

AUGUST 12, 2004

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, August 12, 2004, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the July 22, 2004 Regular Council Meeting, August 2, 2004 Executive Session, and the August 4, 2004 Work Session.

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

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

<u>FUND</u>	<u>TOTAL EXPENDITURE</u>
General Fund	\$ 1,088,523.78
Street Fund	356,167.30
Recreation Fund	17,014.98
Library Fund	45,908.65
Municipal Equipment Replacement Fund	50,882.34
Electric Light Public Purpose Fund	49,565.83
Business Improvement District	11,400.00
Street Capital Improvement Fund	48,915.03
Bridge and Arterial Street Fund	1,575.00
Water Capital Improvement Fund	76,258.36
Traffic Light Capital Improvement Fund	1,000.00
Airport Fund	621,494.89
Water and Sewer Fund	483,810.37
Sanitation Fund	21,906.80
Ambulance Fund	13,684.51
Electric Light Fund	2,623,113.98
Payroll Liability Fund	<u>2,035,109.61</u>
TOTALS	\$7,546,331.43

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The City Clerk presented several license applications, including BARTENDER PERMITS to Rick O. Baker, Jacqueline J. Kolbet, Mary G. Loudenback, Brenda C. Mills, Larry J. Mitchell, Kayleen Sessions, Paul J. Simmons, and Jesse L. Smith, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on August 12, 2004.

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 Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Hally to conduct a public hearing for consideration of a rezoning on property located generally south of Sunnyside Road, east of the Sand Creek Canal, and west of Hitt Road, described as Kingwood Addition, from R-1 to R3-A and PB; R-2 to R3-A and PB; C-1 to R3-A; and R3-A to C-1 (Recessed from the July 22, 2004 Regular Council Meeting). At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
July 19, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REZONING REQUEST – KINGWOOD ADDITION

Attached is the application to rezone Kingwood Addition from R-1 to R-3A and PB; R-2 to R-3A and PB; C-1 to R-3A; and R-3A to C-1. Kingwood Addition is located on the southwest corner of Sunnyside and Hitt Roads. The Planning Commission considered this request at its May 18, 2004 Meeting and recommended approval of the request. This Department concurs. This rezoning request is being submitted to the Mayor and Council for your 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:

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Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Proposed Zoning
Slide 4	Comprehensive Plan
Exhibit 1	Map of Rezoning Request
Exhibit 2	Planning Commission Minutes dated May 18, 2004
Exhibit 3	Letter from Comore Development, Inc.
Exhibit 4	Staff Report dated May 18, 2004

The Planning and Building Director explained, further, that staff and the Planning Commission found this rezoning request to be in compliance with the Comprehensive Plan. She stated that she had a conversation with the Planner from the City of Ammon and she was informed that they have a request for commercial zoning south of that area. The City of Ammon's request for commercial would extend south of Taylorview Road.

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

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the zone change from R-1 to R-3A and PB; R-2 to R-3A and PB; C-1 to R-3A; and R-3A to C-1 in Kingwood Addition as requested, and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office.

Councilmember Groberg stated that it is important that the City of Idaho Falls meet with the City of Ammon to discuss the zoning all the way down Hitt Road, so that when development is requested there is some control over how Hitt Road should develop to the south. Councilmember Hardcastle stated that the Planning and Building Council Committee has discussed this issue. The Planning and Building Director is in the process of setting a meeting with the City of Ammon for this discussion.

Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct Annexation Proceedings for Southpoint Addition, Division No. 4. At the request of Councilmember Hally, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, INITIAL ZONING OF R-1, AND FINAL PLAT FOR SOUTHPOINT ADDITION, DIVISION NO. 4

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Attached are the Annexation Agreement, Annexation Ordinance, and Final Plat for Southpoint Addition, Division No. 4. This final plat is located south of 49th South, east of 5th West, and south of Tollgate Place. This final plat contains 26 single-family home lots and three landscape lots. The Planning Commission considered this request at its July 6, 2004 Meeting and recommended approval on the condition the utility easement issues were resolved prior to submission of the final plat to City Council. Such issues have been resolved, and staff concurs with the Commission recommendation. This annexation request is being submitted to Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Final Plat under consideration
Slide 4	Preliminary Plat
Exhibit 1	Planning Commission Minutes dated July 6, 2004
Exhibit 2	Staff Report dated July 6, 2004
Exhibit 3	Copy of Final Plat

The Planning and Building Director stated that staff recommends approval of this final plat as they have found it to be in compliance with the Subdivision Ordinance, the approved Preliminary Plat, and the Comprehensive Plan which designates this area as low density residential.

Terry White, Harper Leavitt Engineering, 985 North Capital Avenue, appeared to answer any questions from the Mayor and City Council. Councilmember Hardcastle questioned whether the Turnbulls were satisfied with this development. Mr. White stated that the Turnbulls were satisfied.

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 for Southpoint Addition, Division No. 4 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

AUGUST 12, 2004

ORDINANCE NO. 2543

SOUTHPOINT ADDITION, DIVISION NO. 4

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 with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Hally, seconded by Councilmember Lyon, to establish the initial zoning of Southpoint Addition, Division No. 4 as R-1 (Single-Family Residential) Zoning as presented, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to accept the Final Plat for Southpoint Addition, Division No. 4 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hally to conduct annexation proceedings for Waterford Addition, 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
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION, INITIAL ZONING OF R-1, AND FINAL PLAT FOR WATERFORD ADDITION, DIVISION NO. 7

Attached are the Annexation Agreement, Annexation Ordinance, and Final Plat for Waterford Addition, Division No. 7. This final plat is located south of Sunnyside Road, east of 5th West, and south of Napa Drive. This final plat contains 22 single-family home lots, one storm water retention lot, and one walkway lot. The Planning Commission considered this request at its July 6, 2004 Meeting and recommended approval. Staff concurs with the Commission recommendation. This annexation request is being submitted to Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1 Vicinity Map showing surrounding zoning
Slide 2 Aerial Photo showing Final Plat
Slide 3 Final Plat under consideration
Exhibit 1 Planning Commission Minutes dated July 6, 2004
Exhibit 2 Staff Report dated July 6, 2004
Exhibit 3 Copy of Final Plat

The Planning and Building Director stated that this Final Plat complies with the Preliminary Plat that was submitted in the year 2000, with the Subdivision Ordinance, and the Comprehensive Plan which shows this area to be low density residential.

Terry White, Harper Leavitt Engineering, 985 North Capital Avenue, appeared to answer any questions from the Mayor and City Council.

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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 for Waterford Addition, Division No. 7 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. 2544

WATERFORD ADDITION, DIVISION NO. 7

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 with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Hally, seconded

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by Councilmember Lyon, to establish the initial zoning of Waterford Addition, Division No. 7 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 Groberg
Councilmember Hally
Councilmember Lyon
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to accept the Final Plat for Waterford Addition, Division No. 7 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

The Airport Director submitted the following memo:

City of Idaho Falls
July 19, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: AMENDMENT OF APCOA AIRPORT PARKING LEASE AGREEMENT

Attached for City Council approval is an Amendment to APCOA Parking Lease. APCOA recently changed their corporate name to Standard Parking and the current rate structure has been in place since 1997. This Amendment addresses the change to Standard Parking and provides a recommended rate structure change as well.

The City Attorney has seen and approved this document.

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The Airport Division recommends approval of this Lease Amendment and requests the Mayor be authorized to execute the documents.

s/ Mike Humberd

Councilmember Lyon stated that this issue was tabled from the July 22, 2004 Meeting for further consideration by the Council. He stated that he had gained a lot of information that he did not have previously. He was initially opposed to the increase in parking fees, as he did not want to add a further burden to the citizens. He was sensitive to treat all contractors fairly and there has not been an increase in the parking rates since 1997. The Airport Budget projects a \$20,000.00 increase in parking revenue without an increase in fees, along with \$1,500,000.00 in reserves. He stated that he visited with the parking contractor, who led him to believe that the Airport Director encouraged this request for an increase in fees. Councilmember Lyon stated that he was not as opposed to the increase as he was initially, but he still did not feel that the increase was a good idea.

Councilmember Hardcastle stated that the Airport Director provided the material that was requested at the previous Council Meeting.

Councilmember Shurtleff stated that, initially, he did not know what his role was, whether to protect the people or to protect the Airport. He has come to conclusion that his role is to make sure that the Airport operates in an economically feasible manner and that in the future the burden does not come back on the City taxpayers.

Councilmember Hardcastle stated that the burden could also come back on the Airlines.

It was moved by Councilmember Hardcastle, seconded by Councilmember Groberg, to approve the Amendment to the Standard Parking Corporation formerly known as APCOA, Inc. Parking Lease and, further, give authorization for the Mayor to execute the necessary documents.

Councilmember Groberg stated that as he reviewed the rate increases, he might have done them differently, but stated that he would follow the recommendations of the Airport Director. They seemed practical. Roll call as follows:

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

Nay: Councilmember Lyon

Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls
August 6, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mark Gendron, Idaho Falls Power Director
SUBJECT: SLICE CUSTOMERS CONFIDENTIALITY AGREEMENT

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Attached for your consideration is an Amended and Restated Slice Contract Cooperation and Confidentiality Agreement between the Slice Customers of Bonneville Power Administration. This agreement has been reviewed by the City Attorney.

Idaho Falls Power requests approval of this agreement and authorization for the Mayor to sign.

s/ Mark Gendron

It was moved by Councilmember Lehto, seconded by Councilmember Shurtleff, to approve the Amended and Restated Slice Contract Cooperation and Confidentiality Agreement between the Slice Customers of Bonneville Power Administration and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
August 5, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PUBLICATION OF "NOTICE OF PUBLIC HEARING" 2004-2005
FISCAL YEAR BUDGET

Municipal Services respectfully requests the Mayor and Council to tentatively approve the 2004-2005 Fiscal Year Budget in the amount of \$140,891,589.00.

Approval is also requested to publish the attached "Notice of Public Hearing" of the 2004-2005 Fiscal Year Budget with publication dates set for August 15, 2004 and August 22, 2004.

The Public Hearing is scheduled for 7:30 p.m., Thursday, August 26, 2004, in the Council Chambers in the Idaho Falls Power Building at 140 South Capital Avenue in Idaho Falls, Idaho.

s/ S. Craig Lords

AUGUST 12, 2004

NOTICE OF PUBLIC HEARING
PROPOSED BUDGET FOR FISCAL YEAR 2004-2005
CITY OF IDAHO FALLS, IDAHO

A public hearing pursuant to Idaho Code 50-1002, will be held for consideration of the proposed budget for the fiscal year from October 1, 2004 to September 30, 2005. The hearing will be held at the City of Idaho Falls Council Chambers, located on the second floor of the Idaho Falls Power Building, 140 South Capital Avenue, Idaho Falls, Idaho at 7:30 p.m., Thursday, August 26, 2004. All interested persons are invited to appear and provide comments regarding the proposed budget. Copies of the proposed budget are available at the Idaho Falls City Controller's Office during regular office hours (8:00 a.m. to 5:00 p.m., weekdays). City Hall is accessible to persons with disabilities. Anyone desiring accommodations for disabilities in order to allow access to the budget documents or to the hearing should contact the City Controller's Office at 612-8230 at least 48 hours prior to the public hearing. The proposed FY 2005 budget is shown below as FY 2005 proposed expenditures and revenues.

PROPOSED EXPENDITURES			
Fund Name	FY 2003 Actual Expenditures	FY 2004 Budget Expenditures	FY 2005 Proposed Expenditures
General Fund			
Mayor and Council	\$ 140,895	\$ 153,780	\$ 144,109
Legal	148,029	197,584	198,206
Municipal Services	3,126,922	7,939,820	7,438,598
Planning and Building	1,171,033	1,211,490	1,743,379
Police	8,426,605	8,803,814	9,485,976
Fire	6,983,873	7,266,853	7,612,525
Parks	5,510,002	7,268,285	9,952,657
Public Works	1,085,104	1,230,692	1,221,091
General Fund Total	<u>\$ 26,592,463</u>	<u>\$ 34,072,318</u>	<u>\$ 37,796,541</u>
Special Revenue Funds			
Street Fund	\$ 2,838,419	\$ 3,329,811	\$ 3,418,272
Recreation Fund	920,282	934,487	982,860
Library Fund	1,685,810	2,279,062	1,885,654
Passenger Facility Fund	421,458	405,000	425,000
Municipal Equipment Replacement Fund	813,072	1,314,900	2,812,300
Electric Light Public Purpose Fund	682,335	775,000	750,000
Business Improvement District Fund	62,441	60,000	60,000
Special Revenue Funds Total	<u>\$ 7,423,817</u>	<u>\$ 9,098,260</u>	<u>\$ 10,334,086</u>
Capital Projects Funds			
Sanitary Sewer Capital Improvement Fund	\$ 137,276	\$ 1,500,000	\$ 2,850,000
Municipal Capital Improvement Fund	330,369	1,800,000	1,570,000
Street Capital Improvement Fund	388,406	6,000,000	6,485,000
Bridge and Arterial Street Fund	141,672	500,000	200,000
Water Capital Improvement Fund	31,107	2,200,000	350,000
Surface Drainage Fund	3,454	80,000	30,000
Traffic Light Capital Improvement Fund	.00	520,100	610,000
Capital Projects Funds Total	<u>\$ 1,032,284</u>	<u>\$ 12,600,100</u>	<u>\$ 12,095,000</u>

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Fund Name	FY 2003 Actual Expenditures	FY 2004 Budget Expenditures	FY 2005 Proposed Expenditures
Enterprise Funds			
Airport Fund	\$ 2,777,360	\$ 5,842,436	\$ 7,085,666
Water and Sewer Fund	9,029,521	9,764,839	10,660,841
Sanitation Fund	2,392,578	2,738,290	2,950,922
Ambulance Fund	2,015,131	2,281,647	2,302,139
Electric Fund	<u>51,106,703</u>	<u>55,369,609</u>	<u>57,666,394</u>
Enterprise Funds Total	<u>\$ 67,321,293</u>	<u>\$ 75,996,821</u>	<u>\$ 80,665,962</u>
Total Expenditures - All Funds	<u>\$102,369,857</u>	<u>\$131,767,499</u>	<u>\$140,891,589</u>
PROJECTED REVENUES			
Fund Name	FY 2003 Actual Revenues	FY 2004 Budget Revenues	FY 2005 Projected Revenues
Property Tax Levy			
General Fund	\$ 15,035,970	\$ 15,257,826	\$ 15,410,270
Recreation Fund	330,012	338,769	342,290
Library Fund	1,189,337	1,214,685	1,227,310
Municipal Capital Improvement Fund	485,295	486,760	491,819
Fire Retirement	710,004	740,000	750,000
Liability Insurance	<u>323,004</u>	<u>558,000</u>	<u>667,054</u>
Property Tax Levy Total	<u>\$ 18,073,622</u>	<u>\$ 18,596,040</u>	<u>\$ 18,888,743</u>
Revenue Sources Other Than Property Tax			
General Fund	\$ 12,367,185	\$ 14,236,363	\$ 14,105,560
Street Fund	2,570,640	2,609,000	3,018,000
Recreation Fund	584,667	611,690	611,150
Library Fund	265,592	1,053,550	660,000
Passenger Facility Fund	421,458	405,000	425,000
Municipal Equipment Replacement Fund	146,195	175,000	150,000
Electric Light Public Purpose Fund	643,888	720,000	650,000
Business Improvement District Fund	210,087	60,000	60,000
Electric Rate Stabilization Fund	75,569	50,000	75,000
LID Guarantee Fund	9,453		
Sanitary Sewer Capital Improvement Fund	188,545	188,750	188,750
Municipal Capital Improvement Fund	18,353	15,000	15,000
Street Capital Improvement Fund	646,594	488,000	35,000
Bridge and Arterial Street Fund	338,250	165,000	177,000
Water Capital Improvement Fund	243,515	233,750	238,750
Surface Drainage Fund	32,790	40,000	40,000
Traffic Light Capital Improvement Fund	.00	520,100	521,000
Airport Fund	2,826,500	5,362,767	4,869,924
Water and Sewer Fund	9,256,876	8,994,800	9,037,800
Sanitation Fund	2,318,793	2,262,500	2,231,200
Ambulance Fund	2,161,259	2,195,676	2,183,924
Electric Fund	56,738,435	54,384,550	55,254,798
Fund Transfers	1,599,860	1,582,350	1,528,200
Fund Balance Carryover	<u>15,530,646</u>	<u>16,817,613</u>	<u>25,836,790</u>
Other Revenue Sources Total	<u>\$109,195,150</u>	<u>\$113,171,459</u>	<u>\$122,002,846</u>
Total Revenues - All Funds	<u>\$127,964,924</u>	<u>\$125,860,694</u>	<u>\$131,767,499</u>

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I, Rosemarie Anderson, City Clerk of the City of Idaho Falls, Idaho certify that the above is a true and correct statement of the proposed expenditures by fund and the entire estimated revenues and other sources of the City of Idaho Falls, Idaho for the Fiscal Year 2004-2005; all of which have been tentatively approved by the City Council on August 12, 2004 and entered at length in the Journal of Proceedings.

Dated this 13th day of August, 2004.

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

Publish: August 15 and August 22, 2004

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to tentatively approve the 2004-2005 Fiscal Year Budget in the amount of \$140,891,589.00 and, further, give authorization for publication of the "Notice of Public Hearing" for the 2004-2005 Fiscal Year Budget with publication dates set for August 15, 2004 and August 22, 2004. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 5, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PUBLICATION OF "NOTICE OF PUBLIC HEARING" IMPOSITION
OF FEE INCREASES GREATER THAN 105% FOR FISCAL YEAR
2004-2005

Municipal Services respectfully requests the Mayor and Council to authorize the publication of the attached "Notice of Public Hearing" regarding the imposition of fee increases greater than 105% for Fiscal Year 2004-2005, with publication dates set for August 15, 2004 and August 22, 2004.

The Public Hearing is scheduled for 7:30 p.m., Thursday, August 26, 2004, in the Council Chambers in the Idaho Falls Power Building at 140 South Capital Avenue in Idaho Falls, Idaho.

s/ S. Craig Lords

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PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the City of Idaho Falls proposes to increase existing fees by an amount that exceeds one hundred five percent (105%) of such fees collected in Fiscal Year 2003-2004. The fee increases are necessary to cover increased costs associated with these programs.

<u>SOURCE OF FEES</u>	<u>CURRENT FEES</u>	<u>PROPOSED NEW FEES</u>
Sandy Downs		
Use Permit Race Track	\$10.00/Year/Person	\$20.00/Year/Person
Stall Rentals	\$20.00/Month	\$30.00/Month
Tack Room, Walkers, Round Pens	\$5.00/Month	\$10.00/Month
Grandstand/Concessions (Includes Main Arena)	\$250.00/Day	\$500.00/Day
Grandstand/Concessions (Includes Main Arena), Deposit	\$100.00/Event	\$300.00/Event
Aquatic Center		
Programs		
Full Size Lessons	\$ 27.00	\$ 29.00
Half Size Lessons	\$ 51.00	\$ 55.00
Adult Public Admission	\$ 3.15	\$ 3.40
Child/Senior Admission	\$ 2.40	\$ 2.65
Adult Punch Card	\$ 50.00	\$ 54.00
Child/Senior Punch Card	\$ 38.00	\$ 42.00
Swim Teams		
Lane Hours	\$ 7.25	\$ 7.75
High School Dual Meets	\$ 38.50	\$ 42.50
High School Regional Meets (Swimmer/Day)	\$ 2.20	\$ 2.35
USS/YMCA Meets	\$154.00	\$165.00
Per Swimmer Per Day (Whichever is Greater)	\$ 1.65	\$ 1.85
School Fees		
25 to 80	\$ 1.65	\$ 1.85
81 +	\$ 1.35	\$ 1.55
Home Schoolers	\$ 2.00	\$ 2.20
School Group Lessons	\$ 3.00	\$ 3.20
High School PE Classes	\$ 1.10	\$ 1.30
High School PE Aerobics	\$ 2.25	\$ 2.40
Group Rates		
10 to 19	\$ 2.20	\$ 2.45
20 to 29	\$ 1.90	\$ 2.10
30 +	\$ 1.75	\$ 1.95
Instructor Fee (Per Hour Per 8 Students)	\$ 4.76	\$ 5.00
Recreation Programs		
Adult Softball Team Fees		
Coed Fall League Team Fees	\$185.00	\$195.00
Library		
Rental of Meeting Rooms		
Large Room	\$ 47.70	\$ 90.00
Medium Room	\$ 31.80	\$60.00
Medium Room – Non-Profit	\$ 15.90	\$ 20.00
Small Room	\$ 31.80	\$ 35.00

Any person who desires to provide comments regarding such fee increases may appear at 7:30 p.m. on Thursday, August 26, 2004, at the City of Idaho

AUGUST 12, 2004

Falls Council Chamber, Second Floor at the Idaho Falls Power Building, 140 South Capital Avenue, Idaho Falls, Idaho.

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

Publish: August 15 and August 22, 2004

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to give authorization to publish the "Notice of Public Hearing" regarding the fee increases greater than 105% for Fiscal Year 2004-2005 as presented. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 4, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: LEASE – LIFE, INC.

Attached for your consideration is the proposed three-year extension lease agreement between the City of Idaho Falls and Life, Inc. for the City-owned property at 2110 Rollandet Avenue.

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

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to approve the three-year Extension Agreement to the Lease Agreement with Life, Inc. and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally

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Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls
July 30, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-04-21, ONE (1) NEW 2004 SIDE LOAD REFUSE
CONTAINER BODY - 29 CUBIC YARD MOUNTED ON A NEW
2004 OR NEWER CAB AND CHASSIS

Attached for your consideration is the tabulation for Bid IF-04-21, One (1) New 2004 Side Load Refuse Container Body - 29 Cubic Yard Mounted on a New 2004 or Newer Cab and Chassis.

It is the recommendation of Municipal Services to accept the low bid of Hirning Truck Center to furnish One (1) New 2004 Pendpac Inc./Mabar Impac Refuse Container Body Mounted on 2005 GMC Cab and Chassis for an amount of \$104,529.00 with trade-in Unit No. 769.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to accept the low bid from Hirning Truck Center to furnish One (1) New 2004 Pendpac Inc./Mabar Impac Refuse Container Body Mounted on a 2005 GMC Cab and Chassis for an amount of \$104,529.00 with trade-in Unit No. 769. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
July 30, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-04-22, ONE (1) NEW 2004 STATIONARY HIGH
PRESSURE BREATHING AIR SYSTEM - SCBA AND SCUBA
FILLING STATION/COMPRESSOR

AUGUST 12, 2004

Attached for your consideration is the tabulation for Bid IF-04-22, One (1) New 2004 Stationary High Pressure Breathing Air System – SCBA and SCUBA Filling Station/Compressor.

It is the recommendation of Municipal Services to accept the bid of L. M. Curtis and Sons to furnish a Comp-Air Mako for an amount of \$36,365.00.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to accept the bid from L. M. Curtis and Sons to furnish a Comp-Air Mako Stationary High Pressure Breathing Air System SCBA and SCUBA Filling Station/Compressor for an amount of \$36,365.00. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 6, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: REQUEST TO PURCHASE ONE (1) NEW 2004 OR NEWER
 CATERPILLAR EXCAVATOR

It is the recommendation of Municipal Services to purchase a new Excavator from Western States Equipment per GSA Contract.

They would furnish One (1) New Caterpillar for an amount of \$122,257.58. We would also like to accept their offer of \$13,000.00 for Trade-In Unit No. 59. The final purchase amount would be \$109,257.58.

s/ S. Craig Lords

It was moved by Councilmember Groberg, seconded by Councilmember Hally, to purchase One (1) New Caterpillar Excavator from Western States Equipment per the GSA Contract and, further accept the offer of \$13,000.00 for Trade-In Unit No. 59. Roll call as follows:

Aye: Councilmember Lyon
 Councilmember Shurtleff
 Councilmember Groberg
 Councilmember Hardcastle

AUGUST 12, 2004

Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
August 12, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: SAGE LAKES MAINTENANCE BUILDING

On August 3, 2004 bids were opened for the Sage Lakes Maintenance Building Project. The low responsive base bid was \$104,825.00. The Engineer's Estimate for this project was \$65,000.00. The Parks and Recreation Division asks that all bids be rejected due to a lack of funds to complete the project. This request is therefore submitted for your approval.

s/ David J. Christiansen

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to reject all bids received for the Sage Lakes Maintenance Building Project. Roll call as follows:

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

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: APPEAL FROM PLANNING COMMISSION APPROVAL OF
RELOCATION OF WESTVIEW HIGH SCHOOL

AUGUST 12, 2004

After a public hearing on June 1, 2004, the Idaho Falls Planning Commission approved a conditional use permit for relocating Westview High School to Block 15, Crow's Addition, with the following conditions:

1. The number of high school students on site at any given time be limited to 100 students, i.e., maximum 100 students in daytime program and 100 students in night school; and,
2. All parking areas shall include at least seven feet of landscaping measured from the back or interior of sidewalk plus a four foot opaque fence; and,
3. The hours of operation of the school, not including arrival and departure of staff, shall be limited to 8:00 a.m. to 8:00 p.m.; and,
4. The east half of the site (playground/park area) shall not be significantly altered.

The decision was subsequently appealed by two residents in the area. In accordance with the Scheduling Order, the appellants, School District, City Clerk, City Attorney, and Mayor and Council were previously provided the copies of the record, including the Findings of Fact, Conclusions of Law, and Decision. This appeal is not an original hearing, and each of the parties have been given thirty minutes to present their arguments as to why or why not the Planning Commission is in error.

s/ Renée R. Magee

Mayor Milam explained that this is an appeal from a decision of the Planning Commission that permitted School District 91 to relocate Westview Alternative High School to the building that formerly housed Emerson Elementary School. This is not an evidentiary hearing. It is a time for the Council to consider all arguments on issues that have been raised by the parties in their appeals. The City Council has received a copy of the transcript of the Planning Commission Meeting and the exhibits that were presented that night, a copy of the Findings of Fact and Decision, copies of the appeals and a Scheduling Order which outlines the responsibilities of all of the parties. The City Council's decision will be whether or not the Planning Commission misapplied the Ordinance or did not have substantial evidence to support its factual findings or did not otherwise follow proper procedure when they granted the Conditional Use Permit to the School District. The City Council is not making policy decisions that are reserved for either the District Board of Trustees or to the Planning Commission. The City Council's decision can be based only on the testimony and documents in the record. The City Council's task regarding factual matters is to determine if there was at least some evidence in the record to support the decision of the Planning Commission, and the Council's decision must be a super-majority of the full Council, in other words, at least 4 votes. Each of the two appealing parties will have 30 minutes to present their case. They have each designated who will speak. The appellants, Mr. Miller or his spokesman, and Mr. Ochi, and others that he has designated, will speak first, followed by the School District. The appellants may save a portion of their allotted time for a rebuttal. Councilmembers may wish to ask questions during those presentations. Mayor Milam indicated that she would keep track of the presenters, the questions, and the Council, so that the presenters have their full 30 minutes. No new evidence will be allowed or considered. Instead, each will speak to the record of the

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Planning Commission. Following the three presentations, and any other discussion in response to questions from the Council, that portion of the meeting will close and it will be time for Council discussion and further questions. The Council may wish to make a decision tonight or take the issue under advisement. Finally, there are two requirements of the Councilmembers. First, if there has been any contact with either appellant or with the School District on this issue, disclosure of those contents and the nature of the exchange are to be made at this time. This includes both conversations and written communication. If Councilmembers have had such contact, it will not necessarily prevent the Councilmember from participating, unless the Councilmember has taken a position in advance.

All Councilmembers indicated that they have had some form of attempted communication, e-mails and packets. All indicated that they had deleted any e-mail that they had received and did not accept any packets of information.

Mayor Milam expressed her concern that packets of information were being distributed on Wednesday evening to the Councilmembers, with no effort being made to distribute one to the School District.

Councilmember Groberg indicated that he had a conversation with someone approximately one year ago, prior to Emerson being closed. He stated that he had a conversation with Jon Ochi. Both were aware that an appeal may be filed and, therefore kept the conversation generic.

Councilmember Lyon indicated that he had attended some neighborhood meetings at the time Emerson was being closed. He stated, further, that due to the fact that he lives in close proximity to Emerson, he has given careful consideration as to whether he should participate in this discussion and decision. This is a separate issue from the closure of Emerson and indicated that he has come to the conclusion that he should participate in this matter.

Mayor Milam stated that according to State Law, if a Councilmember owns property within 300 feet of the site, it may be interpreted that there might be an economic interest in the outcome of this appeal. If that is the case, the Councilmember should declare a conflict of interest and be excused from consideration of this appeal. A knowing violation of this provision is a misdemeanor. In addition to criminal penalties, there may also be civil penalties and it may also taint the Council's decision. She questioned whether any Councilmember would like to make such a declaration. There was no response from Council.

Assistant City Attorney Shan Perry stated that Council decision is completely based upon the record that was in front of Planning and Zoning Commission. No new evidence can be heard, unless there is a provision in the Scheduling Order that will allow the evidence under certain conditions. The first thing that will be discussed are the packets that were received. This issue involves the interpretation of Zoning Laws and Zoning Ordinances. The laws are freely reviewable, but the issue is challenges to the adequacy of the evidence to support the Planning and Zoning Commission's decision being limited to whether or not there was substantial credible evidence in the record to support the findings of the Planning and Zoning Commission. The Assistant City Attorney questioned Mr. Lyon as to whether he lived in the neighborhood and whether he lived within 300 feet of Emerson School. Councilmember Lyon indicated that he lived in the neighborhood and thought that he lived within 300 feet of Emerson School. The Assistant City Attorney questioned Councilmember Lyon as to whether he was aware that there was a potential view of the fact that this could be construed as a potential economic interest in the outcome of this matter. Councilmember Lyon indicated that he understood. The Assistant City Attorney stated that he wanted Councilmember Lyon to be fully aware of this fact before the Council proceeded. Councilmember Lyon stated that he was aware of that fact.

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The Assistant City Attorney reviewed a recent Idaho Case on pre-hearing bias, which means that a Councilmember may have already made up their mind on the issue before coming to the hearing. The Assistant City Attorney requested to know whether there were any Councilmembers who had already made up their mind before hearing any of the arguments. There was no response.

Mayor Milam reviewed the process for Council and introduced the order of speakers.

The Assistant City Attorney stated that in order to preserve some time for Mr. Ochi and the School District, the issues on new evidence are set forth in the Scheduling Order. It states that, to get additional evidence in, it must be material and relate to the subject matter and there has to be a good reason for failure to present it at the original Planning and Zoning Hearing. It needs to be presented prior to the hearing date. There was an attempt to present a packet of information on Wednesday night. That packet was not presented to the School District. The Assistant City Attorney requested Mr. Ochi to address the following three issues, the materiality and relevancy, why it wasn't presented at the Planning and Zoning Hearing, and whether or not an attempt was made to present it to everyone the day before the hearing.

Jon Ochi, 247 4th Street, appeared to state that there were three issues presented in the packet of information. The first issue was site plan errors. Councilmembers have a site plan dated April 30th in the information received from the Planning and Building Director. There were two subsequent plans that should be included in the record. This information was not presented at the June 1 Meeting, because at that time the plans had not changed. The second issue is flooding problems, which became an issue when Superintendent Murdock raised the possibility at the June 1 Meeting that a portion of the playground could be paved. The third issue has to do with neighborhood harmony. There are two groups of information on this issue, one being a Sheriff's report on calls responded to by the Sheriff's Department at the York School facility, and the second being data that was not available at the time and was received from Court and Clinical Services at a later date. Mr. Ochi stated that he had one additional piece of information that was with regard to snow removal in the area of Emerson School.

The Assistant City Attorney stated that the Scheduling Order states in Paragraph 7 that unless prior to the date of the hearing before the City Council, either of the parties request leave to present additional evidence. That did not happen with the 4th item that Mr. Ochi discussed. With the three previous issues, Mr. Ochi made an attempt to deliver those prior to this hearing. The Assistant City Attorney stated that the 4th item should not be made a part of this discussion.

Scott Marotz, 5529 South 11th East, appeared as the Attorney for School District No. 91. He stated that he received a copy of the packet discussed by Mr. Ochi immediately prior to this hearing. Mr. Marotz explained that an appeal means that the Council should look at whether the underlying proceedings followed the law and whether there was sufficient evidence to support the decision that the Planning Commission made. He stated that to bring in additional evidence at this time, even if there was a reasonable justification creates a dilemma because the Planning Commission did not have the opportunity to look at that evidence and to integrate that evidence into their decision-making process. By taking new evidence in an appellant structure, would negate the decision that the Planning Commission made or could have made with or without that evidence. Mr. Marotz stated that the Scheduling Order was clear in that it was set up so that the appealing parties were requested if they were going to file any written arguments, any memorandum of law, any discussion of the facts, and potentially any new evidence or factors, that they were supposed to do that pursuant to the Scheduling Order. Then a week later, the School District would then have an opportunity to take that seven day period after receiving it, look at the evidence and respond in an informed manner. Some statements have been made that they were not able to present information to the Planning

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Commission, but there has been no justification offered as to why they could not have presented this information pursuant to the Scheduling Order under the briefing schedule. That goes to a decision by this Council not to allow this in. The third point is a relevance issue. The flooding problems were not presented at all at the Planning Commission level. This is an entirely new issue. It is not relevant to what the Planning Commission considered in granting the conditional use permit. It may be material and should have been presented to the Planning Commission, but it was not. The folder labeled "Neighborhood Disharmony", is absolutely irrelevant. Things that happened at a different facility in years past are not relevant to a Planning and Zoning decision of whether a conditional use permit should be issued. The Planning Commission and this Council should not consider the people that are going to use a facility to determine whether or not that facility meets the necessary land use requirements and ordinances. The site plans are part of the record. If the appellants want to go through these, item by item, so everyone could understand and then give the School District a chance to hear exactly what they have to say (within their 30 minute allotment of time), then allow the School District to respond (within their 30 minute allotment of time), that would be fine. But to have this as an exhibit, it is improper. Mr. Marotz requested that the Court deny the request to supplement the record with these additional items.

Councilmember Groberg questioned how the City Council was to determine whether the new information and new evidence was relevant unless the Council was allowed to see the information and make that determination.

Mr. Marotz stated that the Planning Commission has granted a conditional use permit to School District No. 91. The decision is not whether a conditional use permit should be granted, but whether that conditional use permit should be revoked. The standard to use is, were there legal aspects of what the Planning Commission did or did not do, that were in error based upon the record before the City Council. From a factual standpoint, it is not whether or not the Planning Commission should consider this new evidence, because they considered what was presented to them and made a decision. The Council's duty is to look at the record as it existed at the Planning Commission hearing and determine whether or not there is evidence to support their decision. The City Council may think that this is relevant information that the Planning Commission should have a chance to take a look at. That is not the School District's fault. That is the fault of the individuals that are now trying to supplement the record and circumvent the ability of the Planning Commission to have had this available to them in making their decision. If the City Council decides to accept this new information and send it back to the Planning Commission, the School District still has the conditional use permit. Mr. Marotz did not believe that there was any procedure for a rehearing by the Planning Commission on a conditional use permit that is already issued without there being an additional application for a change. This would be a revocation at this level, not a remand to look at additional information.

Councilmember Groberg stated that if there is evidence that was not presented to the Planning Commission, and there were good reasons for failure to present it to them, then the City Council will determine whether that is germane, relevant material that should be considered and would then sent it back to the Planning and Zoning Commission with directions to receive additional evidence and conduct additional fact finding.

Mayor Milam and the Assistant City Attorney agreed with Councilmember Groberg.

A brief discussion was held among the Mayor, City Council, and Assistant City Attorney, regarding whether the new evidence was germane, relevant information and it was determined that this was not germane based on this being a fairness issue.

It was moved by Councilmember Hally, seconded by Councilmember Shurtleff, that the evidence being presented at this late date by Mr. Ochi be rejected for consideration

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by the City Council in consideration of the appeal to the Planning Commission. Roll call as follows:

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

Nay: None

Motion Carried.

Following a short recess, Mayor Milam invited Mark Miller, appellant, to come forward to make his presentation.

Mark Miller, 135 Fifth Street, appeared to state that he has three basic issues. One is the Affidavit. This was in the packet for City Council as Section 14. This was raised below. They misunderstood his argument. Section 1 of the Conclusions of Law, the affidavit of legal interest, as required by the Ordinance, is signed by a representative of the District. The Affidavit states that, "I, Guy Wangsgard," own the property where Emerson is located. It was incumbent on the School District to say that they made an error. There is only a finding when it is signed by an authorized representative of the School District. It is a due process issue. It's an Idaho Code issue. It was brought up below and it was not addressed. For that reason alone, this appeal should be granted. At a minimum, it should be returned to the Planning Commission for findings of fact. The second issue concerns notice. This is Issue No. 2, or the Conclusion of Law No. 2, which says notice was given according to a section of Idaho Code. There was no argument that it was mailed to people who lived within 300 feet. What was argued below, was there was a substantial impact on the people who lived outside the 300 foot radius. There was no finding of fact nor a conclusion of law addressing that very specific and substantial issue because if it's true, that it impacts an area wider than 300 feet, then Idaho Code requires actual notice to the people who live in the area that would be impacted. An actual notice probably means mailing, if not hand delivery, and he referred the City Council to the Idaho Supreme Court Case of Enright vs. Blaine County, but there is no finding. No finding, either that there is no substantial impact or that there is. Mr. Miller stated that he could not argue it here or on appeal. There was an error concerning the comprehensive plan. The proposed alternative high school will be located on a collector street. The Comprehensive Plan states that secondary schools are to be located or within one block of the nearest minor arterial street. It is a clear error in application because the Comprehensive Plan states an arterial, not a collector. Second, the Comprehensive Plan states that a secondary school should be located within one block of an arterial, minor or major. The Planning Commission stated that Emerson is one block or a block and a half. That means one block or less. This zoning, this conditional use permit, does not comply with the comprehensive plan. Mr. Miller stated that any of these issues alone, maybe is not enough to defeat the conditional use permit or to send it back to the Planning Commission. If the Council were to put them all together, there are some serious due process issues.

Councilmember Lyon requested to know who should have signed the Affidavit from the School District. Mr. Miller stated that Mr. Wangsgard is the representative from the School District and was, therefore, authorized to sign the Affidavit. But Mr. Wangsgard, alone, does not own the Emerson School property.

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Councilmember Hally stated that the Idaho Statute states that notice is to be given within 300 feet of the subject area. He requested to know how far the area of impact should have been for notification purposes. Mr. Miller stated that the Idaho Statute says 300 feet unless there is substantial impact to the neighborhood. Mr. Miller stated that he could not answer that question, because the Planning Commission did not answer that question. Mr. Miller stated that written notification should have gone to those residents living between Holmes Avenue and Boulevard and between 1st Street and 9th Street as they would see the most impact from this school.

Jon Ochi, 247 4th Street, appeared to state that he believed that the process was flawed and the neighborhood was harmed. The site plan is required by law as part of the Conditional Use Permit application. Illegality No. 1 is no finalized site plan. The site plan should have been finalized and ready for comment on April 30, 2004 when the site plan was officially submitted to the Idaho Falls Planning Department. To prove that the April 30th site plan was not a finalized plan, we referenced two site plans obtained from the Planning Department. Illegality No. 2, the site plan fails to provide the required dimensions and specifications. The Code requirements are itemized along the right edge of the April 30th site plan. This is the map in the packet of information provided. The site plan states the engineering and zoning requirements for site plan preparation and review. The applicant ignored those requirements and produced an invalid site plan. City Code requires, among other things, dimensions of all buildings and their distances from street and alley right-of-way lines. There are none indicated. Illegality No. 3, the site plan contains factual discrepancies. There were almost no dimensions given. Although the latest rendition does show some dimensions, those few dimensions contain inaccuracies. One dimension contains a 17% discrepancy. Building Codes are not capricious requirements. Building Codes help to assure changes are made at the drawing board rather than after construction occurs. To prevent inefficiency and to insure the citizens get a fair chance to comment on a true representation of a proposal, the law requires a proper site plan. Conclusion, the applicant's site plan is not finalized, is not legal, and is not even accurate. The neighborhood is harmed by this decision. Illegality No. 1, choosing which parts of the law to follow and which to ignore is illegal. There are five specific criteria that must be addressed on a conditional use permit. One item is categorically ignored. Picking and choosing which parts of law to follow and which to ignore is clearly illegal. Ms. Magee outlines for the Planning Commission issues that must be dealt with. No. 1, there is to be sufficient landscaping; No. 2, the glare from lights is not to be unreasonable or detrimental; No. 3, minimize the detrimental effects of noise and traffic; and, No. 4, assure that there is adequate egress and ingress. City Ordinance 1941 lists five items under standards and requirements. The requirement, to harmonize with the objectives and characteristics of the zone in which the park and playground are located, was not mentioned. The Planning Commission seemed to totally ignore the effect on neighborhood harmony of the Westview student carrying a concealed weapon, for example. As another example, the Planning Commission knew that 90 sets of headlights could potentially be shining into neighbors windows every night and that would be bothersome. An opaque fence was ordered to be installed. But the Commission did not discuss whether or not night time traffic itself would harmonize with the neighborhood. Harmony is defined as that which produces sound, stable, residential neighborhoods. To harmonize the various features and facilities of parks and playgrounds with the surrounding area, serves to produce sound, stable, residential neighborhoods. The neighborhood harmony requirement is a common sense requirement. Illegality No. 2, in the documents presented to City Council by the Planning Commission, the neighborhood issue was again left out. It is illegal to eliminate one requirement by fiat. In conclusion, to eliminate criteria by the Planning Department is illegal and constitutes a violation of due process. The neighborhood is further harmed by the issue of potential negative activity at the high school. In the packet, Item No. 9 in the index of included

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items, is a list of offenses that were responded to by the Sheriff at the Westview High School. That includes data from the Bonneville County Sheriff's Office for the year 2000, 2001, 2002 and 2003. These are the same kinds of incidents that will likely occur at Westview in the future. Ultimately, Superintendent Murdock will be only partly responsible for any tragedies that occur. But the School Trustees and the City of Idaho Falls may also be named in any legal actions. The problems of auto accidents, vandalism, hit and run, controlled substances, alcohol, burglary, property damage, weapons violations, assault, and theft occurred at Westview. The Sheriff's Arrest Record proves this. Intentionally placing a group of teenagers with criminal track records into residential neighborhood with narrow constricted streets is truly tempting fate. When you add to the mix, the preschoolers and disabled children that would be on the same campus at the same time as the teenagers, the proposal could legitimately be called extreme recklessness. The issue is not whether these kids are good or bad, or whether these kids do or do not deserve a second change. There should not be any kind of moral judgment attached to these kids. The conditional use permit granted to School District No. 91 for the Westview facility will allow 4 times as many students as were attending at the York facility. This does not create harmony in the neighborhood. Mr. Ochi stated that having an alternative high school is a superb idea. Where to harmoniously place the facility is the issue. The streets are narrow. This is a closely packed neighborhood. The densely packed neighborhood with tiny streets loaded with small children and filled with teenage drivers, is the worst possible placement in Idaho Falls for the alternative high school. The placement of this alternative high school is extremely destabilizing to the neighborhood.

Karen Braase, 169 4th Street, appeared to state that process was flawed at the June 1st hearing, in that the Planning Commission based its decision on inaccurate data. The site plan dated April 30th was not to scale and was not accurate. The site plan itself reads that the owner, or the School District, is responsible for verifying the accuracy of all items on the plan, and they did not do such. The trip generation report was flawed in that it overestimated the number of trips for the current preschool, underestimated the number of trips for the high school students, in that it did not account for the 200 student cap, and it failed to consider the accidents occurring on 4th and 5th Streets where they join the arterials. Enrollment numbers presented by Dr. Murdock have changed from the information provided to the public with the Emerson closure document. This has changed from a May 25th letter which was addressed at the Planning Commission. And it changed from Dr. Murdock's testimony at the hearing, resulting in the 100 student cap a day and 100 student cap a night. Dr. Murdock had claimed that 60 students was historically a number that attended the day program and the Planning Commission allowed them to have a cap of 100. The process failed to consider the harm to the neighborhood. The Commission members are required by ordinance, to insure that conditional use permits do not disrupt the harmony and character of the neighborhood. The Planning Commission or City Council is empowered to require studies of the social, economic, fiscal, or environmental effects of the proposed conditional use and thus insures that the neighborhood harmony is not disrupted. The Planning Commission failed to do this and failed to adequately meet the provisions of that ordinance. The Planning Commission failed to adequately consider the impact of the night school on the neighborhood, which is a drastic change from a historical use of a day time elementary program. None of the slides shown by the staff at the June 1 hearing, illustrating the on-street parking, were taken after 5:00 p.m., which is typically when residents arrive home from work and expect to be able to park in front of their homes. No consideration was given to the effects of night time traffic on the neighborhood, other than to require an opaque fence buffering the parking lot. On the July 14th site plan, the opaque fence appears to be located near the bottom of the slope. If so, car head lights taller than 30 inches will shine into those homes, regardless of the

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opaque fence. The District's document states that approximately 60 students, or 75%, drive to the night time program. Yet, in his testimony, Superintendent Murdock states only half drive, or one car per every two students. With the 100 student cap granted by the Planning Commission, there will be overflow parking problems. The potential conflict between Westview students and neighborhood residents who will be able to park in front of their home, is very great. Ms. Braase did not dispute the fact that the Zoning Ordinance requires only one parking space for every five students. The Councilmembers cannot turn a blind eye to the potential problems and liability to the City caused by overflow parking in this already congested neighborhood, and allowing the School District to hide behind an inadequate ordinance, and underestimating the number of cars driven by students. Superintendent Murdock offered to add additional off-street parking if there was a demand. There most certainly will be a need for more parking, once neighborhood residents begin complaining they cannot park by their homes. In summary, if the Planning Commission accepted flawed data in making the decision, the Planning Commission failed to adequately consider harm to the neighborhood through change in night time use, and by failing to request those studies. Idaho Falls Ordinance No. 1941, Article 1-2 reads in part as follows, the purpose of zone boundaries and regulations have been made in accordance with the comprehensive plan designed to promote the health, safety, peace, convenience, and general welfare of the inhabitants of Idaho Falls. Who better to decide if such purposes are met than the very residents directly impacted by a change of use. Four hundred fifty residents signed a petition stating just that. The conditional use permit will not promote health, safety, peace, convenience, and welfare in the neighborhood. If City Councilmembers deny our appeal and grant the conditional use permit, the City Council would have the power to mitigate the harm to the neighborhood. Ms. Braase requested that the following conditions be imposed. No night school should be allowed at Emerson, thus eliminating any night time conflicts and concerns; limit the hours of operation of Westview from 9:00 a.m. to 3:00 p.m.; limit the number of students attending the day program to 60, which according to Dr. Murdock is an historical enrollment demand which is very accurate. Consider the snow removal contingency plan for parking in the area during snow proclamations. Install traffic controlling measures, such as stop signs, speed dips, or speed bumps before there are serious accidents or death.

Scott Marotz, 5529 South 11th East, appeared to state that he is representing Idaho Falls School District No. 91. This is an appeal situation and the standard has been reviewed. He stated that he was confident that the City Council would not consider the abundant testimony or new evidence that was provided by Mr. Ochi and Mrs. Braase. This is a situation that involves property rights. All zoning issues involve property rights. The parents in this matter do not consider the School District to be a property owner in the same manner that they are property owners. Residents discuss the fact that they are entitled to park on the street in front of their homes. They don't believe that the School District has the same right to park on streets surrounding the property that they own. Fairness would indicate that the School District has the exact same property rights that the other residents of the area have. They tell us that we're not allowed to use the street in the same fashion that they are allowed to use the street. This is important because the School District has satisfied all of the necessary requirements for off-street parking that the current codes, statutes, and ordinances require. The Planning Commission found that the School District was providing 50 off-street parking spaces, which is 1-1/2 times more than were necessary. Mr. Marotz questioned why the School District is in this process. The reason is two-fold. No. 1, there has been a lot of public attention made on the School Board's decision to close Emerson School. The School District removed the mobile classrooms at Emerson. There is less classroom space on site now than there was before. Where those mobile classrooms were placed was in the pre-existing parking lot, which now

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becomes parking lot. The School District has decided to put some elementary programs in the newer building and then move the older students from the old Westview out at York into the Emerson building. Out of an abundance of caution and based upon discussions with Planning and Zoning, it was determined that the School District should file a conditional use permit. Mr. Marotz did not see any reason why the School District needed to file a conditional use permit in the first place. All this does is change the age of students that are going to a facility that has been there for 70 years. This is not new construction. This is not changing the harmony of the neighborhood, except the fact that the residents have decided that students that go to Westview High School are not the type of people they want in their neighborhood. And since the residents cannot convince the School Board to make that decision, they are asking the City Council, through the guise of a Planning and Zoning conditional use permit appeal hearing, to circumvent the School Board's decision of what is in the best interest of the School District. Idaho Code Section 67-6502 sets out the purpose of land use planning statutes in this state. It requires the governmental entity to insure that adequate public facilities and services are provided to the people at reasonable costs, and, further, allows School Districts to participate in community planning and development processes to address public school needs and impacts on an on-going basis. The School District has done that. The School District used the Planning and Zoning proceeding to make sure that there were not any problems. The Planning Commission was very specific that the School District not put in any parking because the grassy areas need to remain exactly where they are. And under the current conditional use permit, if the School District makes any changes, then they have to go back and get a new permit, because that may be a substantial change depending upon floods, etc. The School District used the forms that were required. The application is for the School District. The affidavit is merely a statement that the owner of the property, as all entities, are not individuals but they have to be represented by individuals. Guy Wangsgard is the Ex-Officio Clerk of the Board of Trustees and has the authority to act as the owner in completing this application. Regarding the notice issue, Mr. Miller states that there is an impact that exceeds the 300 feet from the four corners of the Emerson campus. He does not dispute that the 95 owners of property within that 300 feet were given notice. What he says is that proper notice was not given because the impact clearly extends beyond that. Idaho Code, Section 67-6512, talks about special use permits, conditions and procedures. It says when notice is required to 200 or more property owners that notice can be provided by publication. And it should be provided by publication because of the onerous aspect and the expense associated with personal notice to each one of those individuals. The findings of fact and conclusions of law show that there were sufficient public notices published in the necessary newspapers to give actual notice under the statute to anyone in the City of Idaho Falls. With regard to the Comprehensive Plan stating that a school should be within one block of an arterial, the edge of the campus, is that Emerson is within two blocks of a minor arterial, Boulevard, and is within one block of a major arterial, Holmes. Emerson is within one block of a 1200 student high school that has inadequate parking. Only juniors and seniors get parking permits. Sophomores do not get parking permits. Sophomores that drive park on the streets. Harmony is a spin that each person will put on what they want in their back yard or their front yard. The City Council saw a lesson in due process tonight in attempting to provide information at a time and in a manner that would prevent the District from being able to respond to it. Due process is being advised what the issues are, having an opportunity before impartial tribunal, to give your side of the story. If the City Council read the transcript, 90% of the information that was provided to the Planning Commission related to harmony. There is no lack of due process here. An opportunity was given for anyone who wanted to testify to talk about what they thought was the problem with the Westview kids and how it would disrupt the neighborhood. In summary, this is an appeal

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and there has been no showing that the Planning Commission or the Planning and Zoning staff in any way violated any of the rules and procedures or statutory requirements. The Findings of Fact, Conclusions of Law and Decision is very well done. It sets out exactly what happened. There is sufficient evidence in the record to support what the Planning Commission did. Mr. Marotz urged this Council to make a decision tonight. School starts on August 30th. Because of this appeal, the School District has refrained from doing any activities at the Emerson facility to set it up for the high school. They have two weeks left to get it ready.

Councilmember Lehto requested to know whether the site plan included in the packet of information provided to City Council, has changed.

Scott Marotz stated that the only plan that he is aware of is the one that was approved by the Planning Commission that was included in the Council packets.

Councilmember Groberg requested to know whether the School District applied for the conditional use permit in order to seek public approval.

Scott Marotz stated that if he had been consulted, he would have advised the School District that there was no requirement to apply for the conditional use permit. There is no substantial change to the existing conditional use permit that was applied for approximately 5 years ago.

Councilmember Larry Lyon requested to know whether there were other site plans or updates to the site plan.

Scott Marotz stated that he believed the site plan given to City Council was the only site plan. Superintendent John Murdock appeared to state that the site plan that was in the Council packet was the one that the School District used. The Planning Commission modified that site plan to require an opaque fence and green space between the sidewalk. Scott Marotz stated that it was his opinion that since this was not new construction, being able to verify whether it meets the setback standards as they exist today is a non-issue.

Mark Miller re-appeared to offer a rebuttal. Mr. Miller requested to know whether this is a substantial change. He requested the City Council to read the Findings of Fact and Conclusions of Law to determine whether it is a substantial change. If it does not, then the Planning Commission has failed its duty and the Findings of Fact and Conclusions of Law are inadequate. As a matter of due process, he stated that he was deprived his chance to appeal this on the issues as decided. It is argued that all this evidence concerning the character of the students is irrelevant and the District says that this is their last chance and it's important that they get it and they are made to tow the line. If it is irrelevant for one side, it is certainly irrelevant for the District. The District tells the City Council they are waiting to put in their facilities. This is new evidence. If they are going to extrude Mr. Miller's evidence, certainly the Councilmembers should not consider the School District's new evidence. The School District has told the City Council that there is a procedural defect and, therefore, can't consider new evidence. The forms were not filled out the way they were supposed to be filled out. Mr. Miller stated that it was his contention that the School District is at fault for not bothering to read the form and fill it out correctly. If the District is going to insist that the appellants comply with the letter of the law, the District, which had months to prepare this, could have spent the time to proof it, and when they learned of the error, they could have withdrawn it and resubmitted it and then it would have been timely. Instead, they put it to the City Council. The School District says that it is equal in property rights to the residents. Mr. Miller agreed with that. He stated that maybe publication was enough. This is a matter of due process. He provided an example of the school campus being within a certain distance from an arterial street. Mr. Miller requested that the Councilmembers consider all of this cumulatively. This is a defective procedure. There is a violation of due process, state statute and City ordinances. And on

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that basis, the City Council has no choice but to kick this back to the Planning Commission and make them do their job.

Jon Ochi re-appeared in rebuttal to state that the neighborhood is not concerned with kids that are making up credits and are graduating from high school at Westview. They are concerned with the harmony of the neighborhood. The neighborhood is concerned because there are 75 1st through 6th graders from 4th Street through 8th Street that ride their bicycles down the street. The School District has a right to park in front of the school. He expressed his concern for the congestion caused by their right to park in the street and the situation that is aggravated by that. If there were no difference between a high school and an elementary school, the City would not have different clauses for a high school and a middle school vs. elementary school. The differences are obvious. Elementary kids don't drive. Dr. Murdock stated in his Westview proposal, with 80 night time students at Westview, approximately 60 students drive their cars. They are allowed to have 100 students at night. The City Council can imagine kids riding their bicycles down those streets and teenage drivers that have already shown that they will have accidents, that creates an extremely volatile situation. The neighborhood is not against Westview students. It's a wonderful concept, but placing them in this particular neighborhood is the worst possible place for them. There are 96 households in that 300 foot area. Mr. Ochi stated that he has provided information on the crimes and criminal records of arrests at Westview from the Sheriff's Office. The neighborhood wants the conditions that the City Council, as other citizens, would want in your neighborhood. And the neighbors abhor this situation that is potentially extremely explosive and could be, not only a liability to the City, but could ruin people's lives forever.

Karen Braase re-appeared in rebuttal to state that the School District never considered what is best for the Westview students. Dr. Tolman, the principal of Westview appeared in a Board Meeting and told the Board Members that moving the students to Emerson does not meet the long term needs for them. This is a waste of taxpayers' dollars. A new facility would best meet those needs. This is a substantial change. Elementary students do not drive. High school students do drive. There has never been a night school at Emerson in 80 years and this conditional use permit does approve a night school. The comprehensive plan states that traffic needs to move smoothly. It won't move smoothly because those are narrow one-way roads and the traffic must circle the neighborhood or travel the length of 4th Street and 5th Street from Holmes to Boulevard. Mr. Marotz spoke about harmony and how each person interprets harmony differently. An amenity is a comfort or a convenience. The City Council needs to be sure that an amenity does not become a detriment with the difference in drivers and with the traffic problems. The issue of harmony was ignored by the Planning Commission and was not given any weight in their decision. Ms. Braase requested the City Council to take the time that is needed to make this decision. The Zoning Ordinance does say that the City Council can impose limitations. She requested Ms. Braase requested that the City Council return this to the Planning Commission with the instruction to impose more conditions. The site plan was not drawn to scale. The site plan dated April 30th, was not provided to the residents. The map shows the fence in the wrong place.

Following a brief recess, Mayor Milam reviewed the options that the City Council had to make their decision. The City Council could grant the appeal, deny the appeal, remand this to the Planning Commission with recommendations, or take this issue under advisement.

Councilmember Hally stated that he felt that it was important to review and compare the City Council transcript with the Planning Commission transcript.

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It was moved by Councilmember Hally, seconded by Councilmember Lyon, to take the matter under advisement before rendering a decision to discuss the issues and the data.

Councilmember Lehto commented that he agreed with taking this matter under advisement.

Councilmember Hardcastle requested to know whether the City Council would be able to discuss this matter with the Planning and Building Director.

The Assistant City Attorney stated that the City Council could discuss this matter with the Planning and Building Director and with the City Attorney.

Councilmember Lyon requested to know whether all criteria were considered.

Mayor Milam indicated that all Councilmembers were able to have those discussions with the Planning and Building Director and with the City Attorney. She also stated that the Special Council Meeting would not allow for further testimony. The Special Council Meeting would be for Council discussion and for a decision.

The Assistant City Attorney gave a reminder and an admonishment to the Mayor and City Council. He stated that there is to be no contact with any of the parties. And if the appellants attempt to make contact, cut it off, delete it, do whatever is necessary to avoid any communication. At the Special Council Meeting, the Mayor and each Councilmember will have to make disclosures to that end.

Roll call as follows:

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

Superintendent John Murdock came forward to request whether there was any prohibition against the School District from beginning the operation of moving the alternative high school, as at this time they have a conditional use permit.

Mayor Milam stated that they could proceed, keeping in mind that if the Council denies the appeal, the School District may be out the cost of moving.

The Assistant City Attorney stated that there is no stay provision in City Ordinances. The School District is not prohibited from beginning the operation of moving the alternative high school. The School District would be conducting this operation at the risk that the City Council may turn down this appeal.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT – BLOCK 4, SOUTH PARK
 ADDITION

Attached is the Development Agreement for Block 4, South Park Addition. This Development Agreement provides for storm water retention and off-street parking at the intersection of Eastern Avenue, Curtis Avenue, and West 13th

AUGUST 12, 2004

Street. The Division respectfully requests approval of this Development Agreement.

s/ Renée R. Magee

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Development Agreement for Block 4, South Park Addition and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: AMENDED DEVELOPMENT AGREEMENT – BOOZER ADDITION,
DIVISION NO. 2

Attached is the Amended Development Agreement for Boozer Addition, Division No. 2. This amendment provides use of an access easement which extends from Broadway to Wardell across Boozer Addition, Division No. 2 by UPS, its employees and agents. The Division respectfully requests approval of this Development Agreement.

s/ Renée R. Magee

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

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

Nay: None

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Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FINAL PLAT FOR LORIN C. ANDERSON ADDITION, DIVISION NO. 1, SECOND AMENDED PLAT

Attached is the Final Plat entitled Lorin C. Anderson, Division No. 1, Second Amended Plat. This final plat contains five lots and is located west and adjacent to Woodruff Avenue, north of Parley Street. The existing zoning is R-3A. The Planning Commission reviewed this plat and recommended approval at its August 3, 2004 Public Hearing. This final plat is being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Exhibit 1 Staff Report dated August 3, 2004

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to accept the Final Plat entitled Lorin C. Anderson Addition, Division No. 1, Second Amended Plat and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said final plat. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT AND FINAL PLAT - STONE CREEK ESTATES, DIVISION NO. 1

AUGUST 12, 2004

Attached are the Development Agreement and Final Plat for Stone Creek Estates, Division No. 1. The parcel is located within Idaho Falls north and adjacent to 49th South and west of Hitt Road. The existing zoning is R-1. The plat contains thirteen single-family homes and two storm water retention lots. The Planning Commission considered this final plat at its June 15, 2004 Meeting and recommended approval. This request 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 Development Agreement and Final Plat approval request:

Exhibit 1 Planning Commission Minutes dated June 15, 2004
Exhibit 2 Staff Report dated June 15, 2004
Exhibit 3 Copy of Final Plat

It was moved by Councilmember Hally, seconded by Councilmember Lyon, to approve the Development Agreement for Stone Creek Estates Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

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

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

Nay: None

Motion Carried.

The Police Chief submitted the following memos:

AUGUST 12, 2004

City of Idaho Falls
August 5, 2004

MEMORANDUM

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

I respectfully request the attached ordinance amending City Code Sections 4-2-4, 4-2-10, and 4-2-13 through 4-2-27 inclusive, providing for changes to the bartenders licensing permits be heard at the City Council Meeting of Thursday, August 12, 2004.

Thank you for your consideration.

s/ J. K. Livsey

The Police Chief came forward to explain that this Ordinance modifies the existing Ordinance that requires Bartender Permits to not require Bartender Permits any longer. The Police Chief stated that they have checked around the State of Idaho and could not find any City that requires Bartender Permits. This requires the Police Department a great amount of paperwork. The following Ordinance allows bars to employ anyone that they want, as long as the employee is 21 years of age and has a valid Idaho Driver's License or Idaho Identification Card. As far as enforcement, if the Bartender is found serving minors or violating other laws, then the Bartender is cited. If the violations continue, then the license of the Bar could be in jeopardy.

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

ORDINANCE NO. 2545

AN ORDINANCE AMENDING SECTIONS 4-2-4, 4-2-10, AND 4-2-13 THROUGH 4-2-27 INCLUSIVE, OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; PROVIDING FOR CHANGES TO THE BARTENDERS LICENSING PERMITS; PROVIDING FOR SEVERABILITY; PRESERVING PRIOR ORDINANCE; AND ESTABLISHING EFFECTIVE DATE.

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

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Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

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

I respectfully request the attached Ordinance amending Sections 5-32-6 and 5-32-7 of the City Code with regards to curfew of minors be heard at the City Council Meeting of Thursday, August 12, 2004.

Thank you for your consideration.

s/ J. K. Livsey

The Police Chief came forward to explain that an "immunity clause" was added to the Juvenile Curfew Ordinance.

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

ORDINANCE NO. 2546

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS 5-32-6 AND 5-32-7 OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; PROVIDING FOR CONSTITUTIONAL IMMUNITIES; PROVIDING FOR SEVERABILITY; PRESERVING PRIOR ORDINANCE; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Hally seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

AUGUST 12, 2004

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
August 9, 2004

MEMORANDUM

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

The owner of Lot 21, Block 4, Division No. 6, Parkwood Meadows Addition has requested vacation of a portion of the utility easement located along the east lot line of this property. This portion of the easement is no longer needed for utilities.

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

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare documents necessary to vacate a portion of the utility easement located along the east lot line of Lot 21, Block 4, Parkwood Meadows Addition, Division No. 6. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

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

AUGUST 12, 2004

The owner of Lot 1, Block 1, Division No. 1, The Narrows Addition has requested vacation of an easement across the subject property. This easement was originally intended for the purpose of storm drainage accessing a storm pond. The pond has since been relocated and the easement is no longer needed.

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

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare documents necessary to vacate an easement across Lot 1, Block 1, The Narrows Addition, Division No. 1. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: RIGHT-OF-WAY VACATION – WEST 13TH STREET AND CURTIS AVENUE

As previously authorized, the City Attorney has prepared documents needed to vacate a parcel of right-of-way located at West 13th Street and Curtis Avenue.

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

s/ Chad Stanger

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

ORDINANCE NO. 2547

AN ORDINANCE VACATING A PORTION OF THE WEST THIRTEENTH (13TH) STREET AND CURTIS AVENUE RIGHT-OF-WAY WITHIN THE CITY OF

AUGUST 12, 2004

IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE PORTION OF SAID RIGHT-OF-WAY; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER ON BEHALF OF THE CITY A QUITCLAIM DEED CONVEYING THE VACATED PORTION OF THE RIGHT-OF-WAY TO THE OWNERS OF THE ADJACENT LAND, AND NAMING THEM; 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:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: CHANGE ORDER NO. 1 - NORTH HOLMES AVENUE SEWER LINER

Attached is proposed Change Order No. 1 to the North Holmes Avenue Sewer Liner Project. The contractor has encountered degradation to the existing line, substantially in excess of that anticipated by the City and the contractor. This has necessitated the contractor obtaining a large diameter liner for 426 linear feet of pipe and additional bypass pumping. This change order, if approved, will add \$6,738.88 to the contract price and twenty (20) additional calendar days to the contract time.

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

s/ Chad Stanger

AUGUST 12, 2004

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to approve Change Order No. 1 to HK Contractors, Inc. for the North Holmes Avenue Sewer PVC Liner Project and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
August 9, 2004

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: NORTH LLOYD CIRCLE STORM DRAINAGE – PHASE II

On August 3, 2004, bids were received and opened for the North Lloyd Circle Storm Drainage Project, Phase II. A tabulation of the bid results is attached.

Public Works recommends award of this project to the low bidder, HK Contractors, Inc. in the amount of \$51,597.00; and, authorization for the Mayor and City Clerk to sign the documents.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Groberg, to accept the low bid from HK Contractors, Inc. in the amount of \$51,597.00 and, further, give authorization for the Mayor and City Clerk to sign the necessary contract documents. Roll call as follows:

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

Nay: None

Motion Carried.

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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
