDAHO CANAL/HATCH
LOCATED IN THE SOUTHWEST CORNER OF SECTION 16,
TOWNSHIP 2 NORTH, RANGE 38 EAST OF THE BOISE
MERIDIAN**

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 Shurtleff
Councilmember Lyon
Councilmember Groberg
Councilmember Hardcastle
Councilmember Hally

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 City of Idaho Falls – Portion of Idaho Canal/Hatch located in the Southwest Corner of Section 16, Township 2 North, Range 38 East of the Boise Meridian 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 Lyon
Councilmember Shurtleff
Councilmember Hally
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct Annexation Proceedings for Dick Clayton Donation/Saturn Avenue Property located in the West Quarter Corner of Section 24, Township 2 North, Range 37 East of the Boise Meridian. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION AND INITIAL ZONING – CITY OWNED PROPERTY
EAST AND ADJACENT TO SATURN AVENUE, NORTH OF
PANCHERI DRIVE

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Attached is the Annexation Ordinance for City-owned property located and adjacent to Saturn Avenue, and north of Pancheri Drive. The proposed initial zoning is R-3A (Single-Family and Multi-Family Residential and Offices). The Planning Commission considered this annexation at its January 4, 2005 Meeting and recommended approval. This Department concurs with the Commission recommendation. This annexation is now being submitted to the Mayor and City Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan – December, 2000 Land Use Plan
Slide 4	Site Photo looking east across site
Exhibit 1	Planning Commission Minutes dated January 4, 2005
Exhibit 2	Staff Report dated January 4, 2005

The Planning and Building Director explained further that the R-3A Zone is in compliance with the Comprehensive Plan policies, as it is used as a buffer between the commercial zoning and the single-family residential zoning.

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

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

ORDINANCE NO. 2584

**CITY OF IDAHO FALLS – DICK CLAYTON DONATION – SATURN
AVENUE LOCATED IN THE WEST QUARTER CORNER OF
SECTION 24, TOWNSHIP 2 NORTH, RANGE 37 EAST OF
THE BOISE MERIDIAN**

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 Hardcastle
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 City of Idaho Falls – Dick Clayton Donation/Saturn Avenue located in the West Quarter Corner of Section 24, Township 2 North, Range 37 East of the Boise Meridian as R-3A (Single-Family and Multi-Family Residential and Offices) Zoning as presented, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hardcastle to conduct a public hearing for consideration of a proposed fee increase for Overtime Parking and Parking Without a Permit in a Designated Handicapped Parking Space. At the request of Councilmember Hardcastle, the City Clerk read the following memo from the Police Chief:

City of Idaho Falls
February 4, 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 9-4-25 of the City Code of Idaho Falls, Idaho, providing for changes to the notice and penalties of parking violations; providing for severability; preserving prior ordinance; and establishing effective date, be heard at the City Council Meeting of Thursday, February 10, 2005.

Thank you for your consideration.

s/ J. K. Livsey

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Councilmember Hardcastle stated that this recommendation came to the City Council from the downtown merchants and businesses as a suggestion for a way to take care of the parking problems in the downtown area. As a result, this was presented to the City Council during the budgeting process as there would be an expense involved in a hand-held device to identify more than one parking violation in 30 days. Following that, there was a Work Session conducted in which the City Council and attorneys were able to discuss this recommendation further. It was suggested at that time that following the 30 days notice, and 30 days further notice, that the offenders be turned over to the State of Idaho with the possibility of having their drivers' license revoked. This has been discussed in length.

Mayor Milam stated that as a result of the discussions, the City Council approved an item in the budget to purchase the hand-held computer.

Councilmember Hardcastle requested those in favor of the proposed Ordinance to come forward at this time.

Richard Napier, 243 Alturas, appeared to state that he is a downtown businessman, and has been in business for 28 years in the downtown area. During that period of time, he felt that the downtown area had a perceived parking problem. It has just been during the last few years that he has felt that there was a real parking problem. A lot of retail has moved out of the downtown area and there are a lot of office buildings. Employees are parking in the downtown parking spaces on the street. Mr. Napier stated that he has been a member of the Board for the Idaho Falls Downtown Development Corporation for approximately 8 years and has been Chairman of the Parking Committee. In June, 2002, a letter was sent out to all of the downtown business owners and building owners asking them to police their people to keep them off of the downtown streets. In September, 2003, another letter was sent to all of the downtown business owners and building owners as there was no relief seen from the previous letter. In November, 2003, due to the fact that nothing had changed, a letter was sent to Mayor Milam requesting an increase in parking ticket fees. At that same time, the Executive Director for the Idaho Falls Downtown Development Corporation gave him information on a hand-held computer, which was forwarded to Police Chief Livsey. In May, 2004, another letter was sent to Mayor Milam requesting the same thing as earlier presented. At the same time, in order to throw more weight behind his request, he petitioned his peers in the downtown area. He collected 29 signatures from local business in the downtown area addressing the parking problem in the downtown area. Mr. Napier stated that the hand-held computer has been through the budget process and has been approved for purchase. He estimated that there are approximately 200 to 300 employees that park on the streets in the downtown area. If a parking space is used by a customer, the turn-over time is approximately 30 minutes to 45 minutes. If that space turns every 30 to 45 minutes, there will be approximately 8 to 12 turns per day. If it is a downtown employee using that space, that is approximately 1 turn per day. Construction of a parking garage was discussed, but if 300 spaces could be used in the downtown area multiplied by 10 turns per day, that would result in 3000 spaces for use by customers. That would be more spaces than a parking structure would provide. Mr. Napier stated that the downtown employees need to be moved off of the downtown streets and into the areas that are provided for them. He requested that more strength be put into the law as there are approximately \$44,000.00 in past due parking tickets. The new ordinance does not change the fee structure much. In the 28 years that he has been in the downtown area, he has never had a customer tell him that he has received a parking ticket. The only people that he sees getting parking tickets are the downtown employees. He has had a couple of his manufacturing representatives get parking tickets and has paid that fee for them. If a customer of his were to get a parking ticket, he would pay that fee for them also.

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David Nygard, 365 Park Avenue, appeared to state that he owns 4 buildings in the downtown area. He stated that he is in favor of the ordinance. There are a lot of employees that park in the downtown area taking up customer parking spaces. If they do not have a retail store, they do not care.

Councilmember Shurtleff questioned Mr. Nygard regarding whether he had a concern as to whether the 2-hour parking limit was enough time to park if a customer was shopping.

Mr. Nygard stated that if one of his customers were to get a parking ticket, he would pay the parking ticket fee for them. He stated that the 2-hour parking limit was sufficient. Space is needed for customer parking.

Councilmember Lyon stated that the downtown businesses have made a good faith effort to request businesses to ask their employees not to park where customers should be parking. He requested to know why there has not been cooperation from those people who are the worst offenders.

Mr. Nygard stated that he had a problem with one of his neighboring retail stores with four employee cars being parked on the street in one day. He put some pressure on the owner by going into that business and losing his cool. They called the Police on him. He stated that he would never shop in that business again, but they did move their cars off of the street.

Councilmember Lyon requested to why other owners do not enforce the same policy.

Mr. Nygard stated that things have changed from the old days. Mr. Nygard stated that thirty years ago, Councilmember Lyon would never have been sitting in the Council chair without a suit on. Mr. Nygard stated that the business that he talked to are employees of a big corporation. They do not care.

Councilmember Hally requested to know from Mr. Nygard whether modifications made on Memorial Drive would eliminate the need for a parking garage in the downtown area.

Mr. Nygard stated that he did not believe that there was a need for a parking garage. There is enough parking along the railroad, two other parking lots, and on Memorial Drive for employees.

Councilmember Lyon stated that he shared the same concerns of Councilmember Shurtleff, in that the Ordinance may have the opposite effect from what is intended. He requested to know what Mr. Nygard would say to a patron who would be concerned about receiving a parking ticket while shopping in the downtown area, when he could go to a place such as Wal-mart and have a worry at all.

Mr. Nygard stated that he would pay for his customer's parking ticket should they get one. The problem is that if the City Council does not pass the Ordinance, the parking situation would not change.

Councilmember Hardcastle requested those in opposition of the proposed Ordinance to come forward at this time.

Ted Milton, 482 Constitution Way, appeared to state that in 1984 a Downtown Revitalization Committee was formed by Mayor Campbell. Many proposals were brought to the City Council at that time and, basically, Councilmember Mel Erickson gave the Downtown merchants the shaft. There is now a new Downtown Revitalization Committee that is bleeding the business owners dry with the additional tax that has to be paid. This money is not being used to the benefit of the downtown merchants. Mr. Milton stated that he owns a large parking lot on the north side of Constitution Way. At the present time, he has City and County employees parking in his lot to avoid paying parking fees. He did not want to see the parking fines be raised. The City needs to enforce the laws that are on the books now. He disagreed with the purchase of the hand-held computer.

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Mayor Milam stated that if there are City employees that are parking in Mr. Milton's parking lot, she wanted to know about it. The City provides off-street parking for employees. There are also employees that pay for parking in private lots.

J. W. Everitt, 117 Whittier Street, appeared to state that he shops downtown and lives near the downtown area. He did not believe that the solution to the parking problem was to raise the parking fees. People need to instill personal responsibility in their employees. He stated that he visited with his wife about this issue as she had attended a number of Public Safety Council Committee Meetings. She told him that what she remembered from the meetings was that there were a number of habitual offenders downtown that happened to be attorneys. These people offended over and over again, and refused to pay their fines. He stated, further, that the City was unwilling to go after the offenders to make them pay their fines. It does not take a \$20,000.00 computer to get someone to pay their fines. The City should turn this information over to the Department of Motor Vehicles and they will refuse to license the vehicle or license the individual until the fines are paid. Mr. Everitt stated that he believed that the reason people are not shopping in the downtown area is because there is nothing going on. What the City Council needs to do is to encourage downtown redevelopment. Boise has done a remarkable job of developing an interesting downtown. He suggested that the City Council find some way to attract people. Tax incentives should be offered to the individuals who own buildings in the downtown area so that they can fix them and create an environment where people would like to go. He believed that people are going to demand a new parking structure in the downtown area. If the City Council cuts the heart out of the City, it will die. He sympathized with the merchants in the downtown area. There needs to be a draw for people to come to the downtown area and parking needs to be provided to keep them coming. If a parking garage needs to be built, then build one. The City Council needs to give the downtown merchants help.

There being no further discussion either in favor of or in opposition to the proposed fee increases, Mayor Milam closed the public hearing.

Councilmember Groberg stated that the matter of parking violations in the downtown area has been discussed over a long period of time. A person could get a parking ticket every month and only pay \$5.00 per offense. Councilmember Hardcastle stated that this is the current fee. Councilmember Groberg stated that if there is a frequent violator, then they would be penalized further. That is a reasonable effort to move people that are parking for the day to a permanent parking space. The question that he had was that the Ordinance also addresses increasing the fine on people who park in handicapped parking spaces. He requested to know what the purpose of that fine increase was. Councilmember Groberg stated that he has had immobilized people living in his home and has taken them to different functions in the area, and has not had a problem in finding a handicapped parking space occupied by someone that should not have been occupying that space.

Councilmember Hally stated that he spent 38 years working with people that had disabilities. It has been a long, hard fight to provide handicapped parking spaces so that these people can be part of the community. Most cities set the fine at \$100.00 to \$200.00 per offense. It makes sense to bring the handicapped parking violations up to a minimum level in the State of Idaho of \$50.00.

Councilmember Groberg questioned what the City Council would want to increase the fine if there is not a problem. He requested to see some evidence that there is a problem in Idaho Falls.

Mayor Milam stated that she has paid attention to this issue because a number of years ago a volunteer group was established to make those observations. They were equipped with a camera, a vest, and a ticket book. By and large, people are pretty good about making sure that the handicapped spaces are appropriately used. Mayor Milam stated that there are exceptions. This is one of the most reprehensible things that people

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can do when they are perfectly capable. This fee increase is a method to send a message to those who choose to violate.

Councilmember Hally stated that violators are more common in the winter time when the weather is inclement.

Councilmember Groberg requested some information on violations of this law.

Councilmember Lyon stated that he appreciated what Councilmember Groberg had to say. He requested to know how many tickets the City is writing for violating handicapped parking.

Councilmember Shurtleff stated that he believed that those that are handicapped would testify that there is a problem with the handicapped parking spaces being used by violators.

There was a brief discussion among the City Council regarding whether there was a problem with violators using handicapped parking spaces.

Councilmember Shurtleff expressed his concern as to whether this ordinance would accomplish what the downtown businessmen want it to accomplish. If the downtown businessmen think that this ordinance is going to help their situation, then he was willing to approve the ordinance. If this ordinance does not accomplish what the downtown businessmen want it to accomplish, he requested that the downtown merchants come back to the City Council for the ordinance to be rescinded.

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

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND RE-ENACTING
SECTION 9-4-25, OF THE CITY CODE OF THE
CITY OF IDAHO FALLS, IDAHO; PROVIDING FOR
CHANGES TO THE NOTICE AND PENALTIES OF
PARKING VIOLATIONS; PROVIDING FOR
SEVERABILITY; PRESERVING PRIOR ORDINANCE;
AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Hally seconded, to pass this ordinance on the first reading only. Roll call as follows:

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

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.

Georgette Porter, appeared to state that she lives on County Line Road between Bonneville County and Jefferson County. She stated that she worked for the City of Idaho Falls Police Department. Since Councilmember Shurtleff questioned whether two

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hours was adequate for shopping, she appeared to state that it was. She stated, further, that her mother is 86 years old and an independent woman. If a handicapped person is still able to drive and is unable to find a handicapped parking space, they must leave the area. She stated that she believed that a person using that handicapped space illegally, should have an increased fine because they made a choice for another person.

Councilmember Groberg gave an example of a neighbor who prays that when she leaves her home that she will find a handicapped parking space. He again requested information as to whether these parking spaces were being abused. If there is a problem, he was in favor of doing what it takes to enforce the law.

Devon Nii, 2535 Harold Drive, appeared to question Councilmember Groberg as to proof if there is a problem with handicapped parking. If there is not any proof, then where is the harm in raising the price of the tickets? If there is not a problem, then we should keep it that way by raising the price of the tickets so that people will not park in those spaces.

J. W. Everitt, 117 Whittier Street, appeared to state that when he was present at the last Council Meeting, he requested the City Council to do something about his neighbor across the street that had been convicted of domestic violence and was still armed. Within a couple of days of his appearance at the Council Meeting, he noticed that Officer Poulter and another gentleman was parked around the corner and were dressed in plain clothes. They then walked up to the Sosnowski's house. He also noticed another unmarked Idaho Falls Police Car, that appeared to have the Police Chief in it and another gentleman parked on the street, with its lights on, for quite awhile. The officers went into the house. Mr. Everitt stated that he did not see the officers leave, but did witness Mrs. Sosnowski return home. The gray unmarked car then left, with Mrs. Sosnowski following them toward the downtown area. He had informed Councilmember Lyon of this situation, who said that he would inquire at the Police Department as to what happened. The Police Department claimed that Mr. Sosnowski had been disarmed, and requested to know whether that was true.

Councilmember Lyon stated that he made a call to the Police Department. A message was left on his telephone that said that the officers had taken Mr. Sosnowski's weapon.

Mr. Everitt commented that when he was at the previous Council Meeting requesting that something be done about the situation, he was told that the Police Chief did not have the authority to remove the weapon. The Police Chief stated that he had contacted the ATF and they would not give him the authority to remove the weapon. The Police Chief had also stated that he had talked with the U. S. Attorney regarding this situation and that they were not interested in prosecuting this due to the fact that Mr. Sosnowski had not been informed of his rights as to what he could possibly lose when the Court had brought him before it. Mr. Everitt stated that it was not the Chief's business to be the counsel for Mr. Sosnowski, so whether his rights were violated or not it is irrelevant. He requested to know whether the Police Chief found the authority to seize Mr. Sosnowski's weapon and why was he not notified about that seizure since he was the one to make the original complaint.

Mayor Milam apologized to Mr. Everitt in that he had to contact Councilmember Lyon, as the Police Chief or Mayor Milam could have responded to this as well. The Police Chief spent the better part of the day following the Council Meeting on the telephone with the U. S. Attorney's Office and with Alcohol, Tobacco and Firearms people and did get their verbal authorization to take the weapon. At the time, Mayor Milam committed that if she could get something in writing, she would make sure that copies were distributed. There was nothing presented in writing, but there was a verbal authorization given. Mayor Milam explained the Officer Poulter is now in the Detective Division along

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With the other officer that Mr. Everitt saw. Because Officer Poulter had been the neighborhood officer for quite some time and had established a relationship with people in the area, he responded to that call. The Police Chief was there as back-up in case there were any problems. There were none. The weapon was received.

Mr. Everitt commented that since he was the one that complained about this and they were the people across the street that were uneasy about this situation, would it not have been a common courtesy for the Police Department to inform them that something had happened. He stated, further, that any time that he has requested something from the Police Chief, it has been denied, including being e-mailed with notice of the Public Safety Committee Meetings that he would very much like to attend.

Mayor Milam stated that Council Committee Meetings are now being posted on the City's website.

Police Chief Livsey appeared to state that the Police Department had no authority to take that gun and they did not receive authority to get that gun. The Idaho Falls Police Department does not have the authority, as a local agency, to act on behalf of the U. S. Attorney or the ATF. In October or November, 2004, the Police Department worked with the ATF to get the gun removed from Mr. Sosnowski's residence. It was a 410 shotgun which was permanently displayed in his front window. There were problems with Mr. Sosnowski's case. He had not been put on notice from the U. S. Attorney's Office, who believed that would be necessary before taking on the prosecution. The ATF requested all of the information on Mr. Sosnowski's conviction or plea. Mr. Sosnowski pled in 1995, which was years before the law went into effect that a person convicted of domestic violence could not have a firearm. It is a post ex-facto law that Mr. Sosnowski could not be in possession of a firearm now. The U. S. Attorney's Office felt that because Mr. Sosnowski had not been put on notice, they chose not to go after that firearm and refused to prosecute. In late October or early November, 2004, Captain Smart and Lieutenant Brown, both in the Detective Division, attended a gun conference in Pocatello and talked to the Assistant U. S. Attorney and he was adamant that he would not prosecute the case. After the last Council Meeting, Police Chief Livsey contacted the ATF in Boise and received the same information. The Police Chief talked with Mike Fikes in Pocatello early on Friday. During that time, they talked about the situation extensively and Mr. Fikes was still of the inclination to not take the gun and prosecute. Mr. Fikes talked to the ATF in Boise over the next several hours. At about 2:00 p.m. Friday afternoon, the ATF in Boise determined that they would come over and take the gun during the next week. The Police Chief talked with Mr. Fikes and told him that rather than have the ATF come over and confiscate the gun, the Idaho Falls Police Department had a neighborhood Police Officer, now Detective Poulter who had a good relationship with Mr. Sosnowski and could tell Mr. Sosnowski that if he did not care to give the gun to Detective Poulter, the ATF would come the following week and take the gun at that time. Detectives Poulter and Roos picked up the gun with the Police Chief and Detective Zaladonis serving as back-up. The Police Chief stated that he assumed that Mr. Everitt had been aware of what was happening, as he was outside watching at the time. That being said, there is no national database with mentally ill people owning firearms or with people who are restricted from firearms for other reasons such as domestic violence convictions. A person who has a domestic violence conviction or a person who is mentally ill or have other things that would restrict them from ownership of firearms, are still perfectly capable in this country of going to a firearms dealer, especially where they are not well known, and purchase a firearm. Mr. Sosnowski's gun was not taken away earlier because the Police Department was told in no uncertain terms in late October or early in November, 2004, that the U. S. Attorney's Office would not prosecute. With no prosecution, there is no authority for the ATF to take the gun, and certainly no authority ever for the Police Department to take the gun on behalf of the Federal government. Police Chief Livsey

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Stated that with regard to the Public Safety Meetings, he has never received a call from Mr. Everitt requesting notification of those meetings. Mr. Everitt has never talked with the Police Chief. The only time that the Police Chief has heard from Mr. Everitt is during the discussions held at City Council Meetings. The Police Chief has received several letters from Mr. Everitt's wife. The Police Chief stated that Councilmember Lyon suggested sending e-mail notification of the Public Safety Meetings to Mr. Everitt. The Police Chief stated that all meeting agendas involving the Police Department are placed on the Police Department's website. Anyone can access this information.

Councilmember Hally commended Police Chief Livsey for the way he has handled this case, the diligence that he has put into it, and the efforts he has made with the State authorities. There are many times that people do not appreciate the work that the Police Department does. He has done a good job on this case.

Councilmember Lyon questioned whether the U. S. Attorney's Office was going to prosecute Mr. Sosnowski since they were now going to confiscate his gun.

The Police Chief stated that the U. S. Attorney's Office was not going to prosecute Mr. Sosnowski. The U. S. Attorney's Office is still unwilling to prosecute Mr. Sosnowski, as they do not believe that they can win this type of a case due to the fact that it was before the law was written that he was convicted and he was not provided notice when he pled guilty to domestic violence. Because of the many discussions held on Friday after the City Council Meeting, the U. S. Attorney's Office decided to give authority for the ATF in Boise to confiscate the gun with the threat of prosecution. In this Country, the Police Department cannot just seize something unless it is for evidence. The ATF would seize the gun and file charges. They never did say that they would prosecute. At that point, Chief Livsey requested to know whether the local Police Department could confiscate the gun. ATF told him that this would be the best of all worlds.

Councilmember Lyon requested a clarification that the ATF did not need to commit to a prosecution to confiscate the gun.

The Police Chief stated that the Police Department had to have a back-up that the U. S. Attorney's Office would prosecute because the Police Department could not go in with a threat for Mr. Sosnowski to give up the gun or the Police Department would go to the ATF. If Mr. Sosnowski did not turn in the gun and the Police Department called the ATF and then the ATF told the Police Department that they are not coming, the Police Department would have made a threat that they could not back up. Then there would be a bigger problem. The Police Department would have lost credibility with the person. The Police Department is not in the habit of threatening people with things that they can not back up. With no prosecution guarantee from the U. S. Attorney's Office, the ATF would not come to confiscate the gun. It was never the place of the Idaho Falls Police Department to take the gun because there was no federal authority to do so.

Councilmember Lyon requested a clarification that even if the ATF had come to confiscate the gun, ATF would have filed charges but there was no follow through with the prosecution.

Chief Livsey stated that Councilmember Lyon would have to talk with the U. S. Attorney's Office in Pocatello to determine what they were going to do.

Councilmember Lyon requested to know what the Police Chief's understanding was from the U. S. Attorney's Office.

The Police Chief stated that his understanding from the U. S. Attorney's Office was that ATF would come to take the gun and file charges. Generally, when charges are filed, there is the intent to prosecute. Getting this gun is important, because whether charges are filed or not, Mr. Sosnowski can not have the gun back. Mr. Sosnowski can not get the gun back because there is no prosecution because he is a restricted person.

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Councilmember Lyon requested to know whether Chief Livsey had ever been involved in a similar situation in his career in law enforcement.

Chief Livsey stated that he did not know what Councilmember Lyon was getting at and could not answer that question. He stated that he had been involved with the Federal government before.

Councilmember Lyon requested to know what Chief Livsey would do for the purposes of public safety, if someone had to be disarmed.

Chief Livsey stated that the Police Officers take weapons as a matter of course in a domestic dispute or where a crime is being committed, usually with permission from one party or the other. The Police Department holds the weapons and the people are referred to a prosecutor to get an order to get the weapons back. Weapons are taken from the house where the crime is being committed and where the Police Department has authority to take the weapons.

Councilmember Lyon stated that the thing that is troubling to him, and he has been close to the issue from the beginning, is that the neighborhood has been full of stress, strain, and anxiety for the residents. There has been a high potential for someone to get hurt. Councilmember Lyon questioned Chief Livsey why he could not confiscate the gun from Mr. Sosnowski at an earlier date, just like he did last week.

Chief Livsey repeated that the Police Department did not have the authority to take the gun from Mr. Sosnowski.

Councilmember Lyon requested to know why the Police Chief was unable to get authority, just like he did last week.

Chief Livsey stated that he called the U. S. Attorney's Office in November and they told him that they would absolutely not prosecute Mr. Sosnowski. It is not up to the Idaho Falls Police Department to tell the U. S. Attorney's Office to prosecute. The local law enforcement is not a federal agency. In fact, as a matter of routine the FBI or ATF, unless there are exigent circumstances such as a bank robbery in progress, go to the U. S. Attorney's Office for authority for arrest. That is the way it works with the federal government.

Councilmember Lyon requested to know why Chief Livsey was able to get the authority to seize Mr. Sosnowski's gun at this time.

Chief Livsey stated that he did not receive the authority. The only thing that the Idaho Falls Police Department had was a discussion with Mr. Sosnowski stating that if he did not give up the gun to the local police officers, the ATF would come in the next week to take the gun and charges would be filed.

Mayor Milam stated that the gun was turned in voluntarily.

Councilmember Lyon requested, again, to know why Chief Livsey did not accomplish this sooner.

The Police Chief stated that the U. S. Attorney's Office told him that they would not prosecute and that was the end of it. He stated that he tried again and negotiated all day long with the U. S. Attorney's Office to get the gun confiscated. The Police Chief stated that since late October or early November, 2004, the Police Department has not had a problem with Mr. Sosnowski and the gun, which has been brought to the Police Department's attention. The Police Chief stated that he has talked with Officer Poulter at length about this situation, who did not see this as an issue. When Mr. Everitt came to City Council Meeting and made it an issue, the next morning the Police Chief got on the telephone to negotiate, again, with the U. S. Attorney's Office. He stated that he could have done nothing and appeared before the City Council to state that the U. S. Attorney's Office told the Police Chief that they would not seize the gun in November and that was the end of it. But he worked all day Friday to try to achieve some result, which he thought was the correct thing to do. Had he chosen to take the former approach, he may not be in front of the City Council answering questions, because it would have been the

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truth and anyone could have called the U. S. Attorney's Office in Pocatello who would have told them that this would not be prosecuted. The Police Chief stated that he went the extra mile to get something accomplished.

Councilmember Lyon stated that this was not a good way to govern the City, for citizens to have to come before the City Council to get the government off of the dime. When there is a problem, it should be handled. People should not have to go through months of stress, strain, come to City Council, and state that because of the fear that they feel or the situation that they are in that they are ready to go to lengths to hold people accountable if something happens to finally get the government to move. The City serves the people and does not ignore the people. The City needs to be more responsive.

The Police Chief stated that he is not the federal government and cannot be held accountable for them.

Councilmember Lyon stated that he was speaking of the City government.

Chief Livsey stated that he cannot do things without the proper authority.

Mayor Milam stated that the Police Chief contacted the U. S. Attorney's Office and did not get the authority that he needed. That was last fall.

Councilmember Lyon stated that this would be small consolation if Carol Chaffee was a widow right now. That is not acceptable.

Councilmember Hally stated that this was a hyperbole and the most extreme example that he has ever heard.

Councilmember Groberg stated that the City Council needed to move on.

Mayor Milam stated that the gun is now out of that house. She thanked the Police Chief for his work and requested that the Police Chief take her appreciation back to Officer Poulter and Lieutenant Roos.

J. W. Everitt, 117 Whittier Street, appeared to state that the Police Chief stated that Mr. Sosnowski's conviction was in 1995 and that because he had not been informed of his rights, that the U. S. Attorney declined to prosecute this. There are two flaws with what the Police Chief stated. Police officers witnessed Mr. Sosnowski brandishing the firearm and they witnessed him place it in the window. That was not a 410 shotgun; it was a 12-gauge black pump. That means Mr. Sosnowski still has the other gun. The United States Supreme Court ruled that this law is ex-post facto. In other words, officers that were involved in domestic violence prior to the law being passed are being denied their privilege of owning firearms. That law was passed more than two years ago. This is a situation that has been ignored. The Police Chief had authority under the brandishing provision to take that weapon any time he felt like it. Since the Supreme Court of the United States of America has ruled that this law is ex-post facto, that gun should have been out of there.

The Airport Director submitted the following memo:

City of Idaho Falls
January 26, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: AWARD OF BID FOR REHABILITATION OF THE AIR CARRIER
APRON AND T-HANGAR TAXIWAYS

FEBRUARY 10, 2005

Attached for City Council approval is the Bid Tabulation for the FY-2005 FAA Project. The low bidder was HK Contractors, Inc. with a bid of \$4,968,646.00.

The Airport Division recommends approval of the low bid subject to federal funds and requests the Mayor be authorized to execute the contract documents.

s/ Mike Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to accept the low bid from HK Contractors, Inc. to complete the Rehabilitate Air Carrier Terminal Apron (19,400 SY) and Rehabilitate T-Hangar Taxiways (18,000 SY) Project subject to federal funds and, further, give authorization for the Mayor and City Clerk to execute the necessary contract documents. Roll call as follows:

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

Nay: None

Motion Carried.

The memo from the Parks and Recreation Director regarding the Lease and Concession Agreement with Renee Walsh for the Nineteenth Hole Café at Pinecrest Golf Course with withdrawn by the Division Director.

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls
February 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: LEASE AGREEMENT – SERVICE VENDING OF IDAHO, INC.

Attached for your consideration is a Lease and Concession Agreement between the City of Idaho Falls and Service Vending of Idaho, Inc. This lease will provide for the concession operation at Sand Creek Golf Course. The term of the lease is for two years terminating December 31, 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

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Lease and Concession Agreement with Service Vending of Idaho, Inc. for the concession

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operation at Sand Creek Golf Course 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 Lyon
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

City of Idaho Falls
February 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: LEASE AGREEMENT – SERVICE VENDING OF IDAHO, INC.

Attached for your consideration is a Lease and Concession Agreement between the City of Idaho Falls and Service Vending of Idaho, Inc. This lease will provide for the concession operation at Sage Lakes Golf Course. The term of the lease is for two years terminating December 31, 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

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Lease and Concession Agreement with Service Vending of Idaho, Inc. for the concession operation at Sage Lakes Golf Course 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 Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

FEBRUARY 10, 2005

City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: SECOND AMENDED PLAT OF PARK-ST. CLAIR ADDITION,
DIVISION NO. 1

Attached is the Final Plat entitled the Second Amended Plat of Park-St. Clair Addition, Division No. 1. This plat is located west of Woodruff Avenue and north of Sunnyside Road. The plat creates two R-3A zoned lots from one existing lot. The Planning Commission considered this plat at its January 4, 2004 Meeting and recommended approval. This Department concurs with the Commission recommendation. This final plat 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 Final Plat request:

Exhibit 1 Planning Commission Minutes dated January 4, 2004
Exhibit 2 Staff Report dated January 4, 2004

The Planning and Building Director stated that this is a request to make one lot into two lots. This meets the R-3A Zoning requirements and is in compliance with the Subdivision Ordinance.

Councilmember Groberg stated that this land is already zoned R-3A. It allows for office buildings and apartments. By amending the plat, there is the possibility that the lot not now used by the veterinary clinic could be sold and used for whatever is allowed in the R-3A zone. This is strictly an administrative procedure and there is no zone change requested at this time. There is no public hearing required.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Final Plat entitled the Second Amended Plat of Park-St. Clair 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 Groberg
Councilmember Hally
Councilmember Lyon
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

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City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ORDINANCE AMENDING SIGN CODE AND PROVIDING FOR
ON-PREMISE ANIMATED SIGNS AND PROJECTING SIGNS

Attached is an ordinance which permits on-premise animated signs as a conditional use permit and allows projecting signs fifteen square feet or less in the CC-1 (Central Commercial) zone. This ordinance also updates references to building and electrical codes and includes the newest zone, the Medical Services Zone, within the Sign Code. The animated and projecting portions of this ordinance were discussed at two Council Work Sessions. This ordinance has been reviewed by the City Attorney. The Department respectfully submits this ordinance to the Mayor and Council for consideration.

s/ Renée R. Magee

Councilmember Groberg stated that the City Council has held two Work Sessions on this Sign Code Amendment. He provided examples of the different types of signs involved in this amendment.

Councilmember Lyon requested Loren Walker to come forward as he has an interest in erecting one of these types of signs.

Loren Walker, 1165 South Utah Avenue, appeared to express his appreciation for consideration of the Sign Code Amendment. He stated that he has attended the Work Sessions and commented that he understood some of the arguments in support and in concern for this amendment. After listening to the arguments, he believed that the benefits outweigh the concerns. As a proponent, he stated that in today's world, electronics and advancements in communications through computers are a sign of the times. These should be embraced carefully and adopted appropriately. Mr. Walker requested the City Council to adopt the ordinance amendment.

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

ORDINANCE NO. 2585

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO; AMENDING SECTIONS 7-9-12, 7-9-15, 7-9-21, 7-9-36, 7-9-39, 7-9-44, 7-9-45, 7-9-46, AND 7-9-47 OF THE CITY CODE, BEING A PORTION OF THE SIGN CODE OF THE CITY; PROVIDING REFERENCE TO THE INTERNATIONAL CODES; REPEALING AND RE-ADOPTING TABLE 1, APPENDIX TO TITLE 7, CHAPTER 9 OF THE CITY CODE; PROVIDING FOR PROJECTING SIGNS IN THE CC-1 ZONE; ADDING SECTION 7-9-48, RELATING TO ANIMATED SIGNS; DECLARING ORDINANCE METHODOLOGY; PROVIDING FOR PRESERVATION OF PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY 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 Hally
Councilmember Hardcastle
Councilmember Lyon
Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
January 24, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: SANITARY SEWER RATE RESOLUTION

Attached for your consideration is a Resolution establishing sanitary sewer rates for domestic and commercial customers located within the City.

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

s/ Chad Stanger

RESOLUTION NO. 2005-1

ESTABLISHING DOMESTIC AND COMMERCIAL RATES
FOR USE OF SANITARY SEWER FACILITIES INSIDE THE
CITY OF IDAHO FALLS

WHEREAS, the City of Idaho Falls owns, operates and maintains a publicly-operated waste water treatment and collection work (the "POTW"); and,

WHEREAS, the capital cost and the cost of operation, maintenance and replacement of the POTW must be derived from user fees based upon their proportionate share of use; and,

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WHEREAS, the City desires to establish an equitable method for apportioning such costs in a manner that is proportionate to the demand or impact each user has upon the public sewer and waste treatment facilities;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO:

1. Establishment of Rates. The following monthly use rates are established for use of the POTW.

DOMESTIC RATES - INSIDE CITY	
Nature of Use	Rate
Single family dwellings, including condominium units and mobile homes	\$16.50 plus \$12.41 for each functionally separate apartment located within such dwelling
Large multi-family dwelling units	\$12.41 for each functionally separate dwelling unit
Small multi-family dwelling units	\$16.50 for each functionally separate dwelling unit
Mobile home court	\$16.50 per mobile home court, plus \$12.41 per occupied space
Commercial buildings and professional Offices	\$4.95 per each 1,000 square feet of floor space
Laundromats	\$8.25 per washing machine upon the premises
Barber or beauty shops	\$2.64 for each sink
Hotels, motels, boarding houses	\$5.28 for each room
Restaurants and fast-food establishments	\$43.89
Elementary Schools	\$6.86 per each 50 enrolled students or fraction thereof
Secondary Schools, colleges and Universities	\$8.71 per each 50 enrolled students or fraction thereof
All other non-metered customers	\$16.50 per each fully enclosed structure connected to the POTW

METERED COMMERCIAL RATES - INSIDE CITY	
Nature of Use	Rates
Commercial user	\$2.52 per month base charge, plus \$1.61 per 1,000 gallons of metered water
All domestic and commercial Structures	110% of the domestic and commercial rates set forth above for City residents

2. Definitions: For the purposes of this Resolution, the following terms shall have the meanings ascribed below:

SINGLE FAMILY DWELLING: Any functionally separate dwelling used primarily for human habitation.

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LARGE MULTI-FAMILY
DWELLING:

Any dwelling structure in which three or more functionally separate dwelling units are used primarily for human habitation.

SMALL MULTI-FAMILY
DWELLING UNIT:

Any dwelling structure in which less than three functionally separate dwelling units are used primarily for human habitation.

3. Determination of Metered Use: For the purposes hereof, the City may at any time, in its sole discretion, require any user to meter his or her flow into the sewer system.

4. Effective Date: This Resolution shall be effective with respect to all customer accounts billed on or after March 1, 2005.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR
this 27th day of January, 2005.

s/ Linda M. Milam
Linda M. Milam
Mayor

ATTEST:

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

(SEAL)

Councilmember Lyon requested to know how long it has been since the last sewer rate increase. Councilmember Shurtleff stated that the last sewer rate increase was in 1999.

Mayor Milam stated that the City of Idaho Falls has the lowest rates in this region.

Councilmember Shurtleff stated that there are other issues from the State and the Clean Water Act that will cause some headaches in the future for the Sewer Department, but those issues will be dealt with as necessary.

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Resolution establishing domestic and commercial rates for use of sanitary sewer facilities inside the City of Idaho Falls and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

FEBRUARY 10, 2005

City of Idaho Falls
January 24, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: WATER RATE ORDINANCE

Attached is an ordinance establishing the rates for water service supplied by the City.

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

s/ Chad Stanger

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

ORDINANCE NO. 2586

AN ORDINANCE REPEALING AND RE-ENACTING
SECTION 8-4-36 OF THE CITY CODE OF THE CITY
OF IDAHO FALLS, IDAHO; PROVIDING FOR
SEVERABILITY AND ESTABLISHING EFFECTIVE
DATE OF ORDINANCE.

Following a brief discussion, it was determined that the water rates were last increased in 1994. Mayor Milam commented that these are some of the lowest rates in the region. Councilmember Shurtleff stated that water rates would not be the problem with water in the future. That problem will be the availability of water. Mayor Milam commented that the water rates are tied to the service.

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 the 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 Hardcastle
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

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

The Public Works Director submitted the following memos:

City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 1, BLOCK 2, LAKEWOOD ASPENS ADDITION

The owner of Lot 1, Block 2, Lakewood Aspens Addition has requested vacation of a utility easement located on this property and agreed to dedicate a replacement easement in another location.

Public Works requests authorization for the City Attorney to prepare the documents needed to vacate this easement.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to give authorization for the City Attorney to prepare the documents needed to vacate the easement in Lot 1, Block 2, Lakewood Aspens Addition. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
February 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: AMENDMENT NO. 1 TO TASK ORDER NO. 12 – CH2M HILL CONSTRUCTION SERVICE CONTRACT, HEADWORKS PROJECT

Attached is proposed Amendment No. 1 to Task Order No. 12 of the CH2M Hill Engineering Services Contract for construction services provided during the Headworks Project at the Sewage Treatment Plant. CH2M Hill experienced a substantial overrun of costs. The additional time and effort expended by

FEBRUARY 10, 2005

CH2M Hill was the result of circumstances driven by the City, the contractor, and the contractor's suppliers. The amendment, as proposed, adds \$95,700.00 to the contract amount.

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

s/ Chad Stanger

Councilmember Shurtleff explained that there were some complications with regard to this project. The contract had to be extended. CH2M Hill costs were approximately \$185,000.00. The City has negotiated the cost to \$95,700.00.

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Amendment No. 1 to Task Order No. 12 of the CH2M Hill Engineering Services Contract for construction services provided during the Headworks Project at the Sewage Treatment Plant and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

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

CITY CLERK

MAYOR
