

OCTOBER 14, 2004

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, October 14, 2004, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Milam requested Boy Scout Jordan Baxter 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 September 16, 2004 Special Council Meeting and the September 23, 2004 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 September 1, 2004 through September 30, 2004, after having been audited by the Fiscal Committee and paid by the Controller:

FUND	TOTAL EXPENDITURE
General Fund	\$ 870,254.05
Street Fund	135,463.65
Recreation Fund	20,132.41
Library Fund	41,517.56
Municipal Equipment Replacement Fund	20,629.93
Electric Light Public Purpose Fund	43,308.83
Street Capital Improvement Fund	67,082.00
Water Capital Improvement Fund	193,289.05
Airport Fund	695,075.48
Water and Sewer Fund	920,989.37
Sanitation Fund	2,154.05
Ambulance Fund	12,755.07
Electric Light Fund	3,209,835.19
Payroll Liability Fund	<u>2,362,026.25</u>
TOTALS	\$8,594,512.89

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The City Clerk presented several license applications, including BEER TO BE CONSUMED ON THE PREMISES LICENSES to The Company Club "Lucky's Place" (Transfer Only) and JNJ Retail, LLC dba VinoRosso, 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 October 14, 2004.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mark Gendron, Idaho Falls Power Director
SUBJECT: AUTHORIZATION TO RECEIVE BIDS FOR TREE TRIMMING

Idaho Falls Power respectfully requests authorization to bid for Fiscal Year 2005 Line Clearance Tree Trimming.

s/ Mark Gendron

The Municipal Services Director submitted the following memos:

City of Idaho Falls
October 5, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PROPOSALS FOR EQUIPMENT MAINTENANCE FACILITY

Municipal Services respectfully requests authorization to advertise and receive architectural proposals for the new Equipment Maintenance Facility.

s/ S. Craig Lords

City of Idaho Falls
October 7, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: ADVERTISEMENT FOR BIDS

Municipal Services respectfully requests authorization to advertise and receive bids for the following items approved in the 2004-2005 Budget:

1. Equipment;

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2. Equipment and Materials for Electrical Generation, Transmission, Distribution, Fiber Optics, Metering and Signalization;
3. Water Pipe Fittings and Other Water Line Equipment and Materials;
4. Sewer Department Materials and Supplies;
5. Road Salt and Sand (Street Department);
6. Aggregate (Crushed Gravel) (Street Department);
7. Asphalt Plant Mix/Modified Crack Sealant (Street Department);
8. Traffic Striping Paint and Solvent; and,
9. Motor Fuels, Lubricants and Services; and the Fuel obtained through a computerized fuel dispensing system.

s/ S. Craig Lords

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
October 7, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: TAUTPHAUS PARK ZOO GIFT SHOP ADDITION

The Division of Parks and Recreation respectfully requests authorization to advertise to receive bids for the Tautphaus Park Zoo Gift Shop Addition Project.

s/ David J. Christiansen

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 Hally
Councilmember Groberg
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Lyon

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Hally to conduct a public hearing to consider the River Commons Urban Renewal Plan of the Idaho Falls Redevelopment Agency of the City of Idaho Falls. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

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City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: RIVER COMMONS URBAN RENEWAL PLAN

Attached is the Ordinance adopting the River Commons Urban Renewal Plan. This Plan encompasses 211 acres south of Pancheri Drive, west of the Snake River, and north of Fauna Industries on Milligan Road; proposes mixed uses along the Snake River; and includes only those lands City Council designated by Resolution as deteriorating and deteriorated on September 24, 1999.

The Idaho Falls Planning Commission reviewed the River Commons Urban Renewal Plan at its September 7, 2004 Meeting and found it to be in compliance with the City's Comprehensive Plan. The Idaho Falls Redevelopment Agency respectfully requests adoption of this Ordinance by the Mayor and City Council.

s/ Renée R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. She explained that she was also the Executive Director for the Idaho Falls Redevelopment Agency. She introduced Robert Barnes, Chairman of the Idaho Falls Redevelopment Agency; Ryan Armbruster, Idaho Falls Redevelopment Agency Attorney; Howard Mann, Consultant for the Idaho Falls Redevelopment Agency; Cameron Guenther, Representative for Ball Ventures (Developer of River Commons). Following is a list of exhibits used in connection with this request:

Slide 1	Aerial Photo Illustrating District Boundaries
Slide 2	Greenbelt Master Plan
Slide 3	Preliminary Plat for Eagle Ridge
Slide 4	Future Land Use Map
Slide 5	Proposed Land Uses
Slide 6	Photo of North Portion of Site
Slide 7	Site Photo West of Milligan Road
Slide 8	Site Photo West of Milligan Road
Slide 9	Site Photo of Amcor across River from Site
Slide 10	Site Photo South Portion of Site
Slide 11	Site Photo of Tourist Park across River
Slide 12	Site Photo of Parcel Not Within District
Slide 13	Site Photo Showing View North of Milligan Road
Exhibit 1	Ordinance Approving River Commons Urban Renewal Plan

The Planning and Building Director explained the District's boundaries, also known as the Monroc property located south of Pancheri Drive. This encompasses the disturbed areas of the Monroc property where there is very little open land or undisturbed soils. There are some undisturbed soils at the very southern tip of the boundary. The Greenbelt Master Plan is part of the Comprehensive Plan, which projected the types of uses that are being developed in this area. The Comprehensive Plan shows this area between

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Pancheri Drive and Sunnyside Road to be primarily an area of mixed use. That is an area where people can shop, work, and live in close proximity. There is also an employment center that is between the area of mixed use and Sunnyside Road, with commercial at the proposed site of the Sunnyside Road and I-15 Interchange.

Councilmember Shurtleff questioned as to approximately how many acres of this development area are undisturbed. The Planning and Building Director stated that she was unsure of how many acres were undisturbed. At the meeting held by the Idaho Falls Redevelopment Agency, it was determined that the area that was undisturbed was not an area for agriculture any longer. It is too small an area to go through the irrigation process and it would need to be made a viable agriculture operation. The Planning and Building Director showed an aerial photo that was taken earlier in the Spring of 2004. She indicated that at this point in time, gravel was still being extracted from this area, so there is even less undisturbed land than shown on the aerial photo. Councilmember Shurtleff questioned the Planning and Building Director as to whether it was her opinion whether the dry, barren ground would qualify to be a blighted area in an Urban Renewal District. The Planning and Building Director stated that as a whole parcel, this land is not able to be developed under normal circumstances. Councilmember Shurtleff requested to know what the reasoning was of the Idaho Falls Redevelopment Agency to draw the boundary as it did. The Planning and Building Director requested Harlan Mann to come forward to make that explanation.

Harlan W. Mann, Community Development Consultant, 3800 North 33rd Street, Boise, Idaho, appeared to state that this is a combination of deteriorating and deteriorated area. State Law recognizes an open land area as a possible urban renewal area. Some of the priorities that would be encountered in an open land area would be economic disuse, unsuitable topography, and the need for correlation of the area with other areas by streets or other modern traffic requirements, or any combination of such factors or conditions which would tie up the development of the area. He explained that this area does not have a good connection with the street system. The Urban Renewal Plan addresses that connection by constructing a roadway to the Sunnyside Road and I-15 Interchange. Topography is a factor in this development. With regard to the economic disuse, the Bonneville County Assessor has this placed at a value of \$250,000.00. According to the Bonneville County Assessor's Office, this area is underutilized and not valuable in its current condition.

Councilmember Shurtleff requested to know what category this land is described by the Bonneville County Assessor. Councilmember Shurtleff believed it to be categorized as Dry Grazing.

Councilmember Shurtleff expressed his concern for land that might not qualify for an Urban Renewal District, which he referred to as the "Nampa Syndrome".

Mr. Mann explained that the land proposed under the River Commons Urban Renewal Plan is basically a wasteland and has been that for quite some time. Monroc could not use the property economically any longer, so they moved their facility out of the area. There were two different developers who wanted to make something of this area, but only one had the resources to move forward. Mr. Mann stated that the question needs to be asked in this way, "What will happen to this property if there is not a project area?" This land qualifies as an open land area.

Councilmember Shurtleff stated that he believed that approximately 80% of the project area qualifies as a blighted area. He expressed his concern, again, that the southern portion of this project does not qualify. He requested to know whether there was anything in the project that makes the southern portion necessary to the development of the northern portion.

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Mr. Mann suggested that the Developer's Representative would be the person to ask this question. Mr. Mann explained that in order to create urban renewal areas, the State Tax Commission has told the Urban Renewal Agencies and Cities that a parcel cannot be split.

Councilmember Shurtleff stated that the law states that not more than 10% of valuation of the City can be developed into an Urban Renewal District. He requested to know whether that calculation was made at the point in time when the Urban Renewal District is being authorized. Mr. Mann stated that to be correct. He gave an explanation of the change in valuation for the area south of Broadway and north of Pancheri Drive.

Councilmember Lehto requested to know what the low area is under the River Commons Urban Renewal Plan. That information was not available.

Councilmember Groberg requested to know whether the Plan that was approved in 1999 was larger or smaller than the River Commons Urban Renewal Plan. Mr. Mann stated that the River Commons Urban Renewal Plan is somewhat smaller than the plan passed by the City Council in 1999, and since this is a smaller portion of the designated area, it would comply with Idaho Law. Councilmember Groberg stated that he recalled that there was another proposal made that included some additional land which Mr. Mann did not feel should be included. Mr. Mann stated that there was another proposal made. The Monroc property has a broader geographic area, which included some viable farmlands. This was a judgment call on the part of Mr. Mann. Councilmember Groberg requested to know whether the land now included in the River Commons Urban Renewal Plan was the appropriate land to be included. Mr. Mann stated this to be correct.

Councilmember Hally commented that there is still a lot of land to the south towards the proposed Sunnyside Interchange that is to be built. He requested to know if this land is developed along the lines that the Developer proposes, does that generally magnify the value of the surrounding land that will not be included in the Urban Renewal Project. Mr. Mann stated that he agreed with that statement. Councilmember Hally commented, further, that in the redevelopment area, there is a delay before the tax value can come back to the City, but in effect, the City has magnified the tax value and development on the surrounding lands as they are developed.

Councilmember Lyon requested to know how long the urban renewal area would be tied up regarding property taxes. Mr. Mann stated that the plan is written for a 24-year period of time, which is the maximum amount of time allotted.

Councilmember Lyon requested to know whether it has been determined how much this property would be valued at when it is completely developed. Mr. Mann stated that the land would be valued at approximately \$85,000,000.00 when fully developed. Councilmember Lyon questioned how long it would take to fully develop this property. Mr. Mann stated that the Developer has estimated that this would be fully developed in approximately 12 years.

Cameron Guenther, Springville, Utah, appeared to state that the topography's low points would be the 4 lake areas in the development. One of the keys to this development is to remove as little dirt as possible. Mr. Guenther stated that the Developer is trying to utilize the topography as it exists for this development.

Councilmember Lehto requested to know how much land would be excavated. Mr. Guenther stated that he was unable to determine that at this time.

Councilmember Hally requested to know whether the Developer is ready to begin development should the City Council approve the River Commons Urban Renewal Plan. Mr. Guenther stated that the Developer is ready to proceed. Once this Plan is approved, two buildings, 25,000 square feet each, would be started in early spring.

Councilmember Hally requested to know whether the decision to approve the Plan would have an impact on the valuation, degree, and enhancement of the development. Mr. Guenther stated that the Developer could not move forward not knowing whether there

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would be some type of participation from the Idaho Falls Redevelopment Agency. That is simply because of the inadequate roads and utilities in the area. It would be too difficult to provide all infrastructure on a speculative basis and hope that the development proceeds forward. Mr. Guenther stated that the Developer is willing to put the money up front, with the agreement that they will be paid back over time as they perform. The risk to the Agency has been dramatically decreased and it is a benefit for the development to take place quicker than it would on a regular basis.

Councilmember Lyon requested clarification as to whether the land within the urban renewal plan would produce a ripple-effect adding value and increasing the value of adjacent lands that would be outside the district. Mr. Guenther agreed with this statement. The Developer, as part of the plan, has agreed to extend the road all the way to Sunnyside Road, which is outside of the boundaries of the urban renewal plan. The southern end of the project that is outside of the boundaries, along with the new Sunnyside Interchange with I-15, would create increment, more than what the City is receiving now.

Councilmember Hally clarified that the road will speed up enhancement of the land outside of the district and would therefore enhance the tax base in the development of that area. Mr. Guenther agreed.

Councilmember Lyon questioned whether it would be beneficial to redraw the boundaries to remove the 20% of land that is not nearly as blighted as the rest of the area. The value of that 20% of land would still sky-rocket because of the development of the most blighted area and the location of the land between Sunnyside Interchange and the development north of this urban renewal area. Councilmember Lyon questioned whether the 20% of the land would be better served inside or outside of the River Commons Urban Renewal Area.

Councilmember Hally stated that this is an expensive venture. He questioned Mr. Guenther as to whether the Developer needed as much land as possible, that legally qualifies for redevelopment under the Urban Renewal Plan, to go forward with this venture.

Mr. Guenther explained again that land cannot be removed from this Urban Renewal Plan, as State Law requires that parcels of land not be split for redevelopment under the Urban Renewal Plan.

Mayor Milam questioned Mr. Guenther regarding what would happen if the 20% spoken of were removed from the Urban Renewal Plan. Mr. Guenther stated that if the 20% were removed from the Urban Renewal Plan, the estimated years of completion would be 28 years rather than the 24 years projected now.

Councilmember Lyon, again, questioned which method would be most beneficial to the community, four extra years to the contractor or to broaden the tax base.

Mayor Milam clarified that she was talking about the tax dollars that would be generated by development in the 20% that goes to the General Fund, but it does not go to pay towards the development of the infrastructure, so it takes longer to pay.

Mr. Guenther stated that according to the Plan that has been prepared, that beginning with tax year 2006 and ending with tax year 2019, the development should be fully constructed. That does not include everything outside of the project area, which should be fully constructed at the same time.

Councilmember Groberg stated that the principal focus of concern has been whether there was some portion of this Plan that does not qualify for an Urban Renewal Project. He stated that he focused on the Plan. The reason for that is because the Area had already been discussed and approved five years ago. Councilmember Groberg requested Ryan Armbruster to come forward to clarify how the boundary was drawn.

Councilmember Shurtleff stated that he did not have a problem with Mr. Armbruster giving an explanation. The answer that was satisfactory to him was that State Law prohibited the splitting of parcels in an urban renewal plan.

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Ryan Armbruster, P. O. Box 1539, Boise, Idaho, appeared as Counsel to the Idaho Falls Redevelopment Agency. The Boundary Line is difficult to draw. When the Eligibility Report came in five years ago, there were areas that at that point in time appeared to not be eligible for Urban Renewal and those areas were not included even though they were part of a larger area that had been examined. The lines are drawn here primarily because of the annexation that has occurred. The fact that this property has been platted constitutes recorded lots and the State Tax Commission will not allow the splitting of parcels in the creation of an Urban Renewal Area. At this point in time, Ball Ventures owns all land within the Urban Renewal Plan.

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

Councilmember Groberg stated that this project has the benefit of being totally funded upfront. It is a difficult, subjective judgment to determine whether a piece of property would develop without the infusion of the tax increment financing. The Idaho Falls Redevelopment Agency and the City Council needs to consider it and evaluate it to the best of their ability. The City Council does not want any of the tax money that should go to pay and share in maintenance of the City to be siphoned to a private development. Councilmember Groberg stated that he has come to the conclusion that it is appropriate to allow that infusion of incremental taxes to promote this development. The entire community will be greatly benefited by extension of the Greenbelt. Councilmember Groberg stated that he intended to support this development.

Councilmember Hally stated that the fact that the Developer in going to fund this project upfront, and that they are going to build the road all the way down south to the Sunnyside Interchange, is going to enhance the development of the remainder of the land outside the district.

Councilmember Lyon stated that he appreciated the hard work that the Council Committee has done on this and, also, appreciated the hard work that Councilmember Groberg has done on this project. He stated that he was convinced that the most blighted portion of this project within an Urban Renewal Agency is the best thing for the community as a whole long term. He stated, further, that he was not convinced that there is not a significant portion of this that would not fill in on its own, just through the operation of the free market, without any government action. Councilmember Lyon stated that this is the right thing to do, but he was not convinced that the boundary lines were right. He stated that he would be content to see what the State Legislature does with regard to writing new laws governing Urban Renewal Plans. He stated, also, that the timing was not right. The free market should be allowed to operate.

Councilmember Shurtleff stated that it was foolish to wait for the State Legislature. He stated that he believed in Urban Renewal Districts. The reason for questioning the boundaries at this time is due to the fact that there have been some that abused Urban Renewal Laws. He stated that he may look at this development differently, but the laws are such that the State Tax Commission Laws require that parcels cannot be split. Councilmember Shurtleff stated that he would support this development.

Councilmember Lyon stated that the City Council should not wait forever, but he would be willing to wait a few months. This would not make or break the development.

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

ORDINANCE NO. 2556

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF IDAHO FALLS, IDAHO, APPROVING THE
RIVER COMMONS URBAN RENEWAL PLAN,

OCTOBER 14, 2004

WHICH PLAN INCLUDES REVENUE ALLOCATION FINANCING PROVISIONS; AUTHORIZING THE CITY CLERK TO TRANSMIT A COPY OF THIS ORDINANCE AND OTHER REQUIRED INFORMATION TO COUNTY AND STATE OFFICIALS; APPROVING THE SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hally 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 Shurtleff
Councilmember Hally
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto

Nay: Councilmember Lyon

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for Annexation Proceedings for Metes and Bounds Property in Section 32, Township 2 North, Range 38, East of the Boise Meridian (Janice Walstrom Property). At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION REQUEST AND INITIAL ZONING OF R-1, METES AND BOUNDS PROPERTY SOUTH OF SUNNYSIDE ROAD ADDRESSED AS 1270 EAST SUNNYSIDE ROAD

Attached are the Annexation Agreement and Ordinance for the annexation of 1.25 acres containing a single-family home owned by Janice Walstrom. R-1 is the requested initial zoning. This parcel is located adjacent to and south of Sunnyside Road immediately south of Londonderry Avenue. The Planning Commission recommended approval of this annexation request and initial zoning at its September 7, 2004 Meeting. The Department concurs with this recommendation. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Exhibit 1	Planning Commission Minutes dated September 7, 2004
Exhibit 2	Staff Report dated September 7, 2004

The Planning and Building Director stated that this annexation complies with the Comprehensive Plan.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Annexation Agreement Prior to Platting for Metes and Bounds Property in Section 32, Township 2 North, Range 38, East of the Boise Meridian (Janice Walstrom Property, 1270 East Sunnyside Road) and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2557

**METES AND BOUNDS PROPERTY IN SECTION 32,
TOWNSHIP 2 NORTH, RANGE 38, EAST OF THE BOISE
MERIDIAN (JANICE WALSTROM PROPERTY)**

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 Hally moved, and Councilmember Lyon seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed

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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 Groberg
Councilmember Hally
Councilmember Lehto
Councilmember Lyon
Councilmember Shurtleff
Councilmember Hardcastle

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 Hally, seconded by Councilmember Lyon, to establish the initial zoning of Metes and Bounds Property in Section 32, Township 2 North, Range 38, East of the Boise Meridian (Janice Walstrom Property, 1270 East Sunnyside Road) 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 Hally
Councilmember Hardcastle
Councilmember Lyon
Councilmember Lehto
Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a rezoning from I & M-1 (Industrial and Manufacturing) to CC-1 (Central Commercial) on property located generally adjacent to the Snake River, south of Broadway, and north of Milligan Road, legally described as a parcel of land at the North Quarter Corner of Section 24, Township 2 North, Range 37 East of the Boise Meridian (To Be Recorded as Taylor Crossing on the River, Division No. 7). At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR REZONE FROM I & M-1 TO CC-1, METES AND BOUNDS (TO BE RECORDED AS TAYLOR CROSSING ON THE RIVER, DIVISION NO. 7)

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Attached is the application of Roland and Sally Walker to rezone a metes and bounds parcel (to be platted as Taylor Crossing on the River, Division No. 7) from I & M-1 to CC-1. This parcel is located adjacent to the Snake River, south of Broadway, and north of Milligan Road. The Planning Commission recommended approval of this rezoning request at its September 7, 2004 Meeting. The Department concurs with this recommendation. This rezoning request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Comprehensive Plan
Exhibit 1	Planning Commission Minutes dated September 7, 2004
Exhibit 2	Staff Report dated September 7, 2004

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to answer any questions from the Mayor and City Council. There were none.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the rezoning request from I & M-1 (Industrial and Manufacturing) to CC-1 (Central Commercial), and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a rezoning from PB (Professional Business) to R-2 (Residential, 2, 3, and 4-Plexes, and Day Care Centers) on property located generally on the southeast corner of South Boulevard and 8th Street, legally described as Lots 20-24, Block 29, Crows Addition. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Zoning Director:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM PB TO R-2, LOTS 20-24, BLOCK 29, CROWS ADDITION

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Attached is the application to rezone Lots 20-24, Block 29, Crows Addition, from PB to R-2. The parcel is on the southeast corner of South Boulevard and 8th Street. The Planning Commission recommended approval of the request at its September 7, 2004 Meeting. The Department concurs with this recommendation. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan
Exhibit 1	Planning Commission Minutes dated September 7, 2004
Exhibit 2	Staff Report dated September 7, 2004

The Planning and Building Director stated that the R-2 Zone agrees with the Comprehensive Plan. The building at this location is the Smith Clinic.

Scott Nielsen, 990 John Adams Parkway, appeared to state that the Smith Clinic will be removed and the land will be used for a church parking lot.

Natisha Green, 779 May Street, appeared to state that there were several residents in the area that were sorry to see the doctors offices move as they were convenient to the residential area. They would rather have the doctors' offices stay at this location rather than making this into a church parking lot.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the rezoning request from PB (Professional Business) to R-2 (Residential, 2, 3, and 4-Plexes, and Day Care Centers) on Lots 20-24, Block 29, Crows Addition, and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

Aye:	Councilmember Hardcastle Councilmember Lehto Councilmember Shurtleff Councilmember Hally Councilmember Lyon Councilmember Groberg
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Nay:	None
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Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a rezoning from R-2A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on property located generally east of St. Clair Road, south of 17th Street, and north of Maricopa Street, legally described as Lot 5, Block 2, Lorin C. Anderson Addition and 1,620 Square Feet of Lot 16, Block 1, Lorin C. Anderson Addition, First Amended. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

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City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM R2-A TO R-1, LOT 5, BLOCK 2, LORIN C. ANDERSON ADDITION, AND 1,620 SQUARE FEET OF LOT 16, BLOCK 1, LORIN C. ANDERSON ADDITION, FIRST AMENDED PLAT

Attached is the application to rezone Lot 5, Block 2, Lorin C. Anderson and 1,620 square feet of Lot 16, Block 1, Lorin C. Anderson, First Amended, from R2-A to R-1. This parcel is located east of St. Clair Road, south of 17th Street, and north of Maricopa Street. The Planning Commission recommended approval of this request at its July 6, 2004 Meeting. The Department concurs with this recommendation. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo showing single-family home
Slide 3	Comprehensive Plan
Slide 4	Site Photo
Exhibit 1	Planning Commission Minutes dated July 6, 2004
Exhibit 2	Staff Report dated July 6, 2004

Rolonda Bjornsen, 2015 St. Clair Road, appeared as the owner of this property. When her family purchased this home, office buildings were proposed on the east side of her home, along with a Senior Citizens Community Area. At this point in time, the Developer has decided that apartments should be constructed on the east side of her home. This zone change would provide security and a protection from the R-3 Zone.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the rezoning request from R-2A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on Lot 5, Block 2, Lorin C. Anderson Addition and 1,620 Square Feet of Lot 16, Block 1, Lorin C. Anderson Addition, First Amended and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

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

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Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a rezoning from PT-1 (Planned Transition 1, High Density Residential) to PT-2 (Planned Transition 2, Commercial and High Density Residential) on property located generally at the southeast corner of Latah Avenue and Presto Street, legally described as Lots 25-32, Block 23, Highland Park Addition. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM PT-1 TO PT-2, LOTS 25-32,
BLOCK 23, HIGHLAND PARK ADDITION

Attached is the application to rezone Lots 25-32, Block 23, Highland Park Addition from PT-1 (Apartments) to PT-2 (Apartments and Commercial). This parcel is located on the southeast corner of Latah Avenue and Presto Street and is currently vacant. The Planning Commission recommended approval of this request at its September 7, 2004 Meeting. The Department concurs with this recommendation. This rezoning request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan
Slide 4	Site Photo looking north on Latah
Slide 5	Site Photo looking south towards Electrical Wholesale
Exhibit 1	Planning Commission Minutes dated September 7, 2004
Exhibit 2	Staff Report dated September 7, 2004

Steve Wallace, 1540 North Arthur Avenue, Pocatello, Idaho, appeared as the representative for the Idaho State University Federal Credit Union. He described where the Credit Union would be constructed and stated that they would be good neighbors.

Dr. Paul Brooke, 1405 Presto, No. 4, appeared to express his concern for the types of developments that are going in this area. On the other side of Fremont Avenue, a gas station and restaurant have been built. He stated, further, that Electrical Wholesale is fine and this Credit Union might be fine. He requested that the City Council not change the area and not decrease property values for the condominium owners in the area.

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

Councilmember Groberg requested to know whether this was the land that was also being considered under the next public hearing as a Site Plan Review. The Planning and Building Director stated that this was the same land. She also stated that this land would be difficult to develop due to the landscaping requirements. Under the PT-2 Zone, a Site Plan would have to go through the public hearing process and be reviewed by the Planning Commission as well as the City Council.

Councilmember Lehto requested to know which zone would allow for more review, the Professional Business with a Planned Unit Development Overlay or the PT-2 Zone being requested. A brief discussion was held regarding the differences in the two zones. Councilmember Lehto stated that he would not support this zone change. He also expressed his concern for the monument sign that was to be installed at this location.

Councilmember Shurtleff restated that with the proposed zone change, should the development change, the Planning Commission and City Council would have the opportunity to review and approve the site plan.

The Planning and Building Director explained that two offices were proposed for this location.

A general discussion was held among the City Council regarding the traffic pattern in this area in relation to Idaho State University Place, and whether there would be too much traffic generated from the school.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the rezoning request from PT-1 (Planned Transition 1, High Density Residential) to PT-2 (Planned Transition 2, Commercial and High Density Residential) of Lots 25-32, Block 23, Highland Park Addition and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a site plan approval to construct an Idaho State University Federal Credit Union and a second pad site for a future building in the PT-2 (Planned Transition 2) Zone, located generally at the southeast corner of Presto Street and Latah Avenue, legally described as Lots 17-32, Block 23, Highland Park Addition. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR SITE PLAN APPROVAL, PT-2 ZONE, LOTS 17-32,
BLOCK 23, HIGHLAND PARK ADDITION

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Attached is the application of the Idaho State University Federal Credit Union for two offices, one with a drive-in window on Lots 17-32, Block 23, Highland Park Addition. The Planning Commission recommended approval of this site plan at its September 7, 2004 Meeting. The Department concurs with this recommendation. This site plan 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 site plan approval request:

Slide 1	Aerial Photo
Slide 2	Site Photo of property looking west from Fremont Avenue
Slide 3	Landscape Plan for Second Office Building
Slide 4	Site Plan
Slide 5	Elevations of Credit Union Building
Slide 6	Phase I – Storm Pond
Slide 7	Conceptual Plan
Slide 8	Proposed Monument Sign at corner of Fremont Avenue and Presto Street
Slide 9	Fixtures - Lighting
Exhibit 1	Planning Commission Minutes dated September 7, 2004
Exhibit 2	Staff Report dated September 7, 2004

Steve Wallace, 1540 North Arthur Avenue, Pocatello, Idaho, appeared as the representative for the Developer. He stated that he was present to answer any questions.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Development Agreement for Highland Park Addition, Block 23, Lots 17-32 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Site Plan from the Idaho State University Federal Credit Union for two offices, one with a drive-in window on Lots 17-32, Block 23, Highland Park Addition. Roll call as follows:

Aye: Councilmember Hally

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Councilmember Hardcastle
Councilmember Lyon
Councilmember Lehto
Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

Following a brief recess, the Airport Director submitted the following memo:

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: BID TABULATION AND AWARD OF BID FOR PHASE III OF
THE RED BARON HANGAR

Attached for City Council approval is the Bid Tabulation for Phase III of the Red Baron Hangar Restoration. The sole bidder was Vern Clark and Sons Construction Company, Inc. for \$50,744.00. This will complete the three-year project to restore the external walls of the hangar.

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

s/ Mike Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hardcastle, to accept the sole bid from Vern Clark and Sons Construction Company, Inc. to complete the External Restoration of the Center Sections on the East Side, the West Side, and Bird Control Netting all of the Eaves of the Red Baron Log Hangar located at 2381 Foote Drive, Phase III. Roll call as follows:

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

Nay: None

Motion Carried.

The Fire Chief submitted the following memo:

OCTOBER 14, 2004

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Dean Ellis, Fire Chief
SUBJECT: AMBULANCE SERVICES AGREEMENT RENEWAL

Attached for your review is the annual renewal of the Ambulance Services Agreement between the City of Idaho Falls and Bonneville County for Fiscal Year 2004-2005. The agreement also includes current dates and costs. This year the County has provided for 2 more new personnel in the ambulance budget which brings their total to 19.

The Fire Department respectfully requests approval and authorization for the Mayor and City Clerk to sign the documents.

s/ Dean Ellis

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to approve the Ambulance Services Agreement Renewal between the City of Idaho Falls and Bonneville County and, further give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
September 30, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: DEFINITION OF "IMMEDIATE FAMILY" IN PERSONNEL POLICY

Attached for your consideration are the proposed changes to the City's Personnel Policy related to the definition of "Immediate Family". Items B through E clarify existing language and Item F expands the definition of "Immediate Family" to include son-in-law or daughter in law of an employee.

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Municipal Services respectfully request that the Mayor and Council approve said changes.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the proposed changes to the City's Personnel Policy related to the definition of "Immediate Family". 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
September 30, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: CHANGE ORDER NO. 1, MOTOR CONTROL CENTER FOR
FILTER PUMP STATION AT WASTE WATER TREATMENT PLANT

Attached for your consideration is a copy of Change Order No. 1 for the Motor Control Center for Filter Pump Station at the Waste Water Treatment Plant in the amount of \$4,330.00.

It is respectfully requested that Council approve said Change Order and authorize the Mayor to execute the document.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve Change Order No. 1 to Mountain West Electric for the Motor Control Center for Filter Pump Station at the Waste Water Treatment Plant in the amount of \$4,330.00 and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

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Motion Carried.

City of Idaho Falls
October 7, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: CHANGE ORDER NO. 2, MOTOR CONTROL CENTER FOR
FILTER PUMP STATION AT WASTE WATER TREATMENT PLANT

Attached for your consideration is a copy of Change Order No. 2 for the Motor Control Center for Filter Pump Station at the Waste Water Treatment Plant in the amount of \$266.00.

Municipal Services respectfully requests that Council approve and authorize the Mayor to execute the document.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve Change Order No. 2 to Mountain West Electric for the Motor Control Center for Filter Pump Station at the Waste Water Treatment Plant in the amount of \$266.00 and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

City of Idaho Falls
September 20, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT AND FINAL PLAT – TAYLOR
CROSSING ON THE RIVER, DIVISION NO. 7

Attached are the Development Agreement and Final Plat entitled Taylor Crossing on the River, Division No. 7. This is a one lot plat of 1.72 acres adjacent to the Snake River Greenbelt. The Planning Commission

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recommended approval of this Final Plat at its September 7, 2004 Meeting. The Department concurs with this recommendation. This plat is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Exhibit 1 Planning Commission Minutes dated September 7, 2004
Exhibit 2 Staff Report dated September 7, 2004

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Development Agreement and Final Plat for Taylor Crossing on the River, Division No. 7 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
October 4, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR RULING OF A SIMILAR USE

Attached is a letter for a Request for Ruling of a Similar Use for a Massage Therapist School in an RSC-1 (Residential Shopping Center) Zone. This Department recommends approval of the request.

s/ Renée R. Magee

A GIFT OF HEALTH SCHOOL OF
MASSAGE
Location: 886 South Holmes Avenue
Idaho Falls, Idaho
GAYLA NICKEL
Nationally Certified in Therapeutic
Massage and Bodywork
Mailing: 445 Marjacq Avenue
Idaho Falls, Idaho 83401

OCTOBER 14, 2004

(208) 524-1696
gothermas@aol.com

September 24, 2004

Todd Meyers, Assistant Planning Director
City Annex Building
680 Park Avenue
Idaho Falls, Idaho 83402
612-8278

RE: Request for Ruling of a Similar Use

Dear Mr. Meyers:

I have been asked by your office to move my business due to a zoning conflict regarding schools. I have been diligently looking for the past three weeks for a rental that would accommodate my business in an attempt to comply with zoning regulations and maintain an ethical and professional image within the community. The frustration lies in the fact that most of the rentals available are either too big, need lots of renovation which I cannot afford because of the small size of the school, or have too little or no assigned parking, which is one of the major issues with our current location. You referred me to the downtown rentals, which I have pursued, but the only one that had enough parking wouldn't even show me the space because I didn't need more space than I do. In other words, because we are such a small school, the accommodations in the zoned areas do not meet our needs.

I have found a space that is the perfect size, perfect location, right price, and has plenty of designated parking for our students. It is, however, in an RSC-1 zone, which does not include schools. I am, therefore, applying for a Ruling of a Similar Use.

The location is the building being built on the corner of Woodruff Avenue and Hoopes directly east of First Financial at 665 South Woodruff Avenue and across the street from Papa Johns Pizza at 555 South Woodruff Avenue. I've been negotiating with Dean Mortimer at First Financial, and he has no objection to my proposal and has guaranteed there will be enough parking spots for our needs. I believe we would qualify for a Ruling of a Similar Use for a number of reasons.

We are a very small school. We take a maximum of ten students in each class with only one class per year. We meet on Tuesdays and Thursdays from 8:30-4:30 for classes and on Friday evenings and Saturdays for clinics in which the students offer therapeutic massage to the public. A yoga class with a maximum of eleven students and one instructor is offered on Tuesday and Thursday evenings from 5:30-6:30 year round and on Mondays, Wednesdays, and Fridays from 7:00-10:00 a.m. during the summer.

We are a small school by choice, as we use the size to develop one-on-one interaction with the students for a deeper comprehension in their learning.
We do not intend any expansion in terms of number or size of classes.

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We also have a retail store selling products that support the work the students are doing.

Permitted in RSC-1 zoning is a variety of stores, including hobby stores. For example, Roberts Home Decorating located at 1642 East 17th Street and Michael's Arts and Crafts located at 2345 East 17th Street both offer long term and short term classes on a consistent basis to educate their customers on the use of the products they purchase at these stores. In addition, Wealth of Health Nutrition Center at 250 South Woodruff Avenue as well as Herbs for Health at 1655 South Woodruff Avenue both offer classes in health and nutrition to support the products they retail. Our activities in regard to sales and classes to support those sales are very similar.

As we offer massages to the public, I believe our services are similar to that of a barber shop or beauty parlor and would qualify as a public service to the community, all of which qualify under the RSC-1 zoning. In addition, due to the fact that we only have four-five students offering these massages at one time, there would never be necessity for more parking than ten-twelve cars at a time, commonly found at beauty parlors and barber shops such as Cherz and Company at 260 Olive Avenue and The Essence of You at 1421 East First Street.

Music studios are also permitted under RSC-1 zoning. Having taught piano lessons for 25 years, I am familiar with music studios. Schooling is offered in the form of both private and group lessons. I know there are dozens of music instructors within our city boundaries that offer weekly labs to their students, inviting 10-20 students at one time, requiring 10-20 cars dropping off and picking up. Most, if not all, of these music studios are located within residential zoning.

A Gift of Health School of Massage is a quiet business. We screen our students very carefully before accepting them into the training, and they are very decent citizens with courteous and respectful behaviors. We have never had any complaints from business or residential neighbors regarding misconduct. Our clients are also very amiable and respectable people and adhere to parking instructions given.

I sincerely hope you will consider my request for a Ruling of a Similar Use. If you have any further questions, please feel free to contact me. Also, I would be glad to appear at the City Council Meeting if you will kindly confirm that this matter will, indeed, be on the next agenda.

Thank you for your time and consideration. I appreciate your service to our community.

Sincerely,

s/ Gayla Nickel
Gayla Nickel

cc: Dean Mortimer

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It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Ruling of a Similar Use for a Massage Therapist School in an RSC-1 (Residential Shopping Center) Zone. Roll call as follows:

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

Nay: None

Motion Carried.

The Police Chief submitted the following memo regarding the Wild Animal Ordinance which was passed on the First Reading Only at the September 23, 2004 Regular Council Meeting:

City of Idaho Falls
September 16, 2004

MEMORANDUM

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

I respectfully request the attached Ordinance repealing and re-enacting Section 5-9-9 of the City Code of Idaho Falls, Idaho, prohibiting certain wild animals within the City Limits, providing for severability and establishing the effective date, be heard at the City Council Meeting of Thursday, September 23, 2004.

If you have any questions or comments, please call Councilmember Ida Hardcastle, 629-5204.

Thank you for your consideration.

s/ J. K. Livsey

Councilmember Hardcastle submitted the following letters from interested persons:

Carol L. Chaffee, Esq., and
J. W. Everitt
117 Whittier Street
Idaho Falls, Idaho 83402-2206
208-709-5355
September 27, 2004

Mayor Linda Milam

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Councilmembers

Joe Groberg
Thomas Hally
Ida Hardcastle
Mike Lehto
Larry Lyon
Bill Shurtleff

Ladies and Gentlemen:

Now that the Public Safety Committee's formal draft wild animal ordinance is before you, we ask again: What is the ordinance's purpose? And will it accomplish that purpose?

As you all know, based on a complaint from people who admit that our pet bobcats are not a problem but simply a tool in a neighborhood dispute, the City has spent almost a year and countless man hours revising City Code Section 5-9-9 because it does not clearly ban our pet bobcats. As you consider the proposed draft, think a minute about 5-9-9's history. Idaho Falls used to have an ordinance banning specific animals. The City changed the ordinance to its present form after a legal battle with a woman who kept an alligator in her yard – an animal that wasn't on the list. Section 5-9-9 currently bans poisonous, fetid, dangerous and feral animals over 25 pounds. Instead of curing the existing ordinance's defects, however, so that it covers dangerous animals without requiring a comprehensive list, you have before you a new list of banned animals. One would think the City would have learned. When you discover someone with an Indian gharial, an alligator-type animal that is not clearly prohibited, or a jackal, or a boa constrictor, or any of the many unlisted animals you might not want in the City, what will you do next?

The proposed list banning animals by name, subsection (A)(1), is not only full of holes, it is sloppily drafted and full of errors. Crocadilla is a made-up word – look it up. The list omits many small to medium cats, such as servals, caracals, margays, ocelots, etc. – which are neither more nor less dangerous than our bobcats. And how about jackals, hyenas, civets and polecats – other unlisted carnivores that are similar to some that are listed. Owls are birds of prey, but they are NOT falconiformes (it's one word, not two). And antelope are not members of the cervidae family. As for the catch-all section, what animal species is not considered wild in its native habitat? And although the ordinance bans wolves and first generation wolf-dog hybrids, did you know that wolves in their native habitat do not present a serious risk of bodily harm or death to humans – you are far more likely to die from lightning. The section regarding hybrids, subsection (A)(2), is illogical. A second-generation wild animal hybrid can be $\frac{3}{4}$ wild animal while a first generation hybrid is only $\frac{1}{2}$ wild – which do you think is more likely to cause problems? And there are several cat hybrids that are recognized cat breeds, including the chausie, savannah, ocicat, bengal, and safari. They're not dangerous, so what is the basis for outlawing such hybrids?

Next, the draft ordinance prohibits individuals from selling, offering for sale, purchasing, bartering, keeping, owning, harboring or transporting prohibited

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animals, but it allows pet stores to do all these things for profit. Why? Because the City reaps some financial benefit from such transactions?

The proposed ordinance's impound section is also sloppy. Under subsection (D)(2), an impounded animal may be killed after 3 days if its owner or keeper doesn't show up, or it may be delivered to an appropriate facility. If the owner appears within the 3-day holding period, the Poundmaster must deliver a notice stating that the animal will be killed within 10 days absent service of a show cause order on the City. And if there is no show cause order, the animal must be destroyed – there is no longer an option to deliver it to an appropriate facility. Is the difference intentional, and if so, why? Issuance of a show cause order would require the City to show cause why the animal should be destroyed, but there are no guidelines. What must the City show? Is the pound prepared to properly house, feed and care for impounded animals until further order of the Court, as required? And if the Court orders an animal released, but it has died while impounded, what is the City's liability?

Under subsection (D)(3), the owner or keeper can ask the Poundmaster to release an impounded animal within 10 days of the impoundment under certain conditions. But even if the owner or keeper is willing to move the animal out of the City, must he or she satisfy all of subsection (D)(2) as well? What happens if an owner or keeper discovers the impoundment on the fifth day and asks for its release under subsection (D)(3), but the City has already killed it on the fourth day under subsection (D)(2)? Again, what is the City's liability?

The "grandfather clause", subsection (E), also presents problems. Subsection (E)(2) disallows "more than two wild animals or hybrids of any species". If someone currently has three raccoons, it seems all three would be grandfathered – it's illogical to deem two grandfathered in and require disposal of a third. Also, since there wouldn't be more than two of any species, couldn't someone who has two raccoons and two first generation wolf-dog hybrids keep all four animals? Subsection (E)(3) limits the permit to the location stated on the permit – how can someone with a permitted animal transport the animal to a veterinarian for routine or emergency care without violating subsection (B)'s transport prohibition? The draft ordinance still begs the question, "What is 'dangerous'?" Also, what are exhibited dangerous characteristics? And must the characteristics that "uniquely identify" and "distinguish" the animal be outwardly visible? Finally, what procedural due process would be provided under subsection (E)(7)'s revocation provision? A hearing? An executive work session? A regular council meeting? Would the permit holder be given an opportunity to present and offer evidence? "Proof by a preponderance of the evidence" suggests that both sides would have an opportunity to present evidence, and the Constitution requires it, but the proposed ordinance is silent regarding what procedure would be followed.

According to Councilwoman Hardcastle, the proposed ordinance is the 20th draft prepared by her committee and the city attorneys. What an amazing expenditure of time and resources that represents! And it still creates more problems than it solves! Indeed, no real problem has ever been identified – our two pet bobcats have never hurt or even threatened anyone, and neither

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animal control nor the Public Safety Committee has pointed to any other problems involving exotic animals. (The rattlesnake in the bar was illegal under the current ordinance.)

Meanwhile, the City is plagued by a very real and ongoing problem – barking dogs and dogs running at large. Dogs may not cause a ruckus in the high-rent neighborhoods where some City officials reside, but they are a huge problem elsewhere. Animal control is very familiar with a dog on our street that frequently runs loose and, unlike our bobcats, has repeatedly charged and threatened people – in their own yards! But Bullet is still here in the neighborhood and he’s still a problem. One of these days he’s going to attack a child. That is a real public safety issue. However, the current City Code provisions regarding dogs are either ineffective or they are not sufficiently enforced to resolve the problem.

In short, unusual pets in the hands of responsible pet owners are not a problem, while even common pets in the hands of irresponsible pet owners are a perpetual problem. If you are genuinely concerned about dangerous animals within City limits, why not decide what is “dangerous” and amend the current ordinance accordingly? We’ve worked with Councilman Lyon and Chaz Houpt, the owner of Peaches Pets, to come up with an alternative that does exactly that. We’ve attached to this letter our proposed revision of Section 5-9-9 for your consideration. We’ve purposely kept the provision simple so that it can be easily understood and enforced against animals that are truly dangerous, not just different. In addition, we’ve included a proposed revision of Section 5-9-8 that would allow people to keep a few chickens and ducks as pets. They are not dangerous, and they are far less likely to be a nuisance than many of the dogs and cats that are considered acceptable pets by the Public Safety Committee.

s/ Carol L. Chaffee
Carol L. Chaffee, Esq.
J. W. Everitt

cc: Channel 3
Channel 6
Channel 8
Post-Register
Sheriff Byron Stommel

“Attachment 1”

ORDINANCE NO. _____

AN ORDINANCE AMENDING
SECTION 5-9-9 OF THE CITY CODE
OF THE CITY OF IDAHO FALLS,
IDAHO; PROHIBITING THE KEEPING
OF VENOMOUS, DANGEROUS OR
FETID ANIMALS WITHIN THE CITY
LIMITS; AND ESTABLISHING
EFFECTIVE DATE.

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BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO THAT:

Section 1. Amendment of Section 5-9-9, City Code. Section 5-9-9 of the City Code of the City of Idaho Falls, Idaho, is hereby amended as follows:

5-9-9: KEEPING OF FERAL VENOMOUS, DANGEROUS OR FETID ANIMALS PROHIBITED.

Any person who keeps or maintains ~~any feral animal weighing in excess of 25 pounds or any poisonous~~ venomous, dangerous or fetid animal within the City is guilty of a misdemeanor. A dangerous animal is an animal that poses an unreasonable danger to humans or other animals because of its large size or vicious disposition. "Vicious disposition" means a known propensity or tendency to attack unprovoked and to cause injury. Nothing herein shall prevent the keeping or maintenance of such animals with any public zoo, circus, exhibition, pet show, pet store, veterinarian clinic or auctioneering business, providing the operator thereof shall have first obtained a license under the provisions of this code.

Section 2. Effective Date. This Ordinance shall be effective upon its passage, execution and publication in the manner provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this _____ day of October, 2004.

Linda M. Milam
Mayor

ATTEST:

Rosemarie Anderson
City Clerk

(SEAL)

STATE OF IDAHO)
 : ss.
County of Bonneville)

I, ROSEMARIE ANDERSON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

OCTOBER 14, 2004

That the above and foregoing is a full, true and correct copy of the Ordinance entitled "AN ORDINANCE AMENDING SECTION 5-9-9 OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; PROHIBITING THE KEEPING OF VENOMOUS, DANGEROUS OR FETID ANIMALS WITHIN THE CITY LIMITS; AND ESTABLISHING EFFECTIVE DATE."

Rosemarie Anderson
City Clerk

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5-9-8 OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; PROHIBITING THE KEEPING OF CERTAIN DOMESTIC ANIMALS WITHIN THE CITY LIMITS; AND ESTABLISHING EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, THAT:

Section 1. Amendment of Section 5-9-8, City Code. Section 5-9-8 of the City Code of the City of Idaho Falls, Idaho, is hereby amended as follows:

5-9-8: KEEPING OF CERTAIN DOMESTIC ANIMALS PROHIBITED.

Except as set forth below, any person who keeps or maintains any ~~horse, mule, ox, cow, swine, goat, sheep, rooster, or fowl~~ (except chickens, or ducks, not to exceed one per person living at the residence where they are kept), ~~bison, llama, or other domestic animal weighing in excess of 50 pounds~~ hoofed animal (except Vietnamese potbellied pigs) within the City is guilty of a misdemeanor. Nothing herein shall prevent the keeping or maintenance of any domestic dog, cat, canary, ~~parakeet~~, parrot, or fish, nor shall anything herein prohibit the keeping or maintenance of such animals within any public zoo, circus, exhibition, pet show, pet store, veterinarian clinic or auctioneering business, provided the operators thereof shall have first obtained a license under the provisions of this code. Horses and llamas may be kept upon any property zoned RE – Residence Estate under the Zoning Ordinance.

OCTOBER 14, 2004

Section 2. Effective Date. This Ordinance shall be effective upon its passage, execution and publication in the manner provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this _____ day of October, 2004.

Linda M. Milam
Mayor

ATTEST:

Rosemarie Anderson
City Clerk

(SEAL)

STATE OF IDAHO)
 : ss.
County of Bonneville)

I, ROSEMARIE ANDERSON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled "AN ORDINANCE AMENDING SECTION 5-9-8 OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; PROHIBITING THE KEEPING OF CERTAIN DOMESTIC ANIMALS WITHIN THE CITY LIMITS; AND ESTABLISHING EFFECTIVE DATE.".

Rosemarie Anderson
City Clerk

(SEAL)

Kimball W. Mason
Prosecuting Attorney
482 Constitution Way, Suite 307
P. O. Box 50561
Idaho Falls, Idaho 83405
October 7, 2004

OCTOBER 14, 2004

Dale W. Storer
HOLDEN, KIDWELL, HAHN, & CRAPO, P.L.L.C.
P. O. Box 50130
Idaho Falls, Idaho 83405

Re: Feral Animal Ordinance

Dear Mr. Storer:

This will respond to your request for my input regarding the draft ordinances submitted by Carol Chaffee.

Ms. Chaffee's wild animal ordinance suffers from two serious problems, to wit:

- Her ordinance would allow a broad variety of wild animals inside the City that are not characteristically dangerous. For instance, it would allow mink, deer, elk, antelope, moose, raccoons, "pet" skunks, "tame" bears, foxes, coyotes, wild turkeys, hawks, falcons, owls, along with many others, limited only by the imagination of anyone who may domesticate such animals. In my judgment, these animals are patently incompatible with an urban environment, irrespective of whether they are "venomous, dangerous or fetid."
- More importantly, Ms. Chaffee's ordinance would allow potentially dangerous animals to be kept within the City under the so-called "one free bite" rule. Specifically, in the absence of an absolute prohibition against a wild animal (which prohibition is contained in the present draft of the proposed ordinance), before animal control officers could remove a wild animal, they would be required to prove the animal is dangerous to life or limb. Thus for example someone could harbor a "tame" bear, lion, cougar or bobcat and we would be hard pressed to remove the animal unless our police officers have proof that the animal has previously bitten or physically injured someone or exhibited aggressive behavior. As you know, and any wildlife management officer will tell you, wild animals are unpredictable, even when "domesticated". I don't believe small children, or for that matter adults, should be subjected to that type of danger within an urban environment and an ordinance that follows that approach is bad public policy.

Ms. Chaffee's domestic animal ordinance also has several drawbacks. Specifically, it would permit the keeping of an unlimited number of rabbits, domestic mink, or other fur bearing animals. It would also allow chickens and ducks, limited only by the number of occupants in a household, as well as Vietnamese potbellied pigs.

I trust that this will assist the City Council in their deliberations.

Sincerely,

s/ Kimball Mason
Kimball Mason
City Prosecutor

OCTOBER 14, 2004

Peaches' Pets Feed and Supply
October 8, 2004

The following is in response to the City of Idaho Falls most recent proposed revision of City Code 5-9-9 dated 9/16/04.

The existing Code appears sufficient except for the following updates:

- 1) The definition of "dangerous" needs to be expanded for easier interpretation and enforcement.
- 2) Impoundment procedures need to be established that are fair to the animal, its owner and that are within impoundment facility's capability.

Comments

5-9-9(A)(1) & (2)

By listing specific wild animals that are covered/not covered by type, species, classes, hybrid, generation, etc., the city is expecting its enforcement personnel to be experts 24/7. This listing direction will eventually lead to a voluminous Code as the different families/classes of animals are expanded upon thru further revisions.

All this would not be necessary if an appropriate definition for "dangerous" was established and the city entrusted its residents' good judgment which has been the case for the last 15 years under the old Code.

The process of listing animals is not only an insult to the resident's common sense but a procedure more familiar to neighborhood/subdivision conveyances. Some of the listed animals are already covered under State and Federal laws.

5-9-9(B)

The process of wild animal ownership exchange could be difficult to prove/enforce. When considering "keep" or "harbor" the consequences need to be understood. According to Webster's "harbor" used in the verb form means

- 1) To serve as, or provide, a place of protection to; shelter or house; conceal or hide.
- 2) To be the dwelling place or habitat of.

Thus if an owl (see 5-9-9(A)(1)(J)) decides to winter over in a tree in a resident's back yard – is this tree at fault!?

5-9-9(D)

The process of impoundment needs to be fair to the residents, their animals and the city's impoundment facility. The proposed Code ignores all three of these necessities. An informed resident would be wise to "harbor" his elephant at the City Pound; ten dollars (\$10.00) per day is "a heck of a deal"!

OCTOBER 14, 2004

5-9-9(E)

Does the city really need a 30-day Code?

Conclusion

The City Council has spent the past eight months trying to resolve one case and placate a few separate individuals with "20 revisions" of Sections 5-9-9 of the City Code. This has not only been a cumbersome process, but is definitely not in the best interest of the majority of the intelligent Idaho Falls residents! The City Council needs to just update the existing and proven Section 5-9-9 by:

- 1) Redefine "dangerous"
- 2) Improving impoundment procedures

Chaz Houpt

Les Stone, D. V. M.
Northgate Veterinary Hospital, P. A.
700 North Wabash Avenue
Idaho Falls, Idaho 83401

To the Idaho Falls City Council –

I would like to comment on the proposed City Ordinance issued on 10 June 04 regarding "Wild Animals". What is our purpose here? Is our goal to protect the public? Dogs and a few cats have caused all of the injuries that animals have inflicted on people in Idaho Falls. This law won't change that.

We shouldn't outlaw the animal. We should outlaw the nuisance behavior. We shouldn't outlaw the gun. We should outlaw the criminal act. We don't outlaw the Arab Muslim. We outlaw their acts of murder.

We need to be concerned about 4 things:

1. Does the animal create a smell that is offensive to the neighbors?
2. Is the animal loud enough to be disturbing the peace of the neighborhood?
3. Is the animal sufficiently confined so as not to be a threat to the general public?
4. Is the animal maintained in a clean healthy humane environment?

If we can't smell them or hear them, and if they are not likely to bite or maul us, and if they are kept in a clean humane environment, then it shouldn't be our business what kind of animal someone keeps for a pet. Under those circumstances, no worthwhile law has been broken and no new law needs to be passed.

Sincerely,
Dr. Les Stone

OCTOBER 14, 2004

Les Stone, D. V. M.
Northgate Veterinary Hospital, P. A.
700 North Wabash Avenue
Idaho Falls, Idaho 83401

To Larry Lyon:

It has been my understanding that laws directed at specific animals and breeds have not stood up well in court challenges. You outlaw the act of violence, not the tool that was used to commit the crime. As long as an owner has an animal sufficiently confined so that the public is not in danger, where is the crime? Certainly if the animal is large or inherently dangerous, then the owner is going to be expected to provide a higher level of security.

My 10-week-old kitten, "Maurice", does not require a great deal of security to protect the public. However, I wouldn't let a client with a 2 year old toddler play with the kitten because the toddler could get scratched. My level of security for "Maurice" is sufficient to protect the public.

A person who owns a Tasmanian Devil would have to provide a much higher level of security to protect the public. And anyone who owns an exotic animal must accept that their security provisions will come under more scrutiny than the average pet owner. But as long as the animal doesn't create an odor that can be a nuisance to the neighbors, or doesn't create a noise disturbance for the neighbors, and is sufficiently restrained so as not to be a threat to the neighbors, then where is the crime?

It would seem to me that this entire episode has been a bureaucratic exercise in futility. All of the animal caused injuries in Idaho Falls have originated with dogs and cats. Let's worry about enforcing the existing leash laws. If we want to protect the public, let's discuss a mandatory rabies vaccination before getting a City license. Why go to all this effort to legislate against a non-existent problem. Let's concern ourselves with the problems that actually exist. Come to the shelter some time with me, and I can show you lots of areas that we could address that would improve the quality of life for both people and animals in Idaho Falls.

Sincerely,
Dr. Les Stone

October 14, 2004

Mayor Linda Milam
Councilmembers

Joe Groberg
Thomas Hally
Ida Hardcastle
Mike Lehto
Larry Lyon
Bill Shurtleff

OCTOBER 14, 2004

Ladies and Gentlemen:

In review of the City's proposed new wild animal ordinance 5-9-9, I would like to give my formal objection. The current proposal is full of flaws and does not provide for what is truly a threat. The threat in the community comes from people who do not properly care for their animals. The threat is perhaps not just a dog or cat.

In addition, I would like to further object to the current ordinance, Keeping of Certain Domestic Animals 5-9-8. What I do with domestic animals in my yard should be my business unless there is a complaint or I am posing a threat to society at large. I would like to see the current ordinance changed to reflect the keeping of one hen per household member, with perhaps a cap to not exceed ten hens. When properly cared for, chickens can provide a wonderful learning tool for families to teach the cycle of life to their children, for children in the city to experience belonging to a 4H group, and for families to have the value of fresh, organic eggs to eat in their diet.

I sincerely hope that the City Council will review their choices with care and thoughtfulness toward all City residents, and not their own personal agenda.

s/ Melisa Tow
Rev. Melisa Tow
4H Co-Leader Seasons of Seven
4H Club
516 9th Street
Idaho Falls, Idaho
(208) 524-6322

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: City Council, Mayor Milam, Chief Livsey
FROM: Dale Storer, City Attorney
Shan Perry, Deputy City Attorney
RE: RESPONSE TO LETTER FROM CAROL L. CHAFFEE

This memorandum will respond to Carol Chaffee's letter dated September 27, 2004, insofar as it addresses the present draft of the feral animal ordinance. I will not respond to other concerns in her letter relating to current regulations dealing with domestic animals (i.e. dogs, chickens, ducks, Vietnamese pigs, etc.), since such concerns are beyond the purview of the present ordinance. While Ms. Chaffee's letter raises a number of policy issues which the Council certainly needs to consider, I do not believe it is appropriate to consider such policy issues in the context of the misunderstandings and inaccuracies contained in her letter.

1. Why Change the Ordinance?

Ms. Chaffee asks why, considering section 5-9-9's history, it is necessary to change the ordinance? Simply put, if the ordinance is not changed, the City will be unable to prevent the harboring of wild animals inside the City. In particular, the need to modify the current ordinance was driven by Ms. Chaffee's harboring of two "pet" bobcats in a residential neighborhood. Ms. Chaffee's neighbors complained of the perceived danger to children and adults in the neighborhood. Ms. Chaffee contended the current ordinance only prohibited "feral" animals and since her bobcats had been domesticated they were not prohibited under current version of Section 5-9-9, City Code. The City Prosecutor believed there was enough ambiguity in the current ordinance that a criminal prosecution might not be successful. The original purpose of amending the ordinance was to resolve this ambiguity, a purpose I might add that has apparently been lost in the ensuing debate on this issue. To my knowledge there was never an intent to eliminate the current ordinance's absolute prohibition of large, wild animals inside the City, nor was there any intent to expand the prohibition to include small, non-poisonous/non-fetid wild animals that are occasionally kept as pets.

2. Other Wild Cats and Wild Animals Not Listed.

The current draft of the proposed ordinance includes in part an absolute prohibition against certain listed wild animals. This is by design and consistent with the recommendations of various wildlife management officers with whom we consulted, including one highly recommended by Ms. Chaffee.¹ In fact, the current ordinance was patterned after a model ordinance provided by Ms. Chaffee's expert. The proposed ordinance does not, nor does it purport to contain an exhaustive list of all wild animals that might be subject to the absolute prohibition—undoubtedly there are others that could be included and may be necessarily added in the future.² Please understand that ordinances are not static, rather they are dynamic and can be amended from time to time as circumstances and needs arise. The fact that a particular species is not presently listed in the absolute prohibition, is not in my judgment, cause to deny passage of the ordinance.³

It is important for you to understand the purpose of the absolute prohibition for the listed animals. Wild animals, by their very nature are unpredictable, even when domesticated. As such, I recommend and I believe Mr. Pauli will concur, they should be subject to a "total ban", irrespective of their actual or asserted state of domesticity. To give them the benefit of the "one free bite" rule, which is given to domestic dogs, is irrational, bad public policy and unnecessarily complicates criminal prosecutions.⁴ Rather, a better approach is to absolutely prohibit certain specifically listed wild animals that are frequently kept in private ownership and prohibit other unlisted wild animals under a catch-all provision prohibiting venomous, fetid or dangerous animals. If in the future we frequently encounter a particular unlisted animal, it can later be added to the absolute prohibition list, if deemed necessary.

3. Hybrid Definition Not Logical.

Ms. Chaffee contends the ordinance definition of the term "hybrid" is not logical. (Chaffee letter, page 2) The definition for the term "hybrid" comes from the model ordinance provided by Dave Pauli, the regional director of the Humane Society, whose credentials Ms. Chaffee believes are "impressive and unimpeachable." (Chaffee letter dated November 19, 2003.)

4. Hybrid Definition Results in Prohibition of Certain “Recognized Cat Breeds.”

Ms. Chaffee questions the “outlawing” of certain “recognized cat breeds, including the chausie, savannah, ocicat, bengal and safari.” (Page 2, Chaffee letter). All of these household cats have a wild ancestor in their pedigree, however, importantly, such progenitors are usually fourth or fifth generation ancestors. Accordingly, these cats would not fall within the definition of a “hybrid” under the proposed ordinance, since only first generation hybrids (i.e. “F1” hybrids) are prohibited. Most exotic cat breeders will not sell such hybrids unless they are at least “F4” or “F5” hybrids. Accordingly in my judgment, Ms Chaffee’s fears are unfounded.

5. Why Exclude Pet Stores?

Ms. Chafee complains of the exclusion of pet stores from the prohibition, which exclusion she intimates is attributable to a financial benefit reaped by the City. (Chaffee letter, page 2)

Pet stores sell to the residents of Bonneville County and surrounding counties, where the keeping of wild animals in a rural environment may be appropriate. Also, pet stores have trained staff members accustomed to dealing with exotic animals. Finally, the accusation that the City somehow reaps a financial benefit from pet stores needs no response.

6. Impound Section Sloppy (Chaffee letter, page 2)

I strongly disagree with Ms. Chaffee’s contention that the impound section is “sloppy”. None of the mitigating remedies are mutually exclusive. Section D(3) clearly states that an owner can remove the animal from the city under certain conditions. Nothing prohibits an owner from seeking this remedy, even if he or she also seeks an order to show cause hearing regarding destroying the animal. Under section D(3), if a person wants to remove the animal from the city, a show cause hearing would obviously be unnecessary.

She also complains of the lack of “guidelines” for the disposal and destruction of prohibited animals. (Chaffee letter, page 2). City animal control officers are properly trained in the handling and humane disposition of animals. I see no reason to spell this out in a rigid ordinance nor do I believe an ordinance is the proper place to do so. Further, if an animal dies while in the custody of the animal control shelter, the liability, if any to the City would be no different than for a domestic dog or cat which dies while impounded. To prove liability, the owner of the animal would have to prove negligence. In my 24 years as City Attorney, I know of no incident where the City has been proven to be negligent in its animal disposition and handling procedures.

Finally, subsection D(2) is patterned after the vicious dog ordinance, which has worked well for the City for many years. The only thing added to this ordinance is the chance to remove the animal from the city, under subsection D(3), which relief valve does not exist in our current vicious dog ordinance. Again, nothing here that necessitates further modification.

7. Grandfather Clause Presents Problems (Chaffee letter, page 2).

Ms. Chaffee's claim that three raccoons should be allowed is a policy decision, not a drafting error. The ordinance is clear: only two of any species. Again, that's a policy decision for the Council.

Her contention that the ordinance would prohibit transporting a "grandfathered" wild animal is also unfounded. Subsection 5-9-9(A) prohibits transportation of wild animals "*except as otherwise expressly allowed under subsection (C) hereof.*" Subsection (C)(3) expressly allows "harboring" of animals which are grandfathered, thus enabling the transportation of grandfathered wild animals for routine or emergency medical care.

Finally Ms. Chaffee complains of the lack of definition for the terms "dangerous", and "distinguishing characteristics", as well as the ordinance's failure to spell out procedural due process procedures. It is well established case law that unless terms used in an ordinance are given special meanings, courts will otherwise apply their commonly understood definitions. I don't believe the terms "dangerous" or "distinguishing characteristics" need any further definition beyond their commonly understood meanings. Nor do I believe due process procedures need to be spelled out. As any good lawyer will tell you, due process is a flexible concept that is often dictated by the circumstances at hand. If animal control needs guidance as to proper procedures, they certainly have easy access to my office as well as that of the City Prosecutor. I am *very* comfortable these terms need no further definition.

8. Use of Latin Terminology (E.g. "Falconi Formes", "Cervidae", "Crocodilla".)

Ms. Chaffee complains that the ordinance improperly classifies owls as "*falconi formes*". (Chaffee letter, page 2) While owls are technically not *falconi formes*, (i.e. the proper Latin term is *strigi formes*), the classification in fact used by the ordinance is "birds of prey", and an owl is certainly considered as a bird of prey. Hence, while Ms. Chaffee is technically correct, the over-inclusive reference to the Latin term, will not affect the enforceability of the ordinance. Again, no reason to hold up passage of the ordinance.

She also complains that antelope are not included in the Latin term "*cervidae*". (Chaffee letter, page 2). Again, while she is technically correct, she misreads the ordinance. The ordinance prohibits, "elk, deer, moose, antelope or other members of the *cervidae* family." Thus, as drafted, the ordinance prohibits *all* members of the *cervidae* family *and* antelope. Again, not a problem that should delay or prevent passage of the ordinance.

Finally, she objects to the misspelled term "*crocodilla*". (Chaffee letter, page 1) This is again an inconsequential typographical error (the correct term should be "*crocodillian*" or "*crocodylidae*"), because the ordinance clearly prohibits "Alligators and Crocodiles". I might also add that I. C. §50-903, allows post-passage correction of typographical and spelling errors when the ordinance is codified. Again, no reason to delay passage of the ordinance.

9. Number of Drafts of the Ordinance.

OCTOBER 14, 2004

On this one point, Ms. Chaffee and I agree. In my twenty four (24) years of experience, I have never had an ordinance consume this much time to draft and redraft and redraft again. I find this particularly disturbing if this is to be the trend for future ordinances. That being said, however, rather than calling this a waste of time, I believe we have benefited from input from concerned members of the community and I believe we ultimately have a product which will work.

SUMMARY

In summary, from a drafting perspective (or from any other perspective I might add) nothing in Ms. Chaffee's letter gives me pause in recommending to you passage of the ordinance. Most certainly there are important policy considerations that need to be given thoughtful review, however, I strongly urge you to not lose sight of the original purpose of this ordinance, as outlined in the outset of this memorandum. In particular, please understand that if you elect not to pass this ordinance, you will be left with the current ordinance for which the City Prosecutor has already stated his reservations and refusal to prosecute. The net result is that you will potentially expose the citizens of this City to the keeping of a wide variety of wild animals within the city limits. This ordinance is certainly not perfect, nor for that matter are any of our ordinances. However, as noted above, ordinances are not static, they are dynamic and capable of future adjustment and fine tuning as the need arises. In my opinion, nothing in the current draft of the ordinance justifies further delay.

Finally, I would strongly recommend against consideration of the draft ordinances included in Ms. Chaffee's letter dated September 27, 2004. I concur with Mr. Mason's concerns⁵ and believe such ordinances would potentially bring a whole host of wild animals into an urban environment which is neither beneficial to our citizens or the wild animals involved.

Please feel free to call me or Shan Perry should you have further questions prior to the City Council Meeting this Thursday.

cc. Kimball Mason

¹Ms. Chaffee recommended Mr. Dave Pauli, the Regional Director of the Humane Society and a recognized expert on feral animal issues and animal control ordinances. He states, "I concur wholeheartedly that both native and exotic species of animals do not belong in private ownership and should be housed at experienced, licensed and inspected zoos, nature centers or educational facilities. . . . With captive wild species we would support total bans with well written ordinances prohibiting potentially dangerous snakes, exotic animals, AND bobcats and cougars as a good community protection goal." (Emphasis in original letter)

²The list in this ordinance is much more extensive than the list provided by Dave Pauli, Regional Director of the Humane Society.

³Remember, the ordinance includes a "catch-all" prohibition against "venomous, fetid and dangerous" animals. This "catch-all" will pick up dangerous wild animals that are not included on the list.

⁴See Kimball Mason's letter dated October 11, 2004.

⁵See Kimball Mason's letter attached hereto

OCTOBER 14, 2004

Power Point Presentation from Councilmember Larry Lyon:

- Slide 1 Problems with Proposed Revision of 5-9-9
- Slide 2 Shouldn't our laws be easy to understand the "user friendly"?
- "Laws are made for men of ordinary understanding, and should therefore be construed by the ordinary rules of common sense."
- Thomas Jefferson
- Slide 3 Summary of current ordinance.
- It protects public health and safety by prohibiting animals that are:
 - Dangerous
 - Poisonous
 - Feral and over 25 lbs.
 - Fetid
 - Have a propensity to attack other animals or people. (5-10-1)
 - Cannot be kept under the immediate control of the owner. (5-9-11)
 - Cannot be given adequate care and attention. (5-9-5)
 - 90% of the animals listed in the proposed ordinance are already prohibited. The rest are not a public hazard!
- Slide 4 KEEPING OF WILD ANIMALS PROHIBITED irrespective of their actual or asserted temperament or domestication:
- Why should we want a law that prohibits people from having animals that are actually domesticated?
 - Can't animals of the same species be "wild" or domesticated; cats or dogs for example?
- Slide 5 Problems with the "List" of animals:
- Doesn't listing animals by name presuppose that they cannot be prohibited unless they are named:
 - Would we have to let a jackal stay in the City?
 - If the answer is no, under what provision of the current Ordinance would it be prohibited?
 - Isn't listing prohibited animals kind of like trying to prohibit alcoholic drinks by name?
- Slide 6 Problems with the "List" of animals:
- Aren't over 90% of the listed animals already prohibited under our current ordinance?
 - Why do the other 10% need to be listed if:
 - They are not a public health or safety hazard.
 - There is not a single documented case of them being kept as a pet in over 100 years.
- Slide 7 Problems with the "List" of animals:
- How is it possible to create a list that isn't full of holes?
 - Can you tell which of the following animals would still be allowed if the proposed ordinance were passed? They can all be purchased over the internet.
 - Hint – only the nonhuman primates are prohibited.
- Slide 8 Photo of animal - Potto
- Slide 9 Photo of animal - Bush Baby

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- Slide 10 Photo of animal - Kiwkajou
- Slide 11 Photo of animal - Two-Toed Sloth
- Slide 12 Photo of animal - Armadillo
- Slide 13 Photo of animal - Jackel
- Slide 14 Photo of animal - Tapir
- Slide 15 Photo of animal - Anteater
- Slide 16 Photo of animal - Coatimundi
- Slide 17 Photo of animal - African Serval
- Slide 18 Photo of animal - Caracal
- Slide 19 Photo of animal - Reticulated Python
- Slide 20 Photo of animal - African Serval being held by owner
- Slide 21 Photo of animal - Gharial
- Slide 22 (1)(j) Birds of prey (falconiformes), such as eagles, hawks, falcons or owls, unless the owner has a permit issued by the State of Idaho or the United States of America, or any agency thereof, allowing the keeping of such animals and provided the animal is kept in a cage or is tethered by a sufficiently strong tether to prevent it's escape.
Note: Owls are birds of prey, but they are not in the order of falconiformes.
- Slide 23 Why is this necessary?
- Isn't it already a federal or state crime to own a bird of prey without the proper license?
 - Isn't Falconry tightly regulated at the federal and state level?
 - Does this provision measurably enhance the safety of the public or the birds themselves?
- Slide 24 (2) "Wild animal hybrid" or "hybrid" means an animal which is a first generation product of the breeding of:
- (a) A wild animal with an animal that is not wild, including but not limited to wolf/dog hybrids.
- (b) A wild animal with an animal of a different species, variety or breed.
- How do you enforce the "first generation" requirement?
 - Have the proponents of this change considered the fact that a second generation wolf hybrid may be a higher percentage "wolf" than a first generation hybrid?
- Slide 25 These would be outlawed as "Wild Animal Hybrids" under the proposed ordinance:
Photo of animal - Bengal Cats
- Slide 26 So would these:
Photo of animal - Savannah Cats
- Slide 27 What if your animal gets impounded?
- Section D2
 - Animal control keeps your pet for at least three days.
 - If you don't show up within three days, you pet may be killed or given to a "facility".
 - If you do show up within three days, you don't get your pet back; you get a notice that your pet will be killed within ten days unless you get a court order – it doesn't say after ten days.

- Slide 28 What if your animal gets impounded? Continued:
To save your pet's life you have to get a court order served on the City forcing the City to "show cause" why your pet should be killed – the ordinance doesn't say what the City must show, so it's up to the judge's whim.
- If you serve the City with a court order your pet stays impounded at the cost to you of \$10/day until the legal wrangling is finished.
- Slide 29 What if your animal gets impounded? Continued:
- If you don't get a court order served on the City within ten days your pet is killed
 - Section D3
 - You also might be able to save your pet's life by asking the Poundmaster to release it, paying the pound fees and agreeing to move it out of the City.
 - It's not clear whether you must go through a section D2 as well as D3, even if you are willing to remove the animal from the City.
 - This section is available only for animals that aren't venomous or stinky and that haven't exhibited dangerous behavior – whatever that is.
- Slide 30 What if your animal gets impounded? Continued:
- Does the City Animal Shelter have the physical facilities or the expertise to humanely care for animals on the prohibited list while they are impounded?
 - Section D4
 - Who is going to pay for a prohibited animal to be shipped to a "facility"?
 - Why should the taxpayers pay for an animal to be shipped to a "facility" if it is not any more dangerous than other animals allowed in the City?
- Slide 31 Section E: Grandfathering and Permitting:
- Section E2
 - The language seems to say you can have an unlimited number of wild animals or hybrids as long as no more than two are of the same species.
 - Does this mean that you can't have your animal groomed or cared for by a veterinarian?
 - Why do we want an ordinance whose meaning is not clear to the average citizen with ordinary common sense?
- Slide 32 Section E: Grandfathering and Permitting, continued:
- Section E4
 - Does the City Clerk now have to be an animal expert in order to know by species what features or characteristics uniquely distinguish an animal from other animals of the same species?
- Slide 33 Section E: Grandfathering and Permitting, continued:
- Section E6 & 7
 - Why are the Police Chief, City Clerk and City Council involved in a scenario that might be just as easily and more effectively handled by the City's Animal Control Division?

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Following are documents attached to the Power Point Presentation from Councilmember Larry Lyon:

United States Department of
Agriculture – Animal and Plant Health
Inspection Service
Federal Building
Hyattsville, MD 20782
July 14, 1993

Ms. Noreen Kuhlwind
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Dear Ms. Kuhlwind:

I am responding to your letter of May 4, 1993, to Dr. Dale Schwindaman, Deputy Administrator, Regulatory Enforcement and Animal Care, concerning the status of the following animals under the Animal Welfare Act (AWA): Dingo, Canaan Dog; New Guinea Singing Dog; and the Carolina Dog.

As stated in your letter, we have considered the Dingo, Canaan Dog, New Guinea Dinging Dog, and the Carolina Dog, to be wild or exotic species of dog and therefore regulated under Subpart F of the standards rather than Subpart A. In response to your letter, we had our Animal Care Staff research this matter in regard to the proper taxonomic classification for these four animals.

All the data we could find, plus the latest book, "Mammal Species of the World: A Taxonomic and Geographic Reference, 1993", published by the American Society of Mammalogists and the Smithsonian Institution, have reclassified these dogs as domestic dogs under *Canis Lupus Familiaris*, which mean canine of wolf origin that is domesticated. Our previous classification of these dogs was apparently based on outdated data. We are, therefore, reclassifying these four dogs as domestic dogs under the AWA and they will be subject to the standards under Subpart A.

Thank you for bringing this matter to our attention. While we try to keep current on most things, we are occasionally a little slow to get some information. We are advising our inspectors of this change.

Sincerely,

s/ Richard L. Crawford
Richard L. Crawford
Assistant Deputy Administrator
Animal Care
Regulatory Enforcement and Animal
Care

United States Department of
Agriculture – Animal and Plant Health
Inspection Service
February 21, 1985

OCTOBER 14, 2004

Clarification of Hybrid Animal Crosses – Animal Welfare
Area Veterinarians in Charge, VS
Directors, VS Regions
Animal Care Specialists, VS

Several years ago a memorandum clarifying the status of hybrid crosses between wild and domestic animals under the Animal Welfare Act was issued. The memorandum is apparently no longer available and did not receive wide distribution. This memorandum is therefore being issued to clarify the status of hybrid crosses.

All hybrid crosses between wild and domestic animals, such as wolf X dog, cat X jungle cat, buffalo X domestic cattle, etc., are considered to be domestic animals. Thus a wolf X dog cross is considered to be a dog and must be maintained under the dog standards if it is a regulated animal. Any cross between two wild animals is still considered to be a wild animal (i.e., wolf X coyote, tiger X lion, etc.). This distinction should be kept in mind when applying the standards during inspection or determining if licensing is required or not.

s/ R. Rissler
R. L. Rissler
Assistant Director
Animal Health Programs
Veterinary Services

United Kennel Club Position Paper
Subject: Wolves and Wolf-Dog Crosses (September 1998)

In the past decade, the media has published a number of sensational articles about so-called “wolf hybrids” by which inaccurate name they refer to the offspring of wolves and dogs. In response, twenty-five states have passed some legislation or regulation relating to these canids. United Kennel Club opposes the regulation of wolf-dog crosses for the following reasons:

- The most recent molecular genetic evidence shows that wolves and dogs are genetically identical.
- The American Society of Mammalogists have reclassified dogs as a subspecies of wolf (*canis lupis familiaris*) and this is the view of the majority of taxonomists.
- A comparative study of behavior showed that of 90 different behavior patterns found in dogs, all but 19 were also found in wolves. These 19 were all considered minor behavior patterns which the researchers believe probably do occur in wolves but have not yet been observed.
- Since, at the present time, there is no means by which to distinguish wolf-dog crosses from dogs, either by DNA or by the animal’s appearance or behavior, it is impossible to enforce regulations aimed at wolf-dog crosses. In a recent telephone survey of the persons administering “wolf hybrid” regulations, most freely acknowledged that such rules were extremely difficult to enforce, primarily due to the inability to identify the object of the regulations. In the past decade, Tennessee and Oregon have rescinded their laws regulating wolf-

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hybrids because of the problems in administering the regulations. To date, every legal challenge to these laws has been won by the owner of the canid in question and nearly always on the grounds that such laws are unconstitutionally vague.

- Otherwise responsible owners of spitz-type breeds may find themselves the objects of harassment by neighbors or animal control officers who may confuse these purebred dogs with wolf-dog crosses. This type of harassment may generate expensive litigation and bad publicity.

You cannot regulate what you can't identify.

Fred T. Miller, President
United Kennel Club

Every Breed has Good, Bad Dogs

I was dismayed to see your June 28 letter to the editor describing Gail Mackey's attempt to legislate against wolf hybrids in Spokane. I believe Ms. Mackey testified at a Millwood hearing as recently as June 14 that she found no significant differences in percentages of "problem dogs", among breeds of dogs turned into SpokAnimal Care.

In every type of purebred and "hybrid" dogs there are good ones and bad ones. In Orangevale, California, a German Shepherd/wolf hybrid named "Zorro" pulled his owner out of a whirlpool at the base of an 85-foot ravine where the man had fallen. The dog then huddled on top of his unconscious master during the cold night that followed. In the morning, rescuers were forced to leave the dog behind, yet when other searchers later found the dog, "Zorro" was still guarding his master's backpack.

Individual dogs are as different in personality as people and should be judged on their own merits. If the "breed-specific" people had their way, I suppose the wolf hybrid "Zorro" would have been promptly destroyed, rather than being awarded the title "Dog Hero of the Year" for saving his master's life!

IRENE B. ANRODE
Spokane
THE SPOKESMAN-REVIEW
Page A11
Monday, July 2, 1990

The Humane Society's Attack on the Wolfdog

By Michael Jacob

With research by Steve Masuch, Cheryl Grenier, Carol McKinney,
and other Guardians of Wildlife

Like many people, I hear the words "humane society" and I think about abandoned kittens or puppies rescued from certain death and placed in loving homes. I automatically feel the tugs on my heart and wallet.

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Needless to say, I was shocked to discover the Humane Society of the United States (HSUS) has engaged in spreading fear and hysteria in an attempt to eliminate my dearest companions, my wolfdogs. In fact, I learned that ultimately they might want to eliminate all cats and dogs.

To be clear, I'm not talking about the innumerable community-based humane societies throughout the United States whose volunteers are engaged in daily animal rescue and protection work. This one is the Washington, DC, based organization with a \$31 Million budget in 1995¹.

This organization, the big Humane Society of the United States, does not rescue kittens or puppies, but instead is primarily involved in shaping the animal policies in our country.

And the HSUS is at the center of a lobbying effort to ban wolfdogs, sometimes known as wolf hybrids, as companion animals.

With an estimated 300,000² wolfdogs in the country, this effort to exterminate a particular breed stands to bring enormous grief and heartbreak to hundreds of thousands of animals and their human companions who have done harm to no one.

In a current effort to ban wolfdogs in the state of Virginia, the HSUS sent out "fact sheets"³ urging Virginians to contact their legislatures to ban wolfdogs because they are "unpredictable, destructive, rarely trainable, and adept at escaping." The literature portrays wolfdogs as unpredictable, potential killers and claims that attacks are common—"disturbingly common".

The word "common" evokes the idea of a clear and present danger: why, any day, you or I or our children could be attacked by wolfdogs.

Using "common" with Virginia residents is, to put it kindly, an exaggeration of monumental proportions. No one in Virginia was ever killed by a wolfdog, and the HSUS literature could list only one alleged bite incident. Common? A better phrase might be "scarce as chickens' teeth".

The essence of a fear campaign, a campaign to spread hysteria, is to make people feel that their lives and the lives of their children are in immediate and urgent danger – and this is precisely what the HSUS literature attempts to do.

The Myth of the Man-Eating Wolfdog

What is the truth about the "danger" of wolfdogs? How "common" are attacks? Should the people of Virginia and the rest of the United States be pressing for wolfdog extermination?

Well, if we look at the facts as compiled by the Humane Society itself, as well as other sources such as the US Center for Disease Control (CDC), the picture is quite different from the campaign literature.

From 1979-93 in the United States, there were a total of 189 human fatalities as a result of dog bites, according to statistics compiled from HSUS and CDC

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by The Wildlife Education and Research Foundation⁴. The pit bull and pit bull crosses were responsible for 59, or 31% of those deaths. German Shepherds and Shepherd crosses were responsible for 22 deaths. These animals were followed by the Husky, Rottweilers, and then the wolfdog.

These figures alone do not indicate how potentially “dangerous” a breed may or may not be, for we need also to look at the number of attacks measured against the total number of the breed: that is, what percentage of the animals are likely to attack? Using this measure, the animal protection group, the Guardians of Wildlife, discovered that based on current breed estimates, the wolfdog is less of a threat than pit bulls, huskies, malamutes, German Shepherds and Rottweilers⁵.

Another study⁶, by Physician Jeffrey J. Sacks and colleagues at the Centers for Disease Control and Prevention, analyzed data from 109 deaths caused by dog bites reported between 1989 and 1994. Sacks and his team noted that certain breeds of dog, most notably pit bulls, Rottweilers and German Shepherds, are more often involved in fatal and non-fatal attacks. Apparently, wolfdogs didn’t merit a mention. Sacks used data compiled from the HSUS as well as the CDC.

Putting Attacks in a Perspective

Are dog or wolfdog attacks so “common” as to be an urgent threat? It may be difficult to “coldly” look at death statistics, but is essential in order to get an objective picture and put the “threat” in perspective.

According to a recent study on traumatic deaths of children, presented by Robert Belfer, MD in *Pediatrics*⁷ 5,356 deaths to children in 1991 were due to firearms; 165 children and adolescents drowned in bathtubs, while fire and flame accounted for 1,314 deaths. According to the Children’s Defense Fund, some 2,000 children are killed each year by their parents or primary caregivers.

While the thousands of deaths from child abuse and firearms might be termed tragically too common and demanding of urgent public action, these figures makes the 9-18 deaths per year from dog attacks look like a blip on the charts.

In fact, a mortal threat from any particular breed of dog, including wolfdogs, is rare. That is, no more than a few animals out of every million animals are likely to be “killers”.

Children are at far greater risk from their own parents or siblings than by any dog, much less the wolfdog. With some 300,000 wolfdogs in the US, there has been less than one human fatality per year over the past 18 years. The wolfdog is about as “common” a threat to children as the threat of getting struck by lightning while being eaten by a shark.

Certainly, any human death by dog attack is a tragedy. It is also true that almost every fatality could be avoided by adequate socialization and training of

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the animals and by proper education and oversight. Young children should not be left alone with any dog, and children should be taught how to respect and treat all dogs.

Aside from education, good “dangerous animal” laws applying to all dogs would be quite adequate and handle the small number of incidents that do occur.

Number of Yearly Child Deaths from various Causes

(Chart Identifying information provided above in the text)

The statistics simply verify what the hundreds of thousands of wolfdog owners already know: the wolfdog is no more dangerous than other larger dogs, and if there’s a problem, it’s generally with the owner.

The wolfdog is a beautiful, graceful, affectionate and special animal with special requirements – it is certainly not the “pet” of choice for every family, since they can require so much time and energy. Most responsible owners know they are more like raising children than “keeping a pet”, and they require a great deal of attention, socialization, affection, and care.

Any large canine must be properly socialized, trained and cared for. As the 189 human deaths between 1979-93 show, all large canines need to be treated with respect and caution.

But it is brutally unjust and malicious to select out the wolfdog and use manipulated statistics and scare tactics to call for its elimination.

The Inhumane Humane Society?

The HSUS’ stated purpose is the protection of animals and the environment, and it stands on a decades-long history of serving that purpose.

If the facts show that the wolfdog is no more dangerous than other dogs, why has the Human Society of the United States targeted the wolfdog? Why would these folks want to wreak so much havoc and concern for hundreds of thousands of owners and their animals who have caused no harm to anyone?

There are many who believe that over time, the HSUS grown into a large bureaucracy that has strayed from its purpose. A recent *Washington Post*⁸ article documented the financial and strategic controversies surrounding the organization for the better part of the last decade. (See “The Fur is Flying at the Humane Society”)

Its two top officers earn more than \$200,000 a year and receive unusual perquisites, such as homes and cars. Many other staff members receive in excess of \$100,000 a year.

These are hardly the wages of your average volunteer animal rescue worker, and some ex-HSUS staff have asserted that the society has abandoned its purpose in favor of fund-raising and building its own bureaucracy.

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This criticism is echoed by the Council of Better Business Bureaus of US and Canada, which issued an advisory⁹, in April of this year suggesting the HSUS is overestimating the amount it spends on programs and underestimating the amount it spends on fundraising. According to the BBB, the HSUS is blurring the relationship between fundraising and programs so that it is impossible to tell what is being spent on what. The HSUS failed two of the BBB's Standards for Charitable Solicitations.

In examining the HSUS tax returns¹⁰, it is clear the BBB is right. Nearly all the HSUS budget appears to be spent on their Washington, DC operation, with the bulk of it, other than the hefty salaries, going for office-related expenses such as postage and shipping, accounting and legal fees. While it brought in over \$36 Million in revenues, the HSUS granted a meager \$415,000 in contributions to other organizations, some of which are genuinely working to help animals.

Target: Wolfdog

Growing into a large, self-serving bureaucracy with big salaries and exorbitant perquisites may explain part of the HSUS divorce from the concerns real world animal lovers and their canine companions. The HSUS may be more concerned with promoting popular-sounding, career-making issues than with doing what is right.

And the wolfdog is certainly an easy target: the mere suggestion that there are "wolves on the streets" is enough to frighten most people. And there are a handful of "horror stories" to make good press, even if the overall picture is not nearly so gory. While reverting to the Big Bad Wolf myth, it is easy to forget that there have been no documented attacks on humans by wild wolves in North America. The wild wolf is shy and does not see humans as prey. And the experience of wolfdog owners – that the socialized animal is generally shy and deferential of people – goes unheard.

In addition, the HSUS has found some allies among some of the pure-wolf centers. At least one such organization, having been forced toward the unwanted role of being wolfdog information and rescue service, has taken a position that wolfdogs should be exterminated.

Further, the wolves and wolfdogs have not yet been certified by the USDA for the rabies vaccine, even though the common wisdom among veterinarians and veterinary scientists is that since wolf and dog are of the same species and are genetically indistinguishable, the vaccine works for all canines. This certification situation allows those who want to exterminate wolfdogs to raise the specter of rabies, even though the threat of contracting rabies from any vaccinated canine, wolfdog or dog, is extremely rare.

Moreover, because the wolfdog is not an official breed and is relatively new compared to established breeds, wolfdog owners are not as well organized and funded as other owners. The opposition to ban is not as strong as the organized breed and kennel clubs.

The Big Question: Why?

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That the wolfdog is an easy, if maligned, target does not really explain why the HSUS would make a target of the wolfdog in the first place. Why target at all?

It seems that as the HSUS has grown into an organization more divorced from real animals, real people and their real concerns, it may be more guided by an ideology that would be foreign to most people.

Over the past few decades, the phrase “animal rights” has come into vogue. Beyond animal “protection” and “rescue”, animal rights asserts the rights of animals as equivalent to those of people.

In practice, many people agree with many of the goals of animals rights activists, such as “saving the dolphins and whales”, stopping the killing of baby fur seals for fur coats and the cruel experiments on animals in some cosmetics laboratories.

Pets are Slaves?

But some of the less-publicized goals of the animal rights thinkers strain credulity: for example, there is the idea that domestic pets such as dogs and cats are “slaves”, kept solely for the convenience of humans – so that the practice of keeping pets should be done away with.

In fact, many of the HSUS leaders fall clearly into the category of those who want to eliminate pets. And they are not ashamed to say that:

The life of an ant and the life of my child should be granted equal consideration.

- Dr. Michael Fox, Vice-President, HSUS, in *Inhumane Society*, Fox Publications

Don't breed dogs, don't buy, don't even accept giveaways...

- HSUS CEO John Hoyt in a 1991 speech.

We have no problem with the extinction of domestic animals. They are creations of human selective breeding.

- Wayne Pacelle, Director of Government Affairs, in *Animal People*, May 1993, former National Director of the Fund for Animals.

With this ideology in mind, a grimmer perspective emerges on the HSUS attack on wolfdogs and wolfdog owners. It appears that the wolfdog “controversy” is being used to drive a wedge into the American habit of keeping companion animals: cats, dogs, ferrets, hamsters or whatever.

If the wolfdog is banned, why not the Rottweilers, the Husky or the German Shepherd? Why not all dogs? If less than one death a year caused by the wolfdog means that it is a dangerous and unpredictable animal, what does the 9-18 deaths from all canines mean?

The HSUS may be using the wolfdog cynically, as the easiest target in a broader campaign against companion animals.

The problem with the HSUS strategy is the immeasurable suffering and grief “the extinction of domestic animals” would cause to the millions of American

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people who do not view their pets as slaves but as loving companions: people who understand and cherish the precious relationships that beings of different species can share.

The powerful traditions and values of having animal companions – which was part of human history long before the beginning of recorded history – may be why it becomes necessary to launch a fear campaign, discarding common sense and facts in the process. The HSUS appears to be approaching the companion animal issue *sideways*, rather than attempt to press the issue straightforwardly with the American people and risk loss of funding and support.

This is the question and the struggle that wolfdog owners are facing today, and it may be the struggle all dog- and cat-owners face in the future.

¹HSUS 1995 IRS Form 990 and related documents.

²From the HSUS Fact Sheet: Wolf Hybrids, 1/92.

³Same as footnote 2.

⁴The Wildlife Education and Research Foundation, “Wolf Hybrids: Fact Sheet”, Appendix V, 1994.

⁵From the *Wildlife Guardian*, a publication of Guardians of Wildlife, Summer, 1996, Page 11.

⁶As reported in *The Washington Post*, Tuesday, June 11, 1996; Page Z05.

⁷*Pediatrics*, Pediatric News At Your Desktop Volume 1, Number 7 – June 20, 1996.

⁸*The Washington Post*, “Animal Protection Group Rattled as Feud Renews a 7-Year-Old Battle,” by Tracy Thompson, Washington Post Staff Writer, Wednesday, August 14, 1996; Page A01.

⁹The full Advisory can be found at <http://www.bbb.org/council/documents/pasHSUS.html>.

¹⁰HSUS 1995 Form 990 and companion documents.

The Wolfdog; A factual overview
By Steve Masuch
Guardians of Wildlife

Introduction to the wolfdog

The wolfdog, also known as the wolf-dog hybrid and wolf hybrid, is a mix between a wolf and a dog. Genetically, the wolf and the dog are the same species. The wolf is classified as *Canis lupus x*, where x is the subspecies of wolf, such as *arctos*. The family dog is classified as *Canis lupus familiaris*, changed in 1993 from *Canis familiaris*¹. Currently, there are no genetic tests available to distinguish a wolf from a dog³. While many people claim to be able to detect the wolf content in any particular animal based on physical appearance, this is purely the individual's subjective opinion. Because the family dog descended from the wolf, and are the same species, there are no definitive tests to detect wolf content in dogs. Many northern breeds of dogs carry many or all of the same physical attributes as the wolfdog³.

Are wolfdogs more vicious than other dog breeds?

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Many people would mislead you to believe that wolfdogs are the most vicious dogs around. On the contrary, wolfdogs have far less fatal attacks than other large breeds of dogs. In a recent study conducted by Jeffrey J. Sacks MD, there were 109 dog bite fatalities in the years 1989 to 1994. The most commonly reported dog breeds involved were pit bulls (24 deaths), followed by rottweilers (16 deaths), and German shepherds (10 deaths)². The authors point out that many breeds, however, are involved in the problem.

The Wolfdog is 6th on the list of dog attack fatalities, with pit bull terriers in the lead position. One should note the very conservative number of estimated wolfdog population. Estimates range from one hundred thousand (100,000) to two and a half (2.5) million, with three hundred thousand (300,000) being the most frequently quoted population estimate. With this in mind, combined with AVMA estimated 52 million dogs in the US, if there were a breed specific problem, you would see a far greater amount of dog bite fatalities. The truth is, it's just not the problem it's reported to be, statistically speaking.

People would also have you believe that wolfdogs are kid killers. The sad fact is, most dog attack fatalities are children. Of the 157 fatalities between the years 1979 to 1988, 70% of the fatalities were children under 10 years of age. Only five (5) of the 157 fatalities involved wolfdog hybrids. Wolfdogs average less than one fatal attack incident per year over a 15 year period. There are on average 18 dog-bite fatalities per year². To contrast these numbers, 165 children drowned in bathtubs in 1991. Another 598 children drowned in swimming pools, and another 361 died from riding their bicycles⁵. And yet another 237 children under the age of five (5) died in motor vehicle accidents in 1990 because of lack of appropriate restraining device⁵.

Although we have strict laws to prevent such fatalities, these things still happen. Why? Inadequate public education is one reason. Does anyone believe the parents would purposely risk their children's life if they knew of the dangers? Legislation and regulations can only go so far in protecting the public. Breed specific bans will not work, not only because of the unconstitutionality of them, but also because it's not a breed specific problem. Most of the factors contributing to dog bites are related to the level of responsibility exercised by dog owners². Public education about dogs and dog owners is key and recommended⁶.

Aggression

One cannot talk about wolfdog behavior without talking about standard canine behavior. Two recent reports by The Association of Pet Behavior Counselors state that, "Aggression towards people" with the most frequently recorded behavior problem in dogs. Although nuisance attention-seeking behaviors and training problems were frequently recorded, they were usually correlated with another behavior. For example, attention seeking behavior included, dominance aggression towards people, or separation problems. Training problems included, territorial aggression or dominance aggression towards people⁷. These behaviors are all reported by anti-wolfdog people as being wolf and wolfdog behaviors, but in reality, they are standard canine behaviors.

Environment also plays a large role in canine behavior. Dominance aggression, learned nuisance behaviors, and separation problems due to owner attachment, are likely to occur in dogs from “domestic” environments. Fear aggression towards strangers and dogs, and fears/phobias are more prevalent in unsocialized dogs, particularly from a “kennel” environment⁹. Socialized dogs will exhibit this behavior but the chance further decreases if the dog was from a “domestic” environment⁹. Unsocalized dogs from either environment are more likely to be reported as showing this behavior than socialized dogs. The incidence in socialized dogs in either environment increases in line with age obtained⁹. In essence, better socialization equals a more social dog or wolfdog, and less socialization presents more anti-social behavior. You cannot develop the same intimate social relationship within a “kennel” environment as you can from a “domestic” environment.

HSUS President Paul G. Irwin states: “Dog bites are not caused by “bad dogs”, but by irresponsible owners. Dogs that haven’t been properly “socialized”, that receive little attention or handling, that are left tied-up for long periods of time, frequently turn into biters.”

Destructive Behavior

The wolfdog is accused of having a propensity toward destructive behavior. Such as digging, shredding and chewing furniture. This is true in some cases. The destructive behavior is also apparent in other canines as well. Separation from the owners often results in separation problems in other dogs, with destructive behavior being the leading problem at forty-seven percent of the time⁷. “The regular occurrence of separation problems in a “domestic” environment highlights the need for adequate training to ensure puppies can tolerate periods of separation from the owners.” Separation anxiety is treatable in older dogs as well. Boredom can also result in destructive behavior.

Are wolfdogs wild or exotic animals?

Not according to the United States Title 9 Code of Federal Regulations (CFR). The CFR defines “dog” as any live or dead dog or any dog-hybrid cross. It also defines animal as any live or dead dog, cat, etc.

“Exotic” animal means any animal not identified in the definition of “animal” provided in this part that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad¹¹.

“Hybrid cross” means an animal resulting from the crossbreeding between two different species or types of animals. Crosses between wild animal species, such as lions and tigers, are considered to be wild animals. Crosses between wild animal species and domestic animals, such as dogs and wolves or buffalo and domestic cattle, are considered to be domestic animals¹¹.

“Pet animal” means any animal that has commonly been kept as a pet in family households in the United States, such as dogs, cats, guinea pigs, rabbits, and hamsters. This term excludes exotic animals and wild animals¹¹.

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“Wild animal” means any animal which is now or historically has been found in the wild, or in the wild state, within the boundaries of the United States, its territories, or possessions. This term includes, but is not limited to, animals such as: Deer, skunk, opossum, raccoon, mink, armadillo, coyote, squirrel, fox, wolf.

Can wolfdogs be trusted around children?

Wolfdogs or any other large breed of dog, for that matter, should not be left unsupervised with small children. This is for the dog’s sake as well as the child’s. Children have a tendency to pull and tug, pinch and poke, step on and sit on dogs and cats. The animal’s reactions can vary widely depending on their training, socialization and mood. Furthermore large breeds can easily damage a small child with playful actions or quick corrections to the child.

In fact, of the twenty-five reported dog-bite infant fatalities between the years 1979-1988, all involved pet dogs and ten involved infants sleeping or in their crib⁴. None of which were listed as wolfdog hybrids. Opinions vary widely from, “Never leave infants or young children alone with any dog” to, “dogs that weigh more than 30 pounds should not be left alone with children under age five.” Again we see that the problem is not the wolfdog problem, but an education, training and socialization problem concerning all canines.

Can wolfdogs be trusted around smaller animals?

Wolfdogs as other canines can be socialized to live with smaller animals. “If the new pet is expected to live harmoniously with children, cats, dogs, and gerbils”, explains Dr. Landsberg, “then you should have the puppy or kitten interact as much as possible with children, cats, dogs and gerbils in those critical first two to four months.”⁶ This is true of all canines, many wolfdog owners have reported their animals get along well with cats and other small animals.

Will wolfdogs turn on you?

Wolfdogs as well as other dogs have the capability to turn on the owners if they are mistreated. Although it is a rare event, it has happened in the past, and will continue to happen as long as people abuse their dogs. A healthy well-socialized canine will not do this. If this were a problem, there would be numerous documented reports about this. With the estimated 100,000 to 1.5 million wolfdogs in the US, turning on their owners, there would be a major public outcry over this. It’s just not a problem.

Is it true that wolfdogs cannot be “house dogs”?

Wolfdogs can be house dogs! Many wolfdog owners report about their house dogs. It takes a lot of time, commitment, and patience to properly train and socialize a wolfdog. Some dogs prefer the inside and some prefer the outside. Some allow them inside under strict supervision, while others allow minimal supervision. As with any canine, it depends on the level of training, socialization, and acceptance of the owners as to “rules” in the house.

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Is it true wolfdogs cannot be considered as “pets”?

Wolfdogs can be considered as “pets”, but most owners prefer using the term companion animal. Most owners report a higher intelligence level than with other dogs. Many wolfdog owners have stated they would not go back to any other breed of dog. Keeping a wolfdog is a great responsibility, one that should not be taken lightly. They are fairly large dogs that need some room to run and play. Apartments are not ideal for these dogs as their size and exercise requirements do not fit well with normal apartment life. As with all companion animals, careful consideration should be given to the lifetime commitment. The average wolfdog life expectancy is 12-15 years.

Is it true that wolfdogs are not “trainable”? and cannot be housetrained?

No, wolfdogs as any canine can be trained. Wolfdogs do not respond well to negative reinforcement. Positive reinforcement training reportedly works best. It is highly recommended to train them in the very least to basic commands. Wolfdogs are intelligent animals and can be trained with persistence. Wolfdogs are as individual as you and I, and training methods need to be flexible enough to adapt to the individual animal. A training method that works on one wolfdog may not always work on another.

Are wolfdogs unpredictable?

A wolfdog can be unpredictable if you do not socialize it, or train it, and you have not thoroughly researched wolf (and dog) behavior. These same things can be said for other dogs as well.

Isn't the wolf side always fighting with the dog side?

Some people say wolfdog hybrids are caught between two worlds, that the wolf side is fighting to get back to the wild. Now let's think about this for a moment. First off, the dog and the wolf are the same species. Second, most wolfdog hybrids are several generations away from a pure wolf. Third, most of the domestic captive wolves that have been bred with a dog are not wild wolves but are from several generations of domestic captive wolves, never knowing the wild.

It's kind of like saying a mix between a husky and a malamute are always fighting internally as to whether it's a husky or a malamute. It's also like saying my German side is always fighting to go back to Germany although I am several generations away from a “pure”. Just as I have never been to Germany, wolfdogs have never been in the wild, so how can you miss somewhere you have never been? It's just a dumb statement and I hope you can see it for what it really is.

Are wolfdog hybrids' predators?

In a strict sense yes, but no more so than any other dog. I say in a strict sense because like other domesticated dogs they are not taught to prey on other animals for food. It is a well known fact that animals learn to prey and learn what is prey.

1. 1993 Mammal Special of the World: A Taxonomic and Geographic Reference, edited by D. E. Wilson and D. A. M. Reeder. Published by the Smithsonian Institution in association with the American Society of Mammalogists.
2. PEDIATRICS (Vol. 97 No. 6, 891-5), Jeffrey J. Sacks, MD and associates.
3. Detroit News, Wednesday, November 8, 1995 Regulating wolf dogs would be a waste. Cliff Mortimer, Michigan Guardian, Guardians of Wildlife.
4. JAMA, September 15, 1989 – Vol. 262, No. 11 Dog Bite-Related Fatalities-Sacks et al pg. 1489.
5. Pediatrics News At Your Desktop, Volume 1. Number 7 – June 20, 1996, Presented By: ROBERT BELFER, MD.
6. The American Animal Hospital Association, OWNER EDUCATION IS KEY TO PREVENTING PET BEHAVIOR PROBLEMS, Gary Landsberg, DVM, BSc.
7. The Association of Pet Behavior Counselors 1994 Annual Report.
8. USPS Press Release, June 7, 1995, U. S. Postal Service and Humane Society Join to Prevent Dog Bites.
9. The Association of Pet Behavior Counselors 1995 Annual Report.
10. AMVA Press Release, July 24, 1996, VETERINARIANS UNCOVER NEW TREATMENTS FOR SEPARATION ANXIETY IN OLDER DOGS.
11. United States Title 9 CODE OF FEDERAL REGULATIONS. Chapter 1, 9 CFR Ch. I (1-1-1992 Edition) Animal and Plant Health Inspection Service, USDA. Subchapter A – Animal Welfare Part 1 – Definition of Terms Authority; 7 U. S. C. 2131-2157; 7 CFR 2.17, 2.51, and 371.2(g). 1.1 Definitions.
12. News from Pediatrics, June 28, 1996, Fatal Dog Attacks.
13. The American Animal Hospital Association, SIMPLE PRECAUTIONS ENSURE CHILDREN AND PETS COEXIST SAFELY.

Carol Chaffee, 117 Whittier Street, appeared to share the information addressed in her letter dated September 27, 2004, above. She stated that the City does not need this Ordinance and it does not serve the City's needs well. She stated that she is opposed to this Ordinance.

Councilmember Hally stated that Ms. Chaffee has been involved in the creation of this Ordinance.

Ms. Chaffee, again, stated that this Ordinance does not serve the City.

Councilmember Lyon questioned Ms. Chaffee and requested to know whether there were any direct cases involving wild animals in the City of Idaho Falls.

Councilmember Hardcastle stated that cites around the country are passing similar ordinances.

A brief discussion was held regarding the care of animals that are too large for Animal Control. It was determined that the Zoo would be the handler for those animals. They are well prepared to care for exotic animals during the time limits proposed. There are also facilities for isolation as well as a well prepared hospital.

Jeff Southwick, 255 Butterfly Drive, appeared to express his concern for his animals should he be called out of town. He worried that the Police Department could come into his home and take whatever animals he had.

J. W. Everitt, 117 Whittier Street, appeared to give a brief analogy. He stated that people should not be punished for having one of the animals on the list in the Ordinance. Animals should be determined on whether they are dangerous or vicious. The City Council needs to regulate animals based on their nurture, not their nature. He

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reviewed for City Council how he brought his animals to the City and received what he thought was approval to have his bobcats within the City limits.

Donald Maglio, 225 Ash Street, No. 7, appeared to review for City Council his experience with many different types of animals, mostly reptiles.

Natisha Green, 779 May Street, appeared to state that she owns three iguanas, three snakes, one tarantula and two cats. She has not had a problem with her animals being aggressive. She stated that the Ordinance is too vague. She expressed her concern that someone would enter her home and take her animals. Councilmember Hardcastle stated that no one would enter her home.

Councilmember Lyon expressed his concern that this Ordinance is arbitrary and oppressive. This is not a public safety issue. This is a political correctness issue.

Ms. Green stated that if an animal does not pose a threat to anyone, it should not be an issue. The only problem that she sees is with regard to pet stores selling animals to people who do not know how to care for them.

Councilmember Lehto requested the City Council to keep on task. This discussion is for the current ordinance being proposed, not a previous draft.

Councilmember Lyon stated some of the more ridiculous issues have been taken out of the draft. The problem with this Ordinance is that it does not address dangerous animals.

Councilmember Lehto stated that once the input is taken, the City Council will have two weeks to review the input. Then the City Council will have a debate at the next City Council Meeting regarding any changes that need to be addressed.

The City Clerk passed out copies of the Ordinance being considered.

Councilmember Hally stated that not every possible instance can be included in an Ordinance. Common Law is generally followed by common sense.

Carol Chaffee re-appeared to question Councilmember Hardcastle regarding her assurance that none of Mr. Maglio's reptiles were prohibited by this Ordinance. Councilmember Hardcastle referred to any non-venomous reptiles were approved. Ms. Chaffee referred to the "catch-all" clause in the Ordinance, that is supposed to catch all of the animals that are not listed. If Mr. Maglio were to be arrested for a boa constrictor or a python, Ms. Chaffee requested to know whether one of the City Councilmembers would appear in court on behalf of Mr. Maglio stating that his reptiles would not be prohibited under the Ordinance.

The Assistant City Attorney stated that the animal would need to be dangerous under the "catch-all" clause of this Ordinance. As Mr. Maglio stated, he does not have any dangerous animals. The Assistant City Attorney stated that if the snakes get extremely large, they could be dangerous. This does not give a free pass to Mr. Maglio. Each case would have to be reviewed.

Ms. Chaffee stated that Mr. Maglio was clear about what types of animals that he has. The Ordinance states, "any 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". She questioned whether an anaconda in its native habitat pose a significant risk to humans in Mr. Maglio's home. The Ordinance also states that "All impounded animals shall be retained in the animal control shelter for a minimum of seventy-two (72) hours." If the animal control shelter is not equipped to take care of an animal – and the animal control shelter has to – what happens. David Pauli stated that it would be inhumane for the animal control shelter to take care of one of her bobcats, because she is better equipped to take care of her bobcats than the animal control shelter is.

Christopher Green, 779 May Street, appeared to state that if someone is going to have an untraditional animal, they need to take responsibility for the care of that animal.

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People who want to keep venomous animals need to be licensed and bonded in case the animal bites someone.

Charles Houpt, 1954 North Yellowstone Avenue, appeared to state that he and his wife are owners of Peaches Pets. He stated that common sense is the issue in taking care of animals. He reviewed for the Mayor and Council how many animals that they sell per year. Mr. Houpt stated that the original City Code Section 5-9-9 functioned perfectly for this community. Officers will have a difficult time enforcing the Ordinance that is before the City Council for approval. He stated that Idaho Falls is a community of family. These animals, sometimes, mean more to their families than their families themselves. People do not need to be told what types of animals that they can have.

Councilmember Hardcastle apologized to the City Council for the length of time that this Ordinance has taken. She stated that she was trying to appease and compromise, which resulted in the many changes to the Ordinance. She requested that the City Council not lose site of the purpose of this Ordinance. The present Ordinance is vague. A successful prosecution on the existing Ordinance would be in question. Mr. David Pauli, Northern Rockies Regional Director of the Humane Society supported the Ordinance revision. Many of the suggestions from Mr. Pauli were put into the development of the Ordinance before the City Council. Mr. Pauli stated that many exotic species of animals do not belong in private ownership and should be housed at experienced, licensed and inspected zoos, nature centers, or educational facilities. He also stated that Ms. Chaffee's bobcats should be grandfathered, which is included in this Ordinance. Councilmember Hardcastle stated that during the time that she has worked with this Ordinance, she has taken the opportunity to interview many people about how they feel about having wild animals in their neighborhoods, even if the animals were domesticated. Not one person that she talked to thought that this should be allowed. She stated that she visited with a friend, who is a Biologist with a Doctorate Degree. He told her that a wild animal is never completely domesticated and needs to be treated cautiously.

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

ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING SECTION 5-9-9 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROHIBITING CERTAIN WILD ANIMALS WITHIN THE CITY LIMITS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, that the Ordinance be passed on the second reading only. Roll call as follows:

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

Nay: None

Motion Carried.

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Mayor Milam stated that there have been a lot of comments made about the amount of time that has been spent on this Ordinance. No one has spent the amount of time that Councilmember Hardcastle has spent. No one has reached out to all kinds of people, on anything that she can remember, to the extent that Councilmember Hardcastle has. Councilmember Hardcastle has been absolutely straight forward, absolutely willing to listen, and absolutely willing to include as many people as she could. Most of the revisions were a change in wording, not total revisions. There is no one who can fault the effort and the good faith that was put forward by Councilmember Hardcastle on this Ordinance. She has cared and worked on this very hard.

Councilmember Lyon commented that he could not disagree with Mayor Milam more.

The Public Works Director submitted the following memos:

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 21, BLOCK 4, PARKWOOD MEADOWS ADDITION, DIVISION NO. 6

As previously authorized, the City Attorney has prepared attached documents needed to vacate a utility easement located in Lot 21, Block 4, Parkwood Meadows Addition, Division No. 6.

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

s/ Chad Stanger

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

ORDINANCE NO. 2558

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

The foregoing Ordinance was presented by title only. Councilmember Shurtleff moved, and Councilmember Groberg 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 Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 1, BLOCK 6, THE MEADOWS
ADDITION, DIVISION NO. 2

Public Works requests authorization for the City Attorney to prepare documents needed to vacate a utility easement located in Lot 1, Block 6, The Meadows Addition, Division No. 2.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare the documents necessary to vacate a utility easement located in Lot 1, Block 6, The Meadows Addition, Division No. 2. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
October 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: CONTRACT OF SALE – KOESTER PROPERTY

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Attached is a Contract of Sale prepared by the City Attorney and signed by representatives of the Koester Family to convey a parcel of real property to the City. This property is located adjacent to the City's Sewage Treatment Plant and needed for operation of that facility.

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

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to approve the Contract of Sale with the Koester Family to convey a parcel of real property to the City 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.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Lehto, that the meeting adjourn at 11:05 p.m.

CITY CLERK

MAYOR
