

**JANUARY 13, 2005**

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The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, January 13, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Milam presented her "State of the City Address – 2005", as follows:

I am pleased to once again speak to you about the State of the City of Idaho Falls. There are many people whose work is vital to preserving the qualities we most appreciate in this community, and who carry out the work that is defined in the budget and policies the City Council adopts. I especially thank the many City employees who keep us safe, provide our infrastructure, and maintain our many facilities and programs. Each year, I also take this opportunity to thank the many volunteers who serve on our boards and commissions and of course, the citizens who make it all possible. Working together, we are a prosperous and growing community. Our unemployment rate still hovers at slightly over 3%, among the lowest in the state and nation, and we continue to see businesses investing in their and our future. This investment resulted, once again, in a decrease of the City's property tax levy rate, of nearly 4% this year, and we expect that trend to continue. The City is an active partner with economic development organizations in Idaho Falls and the region, as we work to provide the kind of services and infrastructure that these businesses and our residents expect.

Our Planning and Building Division has been especially busy this year. During 2004, four hundred forty-six acres were annexed into the City, compared to two hundred forty-eight in 2003, and we issued building permits for nearly \$73,000,000, compared to nearly \$50,000,000 in 2003. In 2004 there were 291 single family home permits issued, compared to 220 in 2003 and no more than 203 in the previous nine years. There were 40 apartment building permits compared to no more than 10 in the previous 10 years. Commercial building, with 51 permits, was at the highest level in 10 years, with the exception of 2002 when 57 permits were issued. Approximately one-half of the 2004 annexations were the result of construction of the new interchange at Sunnyside Road and I-15. We expect continued development in that area, and are planning for the capital expenditures to provide water, sewer, and electrical services to those new customers.

**JANUARY 13, 2005**

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We have been awarded our first Community Development Block Grant funds. There is a great deal of community interest in this grant and there will be increasing pressure on the City Council to determine which of many projects are funded. At the same time, we are already seeing the funds shrink, as our original grant of \$492,000 has been reduced to \$468,000 for this year. In the end, the community has to rely on its own resources to address the issues that can be partially underwritten by these federal funds.

The Idaho Falls Comprehensive Land Use Plan is scheduled to be updated this year, and we plan to continue our tradition of extensive public input through listening posts and a variety of other activities.

The Idaho Falls Regional Airport saw boarding levels increase to levels not seen since the 9/11 tragedies so dramatically impacted air travel in this country. It is a rare day that passengers don't hear repeated announcements that volunteers are being sought to take a later flight. That will be partially addressed later this month when Skywest Airlines converts all of its Idaho Falls flights to regional jets, providing more than one hundred additional seats each day. We continue to maintain contact with other airlines in an effort to have additional service and additional hubs available in this region. Meanwhile, the airport remains fiscally sound and continues to be self-supporting. Over the past few years, all runways, aprons and taxiways have been refurbished. Planning will be undertaken this year to expand the general aviation apron south to provide room for additional hangars. Also this year, we will begin work towards a consolidated air cargo facility to comply with recently released draft federal regulations. These regulations are the result of Homeland Security efforts to provide a secure environment for air cargo operations at every commercial airport in the country. Another airport project is the restoration of the old Red Baron Hangar on the east side of the airport. The last phase of the exterior work will be completed this year, and this reminder of our early aviation history will be preserved for many years to come.

A new business line for Idaho Falls Power has been the construction of a fiber optic backbone system, completed during 2004. This has many benefits to City operations including networking of many facilities for data purposes, enabling the installation of a new phone system, installation of a series of web cams at our hydroelectric facilities for security purposes, and remote metering of large commercial customers. Excess fiber has been made available for lease to 5 private wholesale backbone customers. One of the customers is Bonneville County; the other four, in turn, provide service to 54 Idaho Falls businesses.

Idaho Falls Power has experienced a year of stability in the wholesale electrical markets despite a below average water year. We continue to purchase the largest share of our electrical needs from Bonneville Power Administration; this combined with our own generation has been sufficient to meet our needs with occasional surplus that we have sold into the wholesale markets where prices have remained relatively stable and favorable. After deferring a number of capital projects for two years, we are planning the completion of the Hatch Subdivision and construction of a new Westside Substation to support anticipated development in the south west portion of the City. Our energy

## JANUARY 13, 2005

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efficiency audit and no-interest loan programs continue to be well-subscribed, enabling customers to cut their energy consumption.

We and other public utilities in the Northwest have begun working with BPA towards the longer term future, with new contracts beginning in 2011 that will include an allocation of the federal system. This certainty allows us to plan for the acquisition of additional resources to meet the growing needs of the City. Currently, we and our partners in the Utah Associated Municipal Power Systems, or UAMPS, are exploring the feasibility of investing in new generation capacity at the Intermountain Power Plant in Utah. There are many favorable factors within this project including approved air quality permits, existing water rights and plant infrastructure, transmission capacity, and competitive cost estimates. Should the studies prove the project reasonable, the power would become available in 2011. Finally, we are anticipating that the market stability that we are experiencing and the restoration of necessary reserves will enable us to enact a rate reduction early in 2005 of approximately 5% for all customer classes.

The Public Works Division recently relocated its Sewer Department Administrative functions and equipment facility. The new facility was paid for with funds secured through the sale of its building on Yellowstone Highway to Melaleuca. The Sewer Department is facing challenges in our waste water treatment facility, and we have been working for several years to address those issues. We are in the midst of retrofitting our 30 year old plant, which continues to meet federal regulations and which has been well-maintained. The design is in place for the additional work. This winter we will be proposing a rate increase, the first in nearly 6 years; that will provide much of the funding to continue with this necessary work and also meet inflationary pressures. We are also expecting to propose an increase in water rates. The water system is well maintained and, again, meets all federal requirements for drinking water; the increase will be in response to over 10 years of inflationary pressure. We will still have enviable water and sewer rates, well below national and regional averages, and we will continue to avoid the penalties and other problems that many systems in the region are experiencing. We also expect that the proposed decrease in electrical rates will offset to a large degree the increases in sewer and water rates for many customers.

The City's work to design Sunnyside Road is completed and the Mile 2 and 3 sections of the project (from Holmes east to Hitt Road) will go to bid on January 23<sup>rd</sup>. The Holmes to Yellowstone segment, a federally-funded, city-sponsored project, will go to bid this summer. It should be noted that the street fund is one area where the City is financially stressed while demands for additional street work continue unabated, including, of course, necessary widening of Hitt Road north and south of 17<sup>th</sup> Street.

In the Public Safety arena, there is continued growth in the Police Department's volunteer Citizens' Watch Program. A number of new Neighborhood Watch areas have been added, and volunteers have worked on enforcing handicapped parking compliance; they provide vacation checks for city residents when requested, and they have been a major help in getting abandoned vehicles moved off the streets in the fall before snow removal

## JANUARY 13, 2005

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activities begin. According to State statistics, between 1996 and 2004, Idaho Falls narcotics arrests are up 38% while overall crime rates dropped 23%; the auto accident rate dropped 10%, and car thefts dropped 50%. Using state grant funds, we have implemented a number of seat belt saturation efforts and are the #1 City in the state for increased compliance. The Department has been working closely with the Downtown Development Corporation and the downtown merchants and will implement a revised parking violation policy this year. The Citizens Police Academy continues to be well-subscribed by city residents. Last year, the first academy for high school students was developed and well-attended, and this year the Department will hold its first Spanish-speaking academy.

The Fire Department continues to provide superlative service to the City, the Bonneville Fire District and the Bonneville Ambulance District. The five stations are located to serve growth areas well. Eventually, we may have to consider building a station somewhere in the South Yellowstone area, but in the short term, Station 5 on Bellin Road and Station 4 on Sunnyside Road should provide rapid response to the newly developing areas around the Sunnyside Interchange. Federal funds of \$350,000 have been approved to be matched by local funds to purchase a new ladder truck that will replace the 40-year old snorkel truck currently at Station 4. In 2004, the Idaho Falls Fire Department's ambulances and paramedics responded to 7,560 dispatches and the Department also responded to 3,765 fire calls, a total response increase of 317 over the previous year.

In the Parks and Recreation Division, we will begin preparations to update the Parks and Recreation Master Plan next year. With the exception of a recreation center, all of the items identified by public input in the original plan of nearly 10 years ago have been completed or received significant enhancement. The plan will also address the future of Sandy Downs as the City residential development moves further south, and the planning for Ryder Park, located on the west side of the Snake River, immediately adjacent to the future Sunnyside Road expansion. A Phase I Master Plan for Ryder Park was completed several years ago, and has been revised with state funding as a portion of their being granted some of the park property for Sunnyside Road development. This year, we plan to complete the 2<sup>nd</sup> phase of parking lot paving at Community Park; install a new irrigation system at Central Park; complete work on the otter exhibit at the Zoo that was funded, along with the primate center project, by the Alsam Foundation; and begin work on extending the Greenbelt south from Pancheri to South Tourist Park, a project that will receive significant support from the Rotary Club and others. The Parks Department is working with a coalition of local groups to provide an equal access playground; this will be in addition to the small playground located at Civitan Park, and will be accomplished through coalition fund raising efforts. Again, this year, the golf courses finished the year with a surplus that has been added to the "rainy day account" established last year. As a result, no increase in greens fees, punch cards, or season passes was proposed this year. A traditional monument section at Fielding Cemetery will be made available later this year as will additional cremation niche wall space. A major investment in maintenance at the Aquatic Center was approved by the Council, and activities there continue to serve many of the community. Many

**JANUARY 13, 2005**

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of our other recreation programs have seen growth as well, illustrated by the 120 teams in the youth basketball program this winter. These programs show the need of planning for maintenance issues at the existing recreation center as well as the importance of the joint use agreement with the School District. Speaking of School District 91, several programs place students in City Facilities. The Horticulture Program works at our Maxine Elliot Greenhouse in Rose Hill Cemetery and is a valuable addition to our flower program, largely funded by the Forget-Me-Not Foundation (established by Maxine Elliot) and contributions of local citizens. The District's Culinary Arts Program continues to use the facilities, including the commercial kitchen, at the Activity Center, and the Small Engine Repair Program is scheduled to begin soon. Students will spend a portion of their class time at the Maintenance Shop at the Activity Center and will assist in maintaining much of our small engine parks maintenance equipment. Many people do not understand the growth of the responsibilities of the Weed Program. Originally housed in the Fire Department, this small group of people maintains City rights-of-way, site distance triangle compliance, works with developers and others to ensure that private properties comply with weed ordinances, maintain those storm water retention ponds that are the responsibility of the City and remove snow from most City facility parking lots and walking paths. Their responsibilities will soar with the completion of Sunnyside Road between Yellowstone Highway and Hitt Road, with miles of pathways and irrigation to maintain in the summer and the winter. As an example of the magnitude of the work, there will be 2,700 sprinkler heads in the mile between St. Clair Road and Hitt Road. This will be a major entrance into the City and I can assure you that our citizens will expect it to be as well maintained as our parks and the greenbelt.

The Idaho Falls Public Library will update its Long Range Plan during the coming year, with extensive community input from those who use the Library...and those who do not. The Library's home page is growing as a useful resource for the community. This year, interlibrary loans will be added as a service that can be requested through the Library web site; more than 8,500 loans were requested last year. There were over 80,000 one-hour internet sessions on the Library's computers last year. This year, a wireless capacity will be added so that visitors can bring their own laptop computers to the Library and use them with no time limits. The Youth Department circulation numbers are continually growing and more than 10,000 children participated in story-time, lap-sit, and pajama programs and tours during 2004, and the Teen Room, a cooperative effort with the Bonneville Youth Development Council serves an important constituency.

In Municipal Services, we will install emergency back-up systems to maintain power at City Hall, the Annex, and Fire Station 1. We will be enlarging, modernizing, and making more efficient our equipment maintenance building on North Holmes, and we continue to develop our pay-on-line capability for utility customers. For the 15<sup>th</sup> year, we met the strict requirements necessary to receive the Excellence in Financial Reporting award. This is especially gratifying since we have redone our financial systems to meet the new GASB requirements. Earlier I mentioned that the new fiber system enabled us to install a new phone system, replacing our vintage 1982 system. The new

## JANUARY 13, 2005

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system includes call management, voice mail, and paging that can be tailored to each department's needs. The per-line cost dropped significantly, and we anticipate savings of over \$100,000 per year, with a payback of approximately 2-1/2 years.

Again, let me express my appreciation to this community for the privilege of serving as Mayor. 2004 was a good year for us, and I expect 2005 to be excellent.

Mayor Milam and Councilmembers honored the following employees with Years of Service Pins:

### 35 Years of Service:

Ken Hunter, Public Works Division/Engineering	March 10, 1969
Reed Holverson, Public Works Division/Water	April 7, 1969
Jene Prudent, Public Works Division/Sewer	April 7, 1969

### 30 Years of Service:

Kevin Getsinger, Idaho Falls Power	February 25, 1974
Leonard Martin, Idaho Falls Power	March 25, 1974
Jim Chadwick, Parks and Recreation Division	April 29, 1974
Keith Pugmire, Parks and Recreation/Pinecrest	May 12, 1974
Vince Harrison, Police	August 11, 1974
Fred Rowe, Public Works Division/Sewer	June 17, 1974
Brent Summers, Public Works Division/Engineering	August 18, 1974
Marvin Beaty, Public Works Division/Sanitation	August 26, 1974

### 25 Years of Service:

Duane Taylor, Municipal Services Division/Garage	January 28, 1979
Sue Cushman, Municipal Services Division/Utilities	February 20, 1979
Mark McBride, Police	September 4, 1979
Steve Finn, Police	November 13, 1979
John Blacker, Idaho Falls Power	February 12, 1979
Steve Elliott, Idaho Falls Power	April 8, 1979
Alta Buxton, Library	December 4, 1979
Dave Christiansen, Parks and Recreation Division	March 1, 1979

### 20 Years of Service:

Rose Anderson, Municipal Services Division/City Clerk	January 23, 1984
Scott Stone, Municipal Services Division/Garage	July 5, 1984
Tony Arehart, Public Works Division/Sanitation	April 17, 1984
Ray Webster, Public Works Division/Sanitation	August 9, 1984
Dave Smith, Public Works Division/Sewer	March 19, 1984
Allen Moore, Public Works Division/Water	April 23, 1984
Helen Elliott, Public Works Division	July 19, 1984
Ted Mountain, Idaho Falls Power	September 30, 1984
Laura Hobbs, Library	March 26, 1984

**JANUARY 13, 2005**

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20 Years of Service, continued:

Betty Shipps, Library	May 28, 1984
Georgette Porter, Police	September 17, 1984
Curtis Bateman, Police	August 20, 1984
Ken Brown, Police	March 5, 1984
Brent Guymon, Police	March 5, 1984
Philip Grimes, Police	September 17, 1984
Dean Ellis, Fire Department	February 6, 1984
Dave Hamberlin, Fire Department	November 26, 1984

Mayor Milam called a short recess to allow for employees and their families to join a reception prepared for them.

Following the recess, Mayor Milam called for nominations for President of the Council. Councilmember Groberg nominated Councilmember Ida Hardcastle to act as President of the Council for the coming year. There being no further nominations, it was moved by Councilmember Groberg, seconded by Councilmember Hally, for Councilmember Hardcastle to serve as President for the Council. Roll call as follows:

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

Nay: Councilmember Lyon

Motion Carried.

Mayor Milam announced the Council Committee Assignments for 2005, as follows:

**COUNCIL COMMITTEE ASSIGNMENTS FOR 2005**

Airport Division:

Larry Lyon, Chairman  
Tom Hally, Co-Chairman

Electric Division:

Mike Lehto, Chairman  
Bill Shurtleff, Co-Chairman

Municipal Services Division:

Mike Lehto, Chairman  
Joe Groberg, Co-Chairman

Parks and Recreation Division:

Tom Hally, Chairman  
Joe Groberg, Co-Chairman

**JANUARY 13, 2005**

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Planning, Zoning, and Building Division:

Joe Groberg, Chairman  
Ida Hardcastle, Co-Chairman

Public Safety:

Ida Hardcastle, Chairman  
Thomas Hally, Co-Chairman

Public Works Division:

Bill Shurtleff, Chairman  
Larry Lyon, Co-Chairman

Library Liaison:

Ida Hardcastle

**CONSENT AGENDA ITEMS**

The Clerk requested approval of the Minutes for the December 16, 2004 Special Council Meeting.

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

The City Clerk presented the following Expenditure Summary dated December 1, 2004 through December 31, 2004, after having been audited by the Fiscal Committee and paid by the Controller:

<b>FUND</b>	<b>TOTAL EXPENDITURE</b>
General Fund	\$ 708,323.95
Street Fund	69,757.58
Recreation Fund	29,517.03
Library Fund	54,709.45
Municipal Equipment Replacement Fund	125,576.00
Electric Light Public Purpose Fund	41,375.31
Business Improvement District	200.00
Sanitary Sewer Capital Improvement Fund	11,653.81
Street Capital Improvement Fund	17,203.80
Water Capital Improvement Fund	108,729.28
Airport Fund	232,186.67
Water and Sewer Fund	454,188.15
Sanitation Fund	8,127.60
Ambulance Fund	28,629.93
Electric Light Fund	3,413,062.45
Payroll Liability Fund	2,031,576.63
<b>TOTALS</b>	<b>\$7,334,817.64</b>

The City Clerk presented several license applications, including BEER LICENSES to Los Jerezanos and Wal-Mart, all carrying the required approvals, and requested authorization to issue these licenses.

The Public Works Director submitted the following memo:

**JANUARY 13, 2005**

City of Idaho Falls  
January 3, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: AUTHORIZATION TO ADVERTISE TO RECEIVE BIDS – SOUTH  
IDAHO FALLS SANITARY SEWER TRUNK LINE

Public Works requests authorization to advertise to receive bids for the South Idaho Falls Sanitary Sewer Trunk Line.

s/ Chad Stanger

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

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

Nay: None

Motion Carried.

**REGULAR AGENDA ITEMS**

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

Carol Chaffee, 117 Whittier Street, appeared to state that she had three issues, all inter-related, to address to the City Council. She requested a gentleman to deliver to the City Clerk the following Complaint for Declaratory Judgment and Injunctive Relief:

Carol L. Chaffee, Esq.  
Idaho Bar No. 4363  
117 Whittier Street  
Idaho Falls, Idaho 83402  
208-709-5355  
Attorney for plaintiffs

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
STATE OF IDAHO, COUNTY OF BONNEVILLE

CAROL L. CHAFFEE, J. W. EVERITT, )  
TED MILTON, and CHAZ HOUP, ) Case No. CV-05-146  
Plaintiffs ) SUMMONS

**JANUARY 13, 2005**

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vs. )  
 )  
CITY OF IDAHO FALLS, a )  
Municipal Corporation, )  
Defendant. )  
\_\_\_\_\_ )

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFFS. THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: CITY OF IDAHO FALLS

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above-designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you demanded by the plaintiffs in the Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

1. The title and number of this case.
2. If your response is in Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiffs' attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 13 day of January, 2005.

s/ Ronald Longmore

CLERK OF THE DISTRICT COURT

By: s/ Julie Phillips  
Deputy Clerk

CASE ASSIGNED TO  
JUDGE W. P. HOLLERICH

Carol L. Chaffee, Esq.  
Idaho Bar No. 4363  
117 Whittier Street  
Idaho Falls, Idaho 83402  
208-709-5355  
Attorney for plaintiffs

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
STATE OF IDAHO, COUNTY OF BONNEVILLE

CAROL L. CHAFFEE, J. W. EVERITT )	
TED MILTON, and CHAZ HOUP, )	Case No. DV-05-146
Plaintiffs, )	
)	COMPLAINT FOR
vs. )	DECLARATORY JUDGMENT
)	AND INJUNCTIVE RELIEF
CITY OF IDAHO FALLS, a )	
Municipal Corporation, )	
Defendant. )	
_____ )	

Plaintiffs, appearing through counsel, complain of the above-named defendant and show the court as follows:

1.

This is an action for declaratory judgment under Idaho's Declaratory Judgment Act, Title 10, Idaho Code, § 1201 et. seq., brought for the purpose of determining the constitutionality of Idaho Falls Ordinance No. 2560 and obtaining declaration of rights, status or other legal relations thereunder.

2.

Plaintiffs are residents of Idaho Falls whose rights, status or other legal relations are affected by Idaho Falls Ordinance No. 2560, which repealed and re-enacted Section 5-9-9 of the City Code, prohibiting certain animals within city limits. Defendant City of Idaho Falls, through its City Council and Mayor, enacted Ordinance No. 2560 on October 28, 2004. Plaintiffs Chaffee and Everitt own and keep two pet bobcats within city limits. Plaintiff Milton wants to procure a companion monkey for his disabled son and keep it within city limits. Plaintiff Houpt owns a licensed pet store within city limits.

3.

In fall 2002, Everitt and Chaffee leased a house in Idaho Falls. Chaffee and Everitt researched Idaho, Bonneville County and Idaho Falls laws before moving their pet bobcats to Idaho Falls, from Nevada where they were

**JANUARY 13, 2005**

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legally kept, and found no provisions expressly regulating or prohibiting keeping bobcats as pets. Before purchasing the house in March 2003, Chaffee and Everitt checked with Idaho Falls Animal Control, and received assurances from Director Kris Carlson and Animal Control Officer Jim Porter that the pet bobcats were not prohibited.

4.

In October 2003, Idaho Falls Police Chief J. K. Livsey threatened to cite plaintiffs Chaffee and Everitt for allegedly violating Idaho Falls City Code Section 5-9-9. This municipal law, entitled "KEEPING OF FERAL ANIMALS", provided in relevant part: "Any person who keeps or maintains any feral animal weighing in excess of 25 pounds or any poisonous, dangerous or fetid animal within the City is guilty of a misdemeanor." The City's civil attorneys, Dale Storer and Shan Perry, asserted that Chaffee and Everitt's pet bobcats were feral animals, and that the larger one was prohibited because she weighed more than 25 pounds. Chaffee challenged this assertion in a letter to Carlson, who agreed with Chaffee, and in person to Perry, who disagreed and informed Chaffee that a citation would be issued.

5.

In November 2003, the City Attorneys and Chief Livsey told Animal Control Director Carlson to issue a misdemeanor citation to Chaffee and Everitt. By letter addressed to City officials, dated and delivered November 16, 2003, Chaffee and Everitt challenged the City's authority to issue any citation, warned they would deem a citation for their pet bobcats intentional harassment and warned Chief Livsey they would not tolerate police trespass.

6.

On November 17, 2003, uniformed Idaho Falls police officers delivered to Chaffee and Everitt Chief Livsey's written response to the no trespassing warning, suggesting he was inferring a threat of violence. Chaffee and Everitt faxed a reply to the Chief, clarifying that they would protect their rights and property, including their pet bobcats, from unlawful deprivation and seizure.

7.

On November 18, 2003, Carlson was ordered to seize both bobcats. Chaffee and Everitt sought help from Humane Society United States Northern Rockies Regional Director Dave Pauli, who emailed a letter to City Prosecutor Kimball Mason expressing his opinion that Idaho Falls City Code Section 5-9-9 would not apply to the pet bobcats and that confiscating the animals would be inhumane. Chaffee faxed a copy of Mr. Pauli's letter to Chief Livsey, and asked Chief Livsey and Prosecutor Mason to promise they would not try to seize the animals until it could be judicially determined whether they were prohibited under Section 5-9-9. The Chief and Prosecutor

**JANUARY 13, 2005**

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refused, so Chaffee and Everitt removed their pet bobcats from the City overnight.

8.

The following day, November 19, 2003, Chaffee and Everitt asked the Mayor and City Council to restrain the Police Chief and City Prosecutor. Chaffee and Everitt also brought the matter to the attention of the local newspaper and television stations, which carried stories about the dispute. Finally, at a Public Safety Committee Meeting held in December 2003, the Chief advised the committee that the Prosecutor had decided Section 5-9-9 was too ambiguous to clearly prohibit pet bobcats, so he was not inclined to prosecute Chaffee and Everitt.

9.

The Public Safety Committee, comprised of the Chief and Councilmembers Ida Hardcastle and Tom Hally, worked with City Attorneys Storer and Perry from January until September 2004 to draft a new animal ordinance that would prohibit bobcats and other animals considered by them to be undesirable. Chaffee and Everitt, aided by Councilman Larry Lyon and supported by hundreds of people in Idaho Falls, fought the efforts to outlaw the pet bobcats and other nontraditional pets. In June 2004, the Public Safety Committee submitted a draft ordinance to the City Council at a special work session.

10.

Finally, after more than 20 revisions, the Chief and Public Safety Committee presented its final draft to the City Council on September 23, 2004, which passed the proposed ordinance on the first reading. Chaffee and Everitt objected to the proposed ordinance in writing on September 27, 2004, and in person at the second and third readings on October 14 and 28, 2004. Plaintiffs Houpt and Milton and many other people also spoke out against the proposed ordinance on October 14 and 28, and Houpt and other citizens also wrote letters opposing it; however, although not one member of the public spoke or wrote in favor of the final draft ordinance, the City enacted it on October 28, 2004. Councilmembers Lehto, Hardcastle and Hally voted for the ordinance; and Councilmembers Groberg, Shurtleff, and Lyon voted against it; Mayor Milam broke the tie by voting for the ordinance. The ordinance took effect upon its publication November 3, 2004.

11.

Idaho Falls City Code Section 5-9-9(B), as re-enacted by Ordinance No. 2560, makes it “unlawful for any person to sell, offer for sale, purchase, barter, keep, own, harbor, or transport any wild animal or hybrid”, except as otherwise expressly allowed. Subsection (C) exempts licensed pet stores, and other individuals and entities, from the law’s application. Prohibited animals are subject to impoundment and euthanasia under Subsection (D). Subsection (A)(1) defines “wild animal” to mean more than two

**JANUARY 13, 2005**

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dozen specific animals, including bobcats, and several animal species, including nonhuman primates, “irrespective of their actual or asserted temperament or domestication”. Subsection (A)(1)(l), a catchall clause, further defines wild animal to mean “[a]ny other animal of a species that is considered wild in its native habitat and which is venomous, fetid or which in its native habitat presents a significant risk of bodily harm or death to humans”. Subsection (A)(2) defines “wild animal hybrid” or “hybrid” to mean the first generation offspring of (a) a wild animal with an animal that is not wild, including wolf/dog hybrids, or (b) a wild animal with an animal of a different species, variety or breed. Subsection (E) permits any person who owned and kept a prohibited animal upon residentially zoned premises within the City before September 1, 2004, to obtain a permit from the City Clerk to continue keeping the animal upon the same premises by filing an application within 30 days after the effective date of the ordinance.

12.

On November 4, 2004, Chaffee and Everitt filed with the City Clerk their application for a permit to keep their two bobcats at their Idaho Falls residence. No permit has been issued. Milton asked Idaho Falls Animal Control for an exemption under the law, so that he may provide his disabled son with a companion monkey at his Idaho Falls residence. No exemption has been granted. Houbt, as the owner of a licensed Idaho Falls pet store, Peaches Pets Feed and Supply, is conditionally exempt from the law’s prohibitions.

13.

Idaho Falls City Code Section 5-9-9, as re-enacted by Ordinance No. 2560, is unconstitutional. The law is arbitrary and capricious, vague and internally inconsistent; lacks adequate enforcement guidelines and due process provisions; conflict in part with state and federal law; and violates state and federal equal protection rights.

14.

Individuals have a fundamental, inalienable right to own and enjoy private property, protected by state and federal constitutions. Any governmental limitation on this right must be reasonable, not arbitrary and capricious. Here, the City decided to force Chaffee and Everitt to move or get rid of their pet bobcats. When the City was not able to execute its discriminatory scheme under former Idaho Falls Code Section 5-9-9, it drafted and adopted Ordinance No. 2560 to limit and regulate Chaffee and Everitt’s property rights and the property rights of others. The ordinance is an unreasonable, arbitrary and discriminatory limitation on individual property rights, without any proper municipal purpose.

15.

A municipal ordinance that criminalizes conduct must be clear and definite enough (a) so that an ordinary person can understand what conduct is prohibited, and (b) to provide reasonably precise enforcement

standards. Ordinance No. 2560 is unconstitutionally vague because it fails to give fair notice of the acts it forbids, and because it vests unbridled discretion in police and prosecutors. The catchall clause is particularly vague, the hybrid prohibition is incapable of fair enforcement, the transportation prohibition conflicts with activities expressly permitted, and parts of Subsections (A) and (E) are ambiguous.

16.

Our state and federal constitutions prohibit the City from taking property without due process. Ordinance No. 2560 deprives individuals of their due process rights. It authorizes the City to impound and destroy an animal under Subsection (D)(2), before the owner can save the impounded animal by exercising his or her rights under Subsection (D)(3). To save an impounded animal under Subsection (D)(2), the owner must serve the City with a show cause order, "requiring the City to show cause why the animal should be destroyed". The ordinance provides no guidelines as to what constitutes cause for destruction. In addition, without providing for procedural due process, the ordinance authorizes the City Council to revoke a permit allowing the continued keeping of a prohibited animal.

17.

Ordinance No. 2560 impermissibly conflicts, in part, with state and federal laws. State law, Idaho Code Section 25-3001, expressly permits any person in Idaho to own fur-bearing animals (including bobcats) for any useful purpose (including keeping them as pets). Idaho Code Section 25-3007 establishes absolute property rights in domestic fur-bearing animals, which exists even if the animals escape from their restraints or enclosure. Ordinance No. 2560 conflicts with state law to the extent that it prohibits fur-bearing animals. Federal law requires reasonable accommodation of persons with disabilities, and their service animals. Ordinance No. 2560 conflicts with federal law to the extent that it prohibits all monkeys without any exception for service animals.

18.

Ordinance No. 2560 violates state and federal constitutional guarantees of equal protection under the law. The ordinance prohibits individuals from selling, offering for sale, or purchasing any wild animal or hybrid for any reason, but allows licensed pet stores to sell, offer for sale, or purchase any wild animal or hybrid for profit. There is no rational basis for this disparate treatment of individuals and animal vendors.

19.

In light of the foregoing, there exists an actual justiciable controversy within the jurisdiction of this Court. Declaratory relief will effectively adjudicate the parties' rights and afford relief from uncertainty and insecurity with respect to their rights, status and other legal relations.

**JANUARY 13, 2005**

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WHEREFORE, plaintiffs pray that:

1. The Court enter a declaratory judgment that Idaho Falls Ordinance No. 2560, which repealed and re-enacted City Code Section 5-9-9, is unconstitutional.
2. The Court restrain and enjoin defendant, and its officers, employees and agents from enforcing Idaho Falls City Code Section 5-9-9, as re-enacted by Ordinance No. 2560.
3. The Court grant the costs of suit and such other relief as it may deem proper.

Dated: January 6, 2005.

s/ Carol L. Chaffee  
Carol L. Chaffee, Esq.  
Attorney for plaintiffs

The second issue brought before the City Council by Carol Chaffee was that the City Council passed the Ordinance on October 28, 2004. It became effective with publication on November 3, 2004. On November 4, 2004, Chaffee and Everitt filed their application for a permit and have not as yet received the permit. The City Clerk stated that she forwarded one copy of the application to the Police Department and one copy to the Animal Control Department, and have not had a response from either Department for approval. The City Clerk stated that she would call the Police Chief on Friday morning regarding this permit.

The third issue brought before the City Council by Carol Chaffee was with regard to the complaints with the City Police Department addressed by J. W. Everitt at the last City Council Meeting. It appears that the City's Police Department does a fine job in some areas, but in other areas they do not do such a fine job. Following these complaints, a letter was sent to the Mayor and City Council from Police Chief Livsey. Ms. Chaffee submitted the following letter in response to that letter from Chief Livsey to the Mayor and City Council:

J. W. Everitt and  
Carol L. Chaffee, Esq.  
117 Whittier Street  
Idaho Falls, Idaho 83402-2206

January 7, 2004

Idaho Falls City Council

Dear Councilmember Lyon, Mayor Milam and Other City Councilmembers:

On December 21, 2004, Chief Livsey circulated a letter outlining his response to J. W. Everitt's comments at the December 16, 2004 City Council Meeting. Chief Livsey begins his letter with an accusation: "J. W. Everitt made false and defamatory statements regarding the conduct of the Idaho Falls Police Department." Mr. Everitt's statements were derogatory – intentionally so because he was registering a complaint – but they were not false, and true

**JANUARY 13, 2005**

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statements are not defamatory. The remainder of Chief Livsey's letter is riddled with misinformation.

Regarding the timing of his involvement, as you are aware from our November 16, 2003 letter asking you to rein in your out-of-control police chief and prosecutor, we have reason to believe that Chief Livsey took a personal interest in us last June, when the City instituted criminal charges against J. W. Everitt at the personal request of a City employee. Immediately after the jury returned its "not guilty" verdict, Chief Livsey escalated the City's attack on our bobcats and us by ordering Animal Control to seize the animals. The timing seemed anything but coincidental. Fortunately, we were able to defuse that crisis. Regardless when Chief Livsey became personally involved, his involvement has never been neutral.

The Chief's description of the October 2003 events in our neighborhood is so garbled, we can only conclude he has not read his own officers' reports. Neither of our bobcats has ever been in the Sosnowskis' yard, neither has ever threatened the Sosnowskis and neither has ever chased a Sosnowski cat – the Sosnowskis don't even have a cat. Bob ran out our front door after Christy Cherry's cat Elkie. Elkie came to our house daily for food and affection (she still does, as did her kittens this past summer), and she fascinated Bob. He views other cats and dogs as playmates, and he loves to play. Elkie ran across the street into her yard, and Bob chased after her. Elkie hid, and Bob continued to the back of the Cherry yard, where he stopped at their fence to watch a dog in the yard across the alley. We called Jim Porter at Animal Control – just in case – and chased after Bob. We leashed him and brought him back across the street to our yard without difficulty. It was an isolated incident, it took no more than five minutes, and without neighbor interference it would have been resolved even more quickly and easily. Cherry and the Sosnowskis' teenaged son made the job more difficult – they were yelling and swearing, and the Sosnowskis' son was threatening to shoot the bobcat. The youth ran into the Sosnowskis' house, came out with a baseball bat and chased after us into the street, wielding the bat and threatened to kill Bob or J. W. Everitt. Police officers witnessed the teenager's assault, but did nothing about it.

The incident with David Sosnowski and his shotgun occurred several days later. J. W. Everitt was in our front yard, playing with Bob, who was securely cabled and could not leave the yard. David Sosnowski came out of his house onto his front steps, where he brandished the gun, and yelled threats that he would kill Bob or J. W. Everitt. He looked and sounded drunk. Sosnowski then went back into his house and propped the gun in his open front window. Three Idaho Falls police officers responded to our call for help – Officer Poulter was not one of them – and they said there was nothing they could do because it was legal for Sosnowski to have and display the gun on his property. In fact, it was not legal – Sosnowski's possession of any firearm or ammunition violates federal law. Chief Livsey has known this since June 2004, if not earlier, but Sosnowski remains armed in violation of federal law. And yes, we are armed – legally – and we would shoot Sosnowski "if [we] had to"; however, we are not the ones brandishing baseball bats and guns, while threatening to kill our neighbors and their pets. Chief Livsey ignores this distinction.

**JANUARY 13, 2005**

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Chief Livsey also ignores his role, and that of his police department, in the escalation of our neighborhood problems. Instead of taking away David Sosnowski's illegal firearms, or at least making the Sosnowskis put away their guns and bats, the Chief supported their shenanigans and instigated a campaign to get rid of our bobcats. He ordered Animal Control to seize the bobcats; then, when that did not work, he drafted an ordinance that would force us to move or get rid of them; and, when that did not work, he pushed through an unpopular ordinance restricting our ownership. By taking up the Sosnowskis' campaign to make us get rid of our bobcats, and by ignoring felonies committed by the Sosnowskis in their presence, Chief Livsey and his police officers have thrown fuel on the fires of this neighborhood dispute. You all know that the Sosnowskis admitted – to the press and to the police and to you – that this whole business never was about the bobcats. Under the circumstances, Chief Livsey's statement that his "goal is to keep the peace and not let the police become a stick to be used by one neighbor against another" is ludicrous, at best.

Meanwhile, because we have vigorously fought the Chief's personal efforts to take our pets, he has branded us potentially violent and decided to treat us differently from other residents. If any other city residents witness a misdemeanor committed outside the presence of a police officer, they may sign a misdemeanor citation; but Chief Livsey has ordered his officers not to let us sign a citation under the same circumstances.

The dog and drug problems in our neighborhood are real and persistent. On one hand, the Idaho Falls Police Department has not dealt effectively with these problems; while on the other hand, Chief Livsey and his officers have warned us against taking any action on our own, and the Chief has deprived us of one legal means of dealing with the problems – a citizen complaint. Chief Livsey takes J. W. Everitt to task for complaining to the City Council, but what else are we supposed to do?

Chief Livsey purports to tell you what happened on October 15, 2004, but he was not there. Officer Deede and Lieutenant Stacey spoke with both of us, not only with J. W. Everitt. After they told us that the Chief had ordered them not to let us sign a citizen complaint, we asked what was being done about the drug dealing going on across the street. According to Chief Livsey, "The officers were not aware of a problem there and Officer Deede told Mr. Everitt that he would pass the information on to the narcotics unit". THAT IS ABSOLUTELY NOT TRUE! Officer Deede discussed the City's ongoing investigation and told us that an undercover officer had, in fact, bought drugs there. He further told us that the City might wait months to arrest the drug dealers to protect the undercover officer's identity. He told us that the police department's number one priority was officer safety. When we asked about citizen safety, he reiterated that officer safety was more important. We know that officer safety is a legitimate and important concern, but so is citizen safety – Officer Deede was belligerent without justification.

We knew about the undercover operation before Officer Deede ever came to our front door – indeed, that's why we asked him about it. We had discussed it with another Idaho Falls police officer, who candidly acknowledged that the house was a known drug house and gave us the narcotic unit's number and

**JANUARY 13, 2005**

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instructions to warn dispatch to call the unit instead of radioing in case the drug dealers had a police band radio. At the first officer's request, we had been keeping a record of vehicles (make, license number and time) that appeared to be involved in the drug activity. Officer Deede's belligerence was uncalled for – we just wanted to know why it was taking so long for the police to deal with an obvious drug enterprise in our residential neighborhood. Chief Livsey's letter shows that this was an ongoing problem that was well known to the police. We assure you it was also well known to us and our neighbors – the place had more drive-through traffic than a fast food restaurant. But instead of treating us with respect, and acknowledging that our concerns were legitimate and were being addressed by the police department, Officer Deede treated us like we were asking for something we did not deserve.

After Officer Deede let us know that we could expect no help from Chief Livsey and the Idaho Falls Police Department, we spoke with Sheriff Stommel about the day-and-night drug enterprise in our neighborhood. He confirmed in our presence that the case was actively being worked, gave us the number of his narcotics officer and assured us that the problem would be resolved soon. It was. Chief Livsey can take credit for the raid if he wants to, but it did not appear to be “coincidental to” the Sheriff's office's assurances of swift, effective action in response to our complaint.

Our distrust of the Idaho Falls Police Department results from our personal experiences with Chief Livsey and the officers he commands. The Chief has never tried to resolve any of our “issues”, and he has actively and consistently contributed to the tension in our neighborhood. The Chief twists facts to cast himself in a favorable light, instead of just doing his job fairly and even-handedly so that he wouldn't have to rewrite the history of our relationship. The City of Idaho Falls could do better – lots better – and that was the point of the citizen comment that led to Chief Livsey's December 20, 2004 letter.

Sincerely,

s/ J. W. Everitt

s/ Carol L. Chaffee

J. W. Everitt

Carol L. Chaffee

Mayor Milam requested that Police Chief's letter dated December 20, 2004 be made a part of the record as follows:

City of Idaho Falls  
December 20, 2004

Idaho Falls Mayor and Council

Dear Mayor Milam:

During the December 16<sup>th</sup> City Council Meeting a citizen, J. W. Everitt, made false and defamatory statements regarding the conduct of the Idaho Falls Police Department. I am writing this letter in order that you will be informed

**JANUARY 13, 2005**

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of the facts regarding exactly what occurred on October 15, 2004 when Mr. Everitt called the police. That is when the issue arose regarding his complaint against the occupants in a house across the street from his selling drugs.

Before I give you the specifics of that call, I believe that a little history regarding Mr. Everitt's relationship with the Idaho Falls Police Department is appropriate. Mr. Everitt first came to my attention a little over a year ago. A neighborhood police officer, Officer Poulter had been sent to a house across the street from Everitt's, one owned by Mr. Sosnowski. Mr. Sosnowski was complaining that one of Mr. Everitt's bobcats had got loose and chased Sosnowski's domestic cat into his own yard. Mr. Sosnowski told the officers that he was going to shoot the bobcats with his shotgun if they got loose again. Officer Poulter talked to Mr. Sosnowski for over an hour trying to calm him down and discourage him from any retribution. His pleas were in vain.

After leaving Mr. Sosnowski, Officer Poulter went to Mr. Everitt's home to talk to him about the incident. Mr. Everitt told Officer Poulter that if Sosnowski had a gun, he wasn't afraid. He told Officer Poulter that he had an automatic weapon in his basement and that he would shoot Mr. Sosnowski if he had to. After spending time with Mr. Everitt, to no avail, Officer Poulter left.

As I mentioned earlier, this is the first time I heard about the problem between the two neighbors. Evidently, there had been previous noise complaints regarding a remote control toy, barking dogs, and motorcycles. After hearing the extent of the problems in the neighborhood, I made the decision to have two cars sent out on future calls in that neighborhood. The reason is that these types of neighborhood problems are difficult to resolve and, considering the firearms threats, are very dangerous.

Another problem in the neighborhood has been Mr. Everitt's complaints about many of his neighbors' dogs, both running loose and barking. Due to the potential violence in that neighborhood, I have told both animal control officers and police officers that when they are called on those types of problems to handle them the same as they would when they received a dog complaint in any other neighborhood, with one exception. If they see the animal running loose or hear one barking, they are to cite the owner into court. The exception to the way they handle similar calls is that in other neighborhoods, where there is not a threat of violence, officers let the complaining party sign a citation against the offending dog's owner. However, because of the larger problem in this neighborhood, I have told the officers that if they do not hear the dog barking or see it running loose, to write a report and tell Mr. Everitt to sign a complaint with the City Prosecutor.

My goal is to keep the peace and not let the police become a stick to be used by one neighbor against another.

With that said, here is what happened on October 15, 2004, when Officer Deede and Lieutenant Stacey responded to Mr. Everitt's home; his complaint was about a barking dog.

**JANUARY 13, 2005**

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Mr. Everitt greeted the officers and told them a neighbor's dog had been barking prior to their arrival. Neither officer could hear a dog barking and told Mr. Everitt they would write a report and that he could sign a complaint with the City Prosecutor. Mr. Everitt then insisted that he be allowed to write the neighbor a citation. Officer Deede told him that was not possible.

Mr. Everitt then asked the officers what they were going to do about a drug house across the street at 138 Whittier. The officers were not aware of a problem there and Officer Deede told Mr. Everitt that he would pass the information on to the narcotics unit. Mr. Everitt demanded that they do something immediately. Officer Deede explained that if the narcotics officers were working the case undercover, intervention by a uniformed officer could result in an officer-safety issue. Mr. Everitt was told again the information would be given to narcotics officers. Officer Deede and Lieutenant Stacey then left.

In fact, the narcotics unit was working undercover on the activity at 138 Whittier. In January, 2004, our narcotics unit received a tip on the Whittier address. Officer Squires and Sergeant Cook began surveillance on the residence. They then were able to purchase methamphetamines from one of the people there. On March 11, 2004, they obtained a search warrant, searched the premise and arrested Lee and Cindy Hawkins for intent to deliver (I. F. P. D. Case No. 200403436).

In April 2004, the Hawkins were out of jail and dealing drugs again. On May 14, 2004, our narcotics officers, working with neighborhood police officer, Officer Moulton, again searched the house and arrested the Hawkins for drug possession, outstanding warrants and injury to a minor child (I. F. P. D. Case No. 20040667).

On November 15, 2004, Narcotics Officer Squires and Sergeant Cook along with a probation officer again raided the house. This raid was based on information that Squires and Cook had obtained and then passed on to the Hawkins probation officer. Another search was conducted and again Lee and Cindy Hawkins were arrested for intent to deliver drugs and probation violations (I. F. P. D. Case No. 200416364).

It is true that Mr. Everitt went to Sheriff Stommel last October and complained that the I. F. P. D. would not help him with the neighborhood narcotics problem. Sheriff Stommel told him he would look into it. He asked narcotics sergeant to look into it and he was informed that the case was actively being worked. The November raid was coincidental to and not because of Mr. Everitt's complaint to the Sheriff.

I. F. P. D. officers did not inform Mr. Everitt of our department's undercover police work. We do not share that kind of information with citizens for obvious reasons. It is unfortunate that Mr. Everitt does not trust our officers when they tell him that they will relay pertinent information to the right people. But Mr. Everitt's relationship with our department is so contentious and this neighbor vs. neighbor problem so intense that it is impossible to resolve his issues. Our officers have spent hours upon hours trying to defuse the tension in that neighborhood. We will continue to try.

**JANUARY 13, 2005**

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Thanks for taking your valuable time to read this letter. If you have any questions, I will make myself available to discuss the issue(s) with you.

Sincerely,

s/ J. K. Livsey  
Chief of Police

Councilmember Lyon requested to know, after the Wild Animal Ordinance was passed, how many people registered pets. The City Clerk stated that Everitt and Chaffee were the only applicants to register their pets. Councilmember Lyon requested to know whether any person who has an animal that was prohibited by the ordinance – with many that were not dangerous animals – is now a criminal. The Assistant City Attorney stated that the animals that are specifically prohibited from the ordinance, would be in violation. Councilmember Lyon commented that by passing the ordinance, the City has created a whole new class of criminals in the City, people that are law abiding and have broken no moral law, have simply chosen to have a pet that is non-traditional, that is not dangerous - that is just different. He stated, further, that due to Councilmember Hardcastle's support of this ordinance, he could not support her for Council President.

Mayor Milam stated that there was a provision in the ordinance for grandfathering any pet that would have been in violation.

The Airport Director submitted the following memos:

City of Idaho Falls  
January 12, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: M. R. Humberd, Director of Aviation  
SUBJECT: LANDLORD'S ESTOPPEL CERTIFICATE REGARDING AIRPORT  
GROUND LEASE WITH ADL DEVELOPMENT, AND THEIR  
PROSPECTIVE LENDER, THE PUBLIC EMPLOYEE RETIREMENT  
SYSTEM OF IDAHO

Attached for City Council approval is the Landlord's Estoppel Certificate regarding airport ground lease with ADL Development, and their prospective Lender, The Public Employee Retirement System of Idaho.

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

s/ M. R. Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hardcastle, to approve the Landlord's Estoppel Certificate regarding airport ground lease with ADL Development, and their prospective Lender, The Public Employee Retirement System of Idaho and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Shurtleff  
Councilmember Lyon

**JANUARY 13, 2005**

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Councilmember Groberg  
Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Hally

Nay: None

Motion Carried.

City of Idaho Falls  
January 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: M. R. Humberd, Director of Aviation  
SUBJECT: AMENDMENT TO HANGAR LEASE AGREEMENT WITH MTB INVESTMENTS, LLC

Attached for City Council approval is an Amendment to the Hangar Agreement with MTB Investments. This amendment is to correct the legal description of the leased property. All other terms and conditions remain the same.

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

s/ M. R. Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hardcastle, to approve the Amendment to the Hangar Lease Agreement with MTB Investments, LLC and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls  
January 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: M. R. Humberd, Director of Aviation  
SUBJECT: AMENDMENT TO HANGAR LEASE AGREEMENT WITH REN BISHOP

**JANUARY 13, 2005**

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Attached for City Council approval is an Amendment to the Hangar Agreement with Ren Bishop. This amendment is to correct the legal description of the leased property. All other terms and conditions remain the same.

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

s/ M. R. Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hardcastle, to approve the Amendment to the Hangar Lease Agreement with Ren Bishop and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
January 4, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mark Gendron, Idaho Falls Power Director  
SUBJECT: AGREEMENT REGARDING TRANSFER SERVICE WITH  
BONNEVILLE POWER ADMINISTRATION

Attached for your consideration is the Agreement regarding Transfer Service with Bonneville Power Administration. The City Attorney has reviewed the Agreement.

Idaho Falls Power requests approval of this Agreement and authorization for the Mayor to execute the documents.

s/ Mark Gendron

It was moved by Councilmember Lehto, seconded by Councilmember Shurtleff, to approve the Agreement regarding Transfer Service with Bonneville Power Administration and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lyon

**JANUARY 13, 2005**

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Councilmember Shurtleff  
Councilmember Hally  
Councilmember Groberg  
Councilmember Hardcastle  
Councilmember Lehto

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls  
January 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: CITY BUILDING COMPLEX STANDBY POWER SYSTEM

Attached for your consideration is the tabulation for City Building Complex Standby Power System. Municipal Services recommends awarding the contract to Wheeler Electric, Inc. in the amount of \$79,120.00.

It is respectfully requested that the City Council approve the plans and specifications, to award the bid, and authorize the Mayor to sign the contract.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the plans and specifications for the City Building Complex Standby Power System, accept the bid for Wheeler Electric, Inc. to complete the project and, further, give authorization for the Mayor and City Clerk to execute the necessary contract documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls  
January 10, 2005

MEMORANDUM

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

**JANUARY 13, 2005**

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Attached for your consideration is the tabulation for Bid IF-05-05, Electrical Conductor. It is the recommendation of Municipal Services to accept the low evaluated bid as listed on Attachment "A".

As per the attached memo are the specific reasons for the evaluation of certain bid items.

s/ S. Craig Lords

AND

City of Idaho Falls  
January 13, 2004

MEMORANDUM

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

As per the attached memo from Idaho Falls Power, Municipal Services is requesting authorization to purchase an additional 10,000 feet of Conductor; #350-350-4/0 Secondary Triplex (Bid Item No. 8 of the above subject bid) for a total amount of \$19,346.00.

s/ S. Craig Lords

The Municipal Services Director explained that when Idaho Falls Power checked their inventory, there was not as much conductor as they thought that they had. Idaho Falls Power required an additional 10,000 feet to bring their supply up to date. The bid documents allow for this change and vendor approval has been given. It was moved by Councilmember Groberg, seconded by Councilmember Hally, to accept the low evaluated bid as listed on Attachment "A" for Electrical Conductor and, further, give authorization to purchase the additional 10,000 feet of conductor (#350-350-4/0 Secondary Triplex – Bid Item No. 8 of the subject bid). Roll call as follows:

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

Nay: None

Motion Carried.

The Police Chief submitted the following memo:

**JANUARY 13, 2005**

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City of Idaho Falls  
December 22, 2004

MEMORANDUM

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

Attached is a form "Towing Agreement" which the Police Department wishes to use to hire independent tow truck operators for the purpose of assisting clearance of motor vehicles during emergency snow alerts. The form "Agreement" has been prepared by the City Attorney.

I am requesting authority from the City Council for me to sign such agreements in behalf of the City, with the provision that the amount paid to each operator will not exceed \$5,000.00 per fiscal year. This item is a budgeted item and the towing costs will be recovered from the recently enacted ordinance providing for increased fines for vehicles towed in conjunction with a snow removal alert.

I am requesting this be heard at the City Council Meeting of Thursday, January 13, 2005.

Thank you for your consideration.

s/ J. K. Livsey

Mayor Milam stated that the City will need more than one time of emergency snow alerts in order to decide if this system truly works. It seems to have done a better job during the first time of snow removal this season. It appears that from the fines that were levied, there would be sufficient funds to cover the costs of the towing operations.

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to approve the form "Towing Agreement" to use to hire independent tow truck operators for the purpose of assisting clearance of motor vehicles during emergency snow alerts and, further, give authorization for the Police Chief to execute such agreement. Roll call as follows:

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

Nay: None

Motion Carried.

**JANUARY 13, 2005**

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

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CITY CLERK

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MAYOR

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