

JUNE 12, 2003

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, June 12, 2003, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Linda Milam
Councilmember Ida Hardcastle
Councilmember Bill Shurtleff
Councilmember Brad Eldredge
Councilmember Mike Lehto
Councilmember Joe Groberg
Councilmember Robert Barnes

Also present:

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

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes for the May 22, 2003 Regular Council Meeting and the May 29, 2003 Special Council Meeting.

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

The City Clerk presented the following Expenditure Summary dated May 1, 2003 through May 31, 2003, after having been audited by the Fiscal Committee and paid by the Controller:

FUND	TOTAL EXPENDITURE
General Fund	\$ 607,793.65
Street Fund	85,332.44
Recreation Fund	19,344.19
Library Fund	27,984.65
Municipal Equipment Replacement Fund	119,262.95
Electric Light Public Purpose Fund	38,140.84
Sanitary Sewer Capital Improvement Fund	1,157.50
Street Capital Improvement Fund	124,792.93
Bridge and Arterial Street Fund	3,572.00
Water Capital Improvement Fund	1,157.50
Airport Fund	95,075.55
Water and Sewer Fund	184,007.23
Sanitation Fund	49,370.28
Ambulance Fund	20,572.50
Electric Light Fund	3,760,083.61
Payroll Liability Fund	1,743,022.89
TOTALS	\$6,880,670.71

The City Clerk presented several license applications, including BARTENDER PERMITS to John R. Bekkering, Debbie Bingham, William V. Bridwell, Teresa J. Denton,

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Cristy J. Mecham, Jessica H. Mitchell, and Eric Platz, 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 June 12, 2003.

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

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Barnes
Councilmember Groberg
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of new fees and fee increases necessary to cover costs associated with providing inspections of "Safe and Sane Fireworks" Stands within the City of Idaho Falls. The City Clerk read the following memo from the Fire Chief:

City of Idaho Falls
April 21, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Dean Ellis, Fire Chief
SUBJECT: CITY ORDINANCE CHANGE

Attached for your consideration is a copy of the City Ordinance for Fireworks. With adoption of the International Fire Code and in reviewing Idaho State Standards, the Fire Department requests the following additions, deletions and changes. These additions, deletions and changes are in keeping with the State Standards and not requiring less than the State does.

s/ Dean Ellis

The Fire Chief explained that, along with the Fire Permit fee for a fireworks stand, there would now be an inspection fee of \$25.00 at the time of application. A valid certificate of public liability insurance will also be required for fireworks stands and for public displays of fireworks. Temporary fireworks stands are to be located a certain distance away from other buildings and from fuel pumps. With this Ordinance, two exit doors will be required for each stand. The fee for a Wholesale Permit for fireworks is also being increased.

Councilmember Groberg requested to know whether it was the intention of the Fire Chief to make these changes effective for this year's fireworks stands. The Fire Chief

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stated that this was the intent. Following a brief discussion, it was determined that this Ordinance should become effective following this fireworks stand season.

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

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

ORDINANCE NO. 2491

AN ORDINANCE OF THE CITY OF IDAHO FALLS,
AMENDING SECTIONS 6-2-6, 6-2-8, 6-2-11, AND 6-
2-13; RELATING TO REGULATIONS FOR THE SALE
OF FIREWORKS WITHIN THE CITY; EXPLAINING
ORDINANCE METHODOLOGY; PROVIDING FOR
SEVERABILITY; PRESERVING PRIOR ORDINANCE;
ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Groberg moved, and Councilmember Lehto 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, give authorization for the Mayor and City Clerk to sign the necessary documents; and, further, give authorization for this Ordinance to be published after July 5, 2003 following this year's season for fireworks stands. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Barnes
Councilmember Groberg
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam requested the Police Chief to come forward to state what the law allows the Police Department to do with regard to the use of illegal fireworks in Idaho Falls. Police Chief Livsey stated that one of the problems with the law is that a Police Officer needs to see the illegal fireworks being set off in order to charge anyone with a crime. The Police Department receives hundreds of complaints each year about illegal fireworks being set off. Neighbors, generally, do not want to report other neighbors. Setting off illegal fireworks is a misdemeanor.

Mayor Milam requested Councilmember Barnes to conduct a public hearing for consideration of an Amendment to the Zoning Ordinance to create a Medical Services Zone, which permits professional offices, medical and dental offices, and limited retail. At the request of Councilmember Barnes, the City Clerk read the following memo from the Planning and Building Director:

JUNE 12, 2003

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: MEDICAL SERVICES ZONE

Attached is a copy of the Medical Services Zone, a proposed zone discussed within the Comprehensive Plan which allows limited retail uses in a medical office zone. This is an additional zone to implement the medical services center illustrated in the future land use map of the Comprehensive Plan. PB, R3-A and R-3 are other zones available to implement the medical services center designation of the Comprehensive Plan near the regional medical facility, Eastern Idaho Regional Medical Center (EIRMC). The Planning Commission considered this zone at a public hearing on May 20, 2003, and recommended approval of the zone with the conditions:

1. Emergency care clinics be incorporated in Item D to clarify such clinics are permitted;
2. Credit unions, again a clarification, are included in Item F;
3. Pharmacies be limited in size to 15,000 square feet;
4. Live animal testing be excluded from laboratories; and,
5. Motels and hotels be a conditional use rather than a permitted use.

These changes have been incorporated into this draft. The Division recommends approval of this zoning amendment with the addition of the following provision under Section 7-21-8:

D. Location of Zone. All MS Zones shall be located contiguous to an arterial street. If located at the intersection of an arterial street with a collector street, there shall be no direct access to the arterial street. If at the intersection of two arterial streets, any direct access to an arterial shall be in accordance with the guidelines of *The Access Management Plan*, February, 1998, and Section 10-1-7 of the Subdivision Ordinance.

This zoning amendment is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director gave a further explanation of this zone. Following is a list of exhibits used in connection with this new zone:

- | | |
|---------|--|
| Slide 1 | Channing Way Area |
| Slide 2 | Branch Bank (permitted use) |
| Slide 3 | Drug Store – 6,000 square feet (permitted use) |
| Slide 4 | Walgreen’s Drug Store – 15,000 square feet (size recommendation) |
| Slide 5 | Purple Gecko – Coffee Shop (permitted use) |
| Slide 6 | Copy and Print Shop (permitted use) |
| Slide 7 | Florist Shop (permitted use) |

Slide 8	Medical and Services Equipment Shops
Slide 9	Motels and Hotels – Height to 35 feet
Slide 10	Branch Bank – 2-Story
Exhibit 1	Planning Commission Minutes dated May 20, 2003

The Planning and Building Director explained that the buffer has been increased from 10 feet to 20 feet, with specific landscaping requirements being spelled out. That has been done as the Medical Services Zone allows for retail uses.

There being no comments in favor of or in opposition to the establishment of the Medical Services Zone, Mayor Milam closed the public hearing.

Councilmember Hardcastle commented that this zone could abut residential, and she was uncomfortable with the 35-foot height of buildings. She explained that she would rather limit the height of the buildings to 25 feet with a limit of 2 stories for the buildings.

Councilmember Groberg commented that a hospital the size of Eastern Idaho Regional Medical Center could not be built in the Medical Services Zone if the height were restricted to 25 feet or 35 feet. The Planning and Building Director stated that hospitals are allowed in the R-3A Zone. Height is unlimited in the R-3A Zone.

Councilmember Shurtleff requested to know how far from residential zones the buildings in the Medical Services Zone could be built. The Planning and Building Director stated that the distance requirement is 30 feet if the building is over 20 feet in height. Councilmember Shurtleff requested to know what would be required in the buffer area. The Planning and Building Director stated that 20 feet of landscaping would be required, then the parking lot would begin. The buffer could require a berm. The Medical Services Zone requirements follow the provisions of the tree ordinance, so that there are no conflicts between easements and trees. Evergreens have been asked for if there is no utility easement in that 20-foot buffer.

Councilmember Hardcastle requested to know how high the berm would have to be to provide privacy to the residential areas. Her definition for privacy is not being able to look into the residential yards from those buildings constructed in the Medical Services Zone.

Councilmember Shurtleff commented that with construction of a 30-foot buffer abutting a parking lot, then the building, that should be sufficient distance from the residences that privacy should not be an issue to the residential properties abutting this Medical Services Zone.

Councilmember Eldredge requested to know what the buffer requirements are in the PB (Professional Business) Zone. The Planning and Building Director stated that the buffer requirements are 10 feet of buffer with a 2-story height restriction in the PB Zone.

Councilmember Lehto requested to know whether existing zones that accommodate for uses allowed in the Medical Services Zone would be phased out of the Zoning Ordinance. The Planning and Building Director stated that no zones would be phased out.

Councilmember Hardcastle expressed her concern, again, for the height of the buildings abutting residential properties. She gave the example of the apartments built off of Woodruff Avenue that were 2-story apartments with a semi-basement, making them much higher than a regular 2-story building. There were complaints from surrounding neighbors in that area because of the height of those apartments.

Mayor Milam, also, gave the example of the Exchange Plaza on 17th Street, with a similar construction of buildings.

Councilmember Groberg stated that this zone is a good idea. Careful thought has been given to this zone.

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

JUNE 12, 2003

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 1941 OF THE CITY OF IDAHO FALLS, IDAHO, SAID ORDINANCE BEING KNOWN AS THE ZONING ORDINANCE OF THE CITY, ESTABLISHING A NEW ZONE WITHIN THE CITY KNOWN AS MS MEDICAL SERVICES ZONE; SETTING FORTH THE GENERAL OBJECTIVES AND CHARACTERISTICS OF THE ZONE; STATING PERMITTED USES WITHIN THE ZONE; ESTABLISHING SIZE REQUIREMENTS FOR LOTS; ESTABLISHING MINIMUM WIDTH REQUIREMENTS OF BUILDING SITES; SETTING FORTH SETBACKS AND SIDE AND REAR YARD RESTRICTIONS; LIMITING HEIGHT OF BUILDINGS WITHIN SUCH ZONE AND RESTRICTING LOT COVERAGE OF LOTS; REPEALING AND RE-ENACTING SECTION 5-10, CONDITIONAL USE PERMITS; PROVIDING FOR CONDITIONAL USE PERMITS FOR MOTELS/HOTELS IN SUCH ZONE; PROVIDING FOR FEES FOR CONDITIONAL USE PERMITS TO BE SET BY RESOLUTION; PROVIDING FOR THE SEVERABILITY OF THE SECTIONS AND SUBSECTIONS OF THE ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Barnes moved, and Councilmember Hardcastle seconded, that this Ordinance be passed on the first reading only with the following amendments:

1. Any third story be considered as a Conditional Use; and,
2. The location of the zone be limited to being contiguous to arterial streets as presented in the Planning and Building Director's memo.

Roll call as follows:

Aye: Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Barnes to conduct a public hearing for consideration of an Ordinance to establish a new residential zone, the Residence Estate Zone, to permit single-family homes and to permit limited agricultural use and the keeping of horses for non-commercial use. At the request of Councilmember Barnes, the City Clerk read the following memo from the Planning and Building Director:

JUNE 12, 2003

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: RESIDENCE ESTATE ZONE

Attached is a copy of the Residence Estate Zone, a proposed zone which allows the keeping of horses and llamas within the City of Idaho Falls. The Planning Commission considered this zone at two public hearings, one on March 4 and one on May 20 of 2003, and recommended approval of the zone for existing development. This Zoning Amendment is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director gave a further explanation of this zone. Following is a list of exhibits used in connection with this Residence Estates Zone:

- Slide 1 Bonneville County Zoning Map
- Slide 2 2003 and 1992 RE Zone – 1 Acre for each horse and llama
- Slide 3 RA-1 Zone in Bonneville County – Requirements
RE Zone for City of Ammon – Requirements (1 Acre Lot)
City of Rexburg Zone – Requirements (1 Acre Lot)
- Slide 4 Voting from Planning Commission – Planning Commission is recommending that the Residence Estate Zone be used only for existing development and that the minimum lot size be ½ acre and that minimum front yard be 40 feet. Staff is to determine minimum width. The barns, corrals and pens be 40 feet from any property line.
- Slide 5 Schematic drawing for ½ Acre Lot Size with Building Envelopes, also showing envelopes for barns and pens.
- Slide 6 Schematic drawings for 1 Acre Lot Size with 150-foot front lot width with depth being 290 feet in depth. There is a larger area for pens, corrals and barns.
- Exhibit 1 Planning Commission Minutes dated March 4, 2003
- Exhibit 2 Planning Commission Minutes dated May 20, 2003

The Planning and Building Director stated that if the City Council wanted the RE Zone to annex already developed areas, then the ½ Acre Lot reflects what has already been developed in the RA-1 Zone in Bonneville County. If the City Council wants to use the RE Zone for new development as well as existing development, most of the Ordinances that have been proposed in the past would recommend the 1-Acre Lot.

Councilmember Eldredge clarified that one horse would be allowed on a ½-Acre Lot. He requested to know whether the Planning Commission considered having a 1-Acre Lot Requirement. The Planning and Building Director stated that the Planning Commission looked at that requirement and determined that they would keep the requirements for the RE Zone close to Bonneville County's Ordinances. Councilmember Eldredge stated that, in his opinion, this zone should be developed for new construction and existing development. Gary Mills, a member of the Planning Commission, had a good suggestion. He stated that the City Council should keep the Ordinance as it is and wait to see if there is a demand for new

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construction. If there becomes a demand for new construction, then the Ordinance can be modified at that time to include new construction.

Councilmember Hardcastle requested to know whether there has been any demand for new construction in the RE Zone at this time. The Planning and Building Director gave an example of two individuals that would consider annexing into this type of zone.

Councilmember Shurtleff expressed his concern for allowing larger than ½-Acre Lots with regard to irrigation. If provisions are not made for irrigation during the development phase, then a dry weed bed is the result.

The City Attorney stated that he did not see any limitation in the number of animals. The Planning and Building Director stated that a limitation on the number of animals could be added to the Ordinance. It was assumed that the number of animals could be controlled by the amount of animals per acre. The City Attorney stated that the Animal Control Ordinance would have to be amended, which prohibits keeping of horses and llamas within the City limits. The Planning and Building Director stated that this issue has been addressed. The Animal Control Ordinance states that horses and llamas are not allowed in the City Limits, except in the RE Zone.

Councilmember Shurtleff requested to know whether larger acreages could be brought into the City under this Ordinance. The Planning and Building Director stated that larger acreages are allowed.

Councilmember Groberg stated that he approves of this new RE Zone. This new zone should be made available to new construction as well as to the existing development, as the general public will request a change to the existing zone.

There being no comments either in favor of or in opposition to the Residence Estate Zone, Mayor Milam closed the public hearing.

Councilmember Eldredge commented that the City Council should look at the issue of irrigation.

The Public Works Director appeared to state that municipalities have rules and regulations establishing beneficial use of water resources. Many cities require separate irrigation systems with non-culinary water.

Councilmember Shurtleff stated that the Department of Water Resources would be taking a good look at any irrigation issues. There are several people south of Idaho Falls who are violating Department of Water Resources rules and regulations. In a recent conversation, the Department of Water Resources has informed him that no one can be stopped from drilling a well within the City Limits.

Councilmember Groberg commented that there might be issues with the Sewer Ordinance regarding this Residence Estate Zone.

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 1941 OF THE CITY OF IDAHO FALLS, IDAHO, SAID ORDINANCE BEING KNOWN AS THE ZONING ORDINANCE OF THE CITY; ESTABLISHING A NEW ZONE WITHIN THE CITY KNOWN AS RE RESIDENCE ESTATE ZONE; SETTING FORTH THE GENERAL OBJECTIVES AND CHARACTERISTICS OF THE ZONE; STATING PERMITTED USES WITHIN THE ZONE; ESTABLISHING SIZE REQUIREMENTS FOR LOTS; ESTABLISHING MINIMUM WIDTH

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REQUIREMENTS OF BUILDING SITES; SETTING FORTH SETBACKS AND SIDE AND REAR YARD RESTRICTIONS; LIMITING HEIGHT OF BUILDINGS WITHIN SUCH ZONE AND RESTRICTING LOT COVERAGE OF LOTS; PROVIDING FOR THE SEVERABILITY OF THE SECTIONS AND SUBSECTIONS OF THE ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Barnes moved, and Councilmember Hardcastle seconded, that the Ordinance be passed on the first reading only. Roll call as follows:

Aye: Councilmember Barnes
Councilmember Groberg
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge

Nay: None

Motion Carried.

The Airport Director submitted the following memos:

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: CONSENT TO ASSIGNMENT OF ROBERT CLAYTON TO THOMAS PIPER

Attached for City Council approval is the Consent to Assignment of Robert Clayton to Thomas Piper. The remainder of the terms of the Hangar Agreement are to remain the same.

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

s/ Mike Humberd

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to approve the Consent to Assignment of Hangar Lease Agreement from Robert E. Clayton (R & V Aviation Partners, LLC) to Thomas C. Piper and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Barnes

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Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: CONSENT TO ASSIGNMENT OF WILCOX CONSTRUCTION TO
DOUGLAS HILBORN

Attached for City Council approval is the Consent to Assignment of Wilcox Construction to Douglas Hilborn. The remainder of the terms of the Hangar Agreement are to remain the same.

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

s/ Mike Humberd

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to approve the Consent to Assignment of Hangar Lease Agreement from Wilcox Construction to Douglas Hilborn and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Barnes
Councilmember Groberg
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: ACCEPTANCE OF FY-2003 FAA GRANT

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Attached for City Council approval is the Acceptance of FY-2003 FAA Grant for \$1,460,978.00. The Airport will provide 10% matching funds.

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

s/ Mike Humberd

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to approve the acceptance of Fiscal Year 2003 Grant Agreement and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Barnes
Councilmember Groberg
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge

Nay: None

Motion Carried.

The Fire Chief submitted the following memo:

City of Idaho Falls
June 10, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Dean Ellis, Fire Chief
SUBJECT: FIRE PROTECTION JOINT SERVICES AGREEMENT

Attached for your consideration is a copy of the Fire Protection Joint Services Agreement between the City of Idaho Falls Fire Department and the Bonneville County Fire Protection District No. 1. This agreement is for ten (10) years.

Continuation of this Agreement will benefit the City of Idaho Falls Fire Department and the Bonneville County Fire Protection District and the citizens we protect in each area.

The Fire Department respectfully requests Council approval at the June 12, 2003 City Council Meeting to continue this Agreement, and authorization for the Mayor and City Clerk to sign the document.

s/ Dean Ellis

Councilmember Groberg commented that there have been great concerns about how costs are shared between the City of Idaho Falls and the Bonneville County Fire Protection District No. 1. He stated that the first year is a reasonable and fair assessment. If the Fire Department and Commissioners can focus on an effective, low-cost, and high-service fire department, then future years division of costs can be easily addressed. He recommended

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that the City Council approve this agreement. Councilmember Groberg gave a brief history of the agreement. It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to approve the Fire Protection Joint Services Agreement between the City of Idaho Falls and the Bonneville County Fire Protection District No. 1 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Barnes
Councilmember Shurtleff

Nay: None

Motion Carried.

The Fire Chief appeared to express his appreciation for the work of the Mayor and City Council in developing this Agreement. This will be a beneficial contract, one that can be worked on and improved upon in future years.

The Idaho Falls Power Director submitted the following memos:

City of Idaho Falls
June 5, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mark Gendron, Idaho Falls Power Director
SUBJECT: CONFIRMATION AGREEMENT WITH UAMPS

Attached for your consideration is a Confirmation Agreement to purchase power from UAMPS for the period of December 2004 through March 2005.

Idaho Falls Power respectfully requests ratification of this Agreement.

s/ Mark Gendron

It was moved by Councilmember Lehto, seconded by Councilmember Shurtleff, to ratify the Confirmation Agreement to purchase power from UAMPS for the period of December 2004 through March 2005. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Shurtleff
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg
Councilmember Barnes

Nay: None

Motion Carried.

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City of Idaho Falls
June 5, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mark Gendron, Idaho Falls Power Director
SUBJECT: CONFIRMATION AGREEMENTS WITH PACIFICORP

Attached for your consideration are two Confirmation Agreements to sell power to PacifiCorp for the month of June 2003.

Idaho Falls Power respectfully requests ratification of these Agreements.

s/ Mark Gendron

It was moved by Councilmember Lehto, seconded by Councilmember Shurtleff, to ratify the two Confirmation Agreements to sell power to PacifiCorp for the month of June 2003. Roll call as follows:

Aye: Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls
June 3, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-03-21, ONE (1) NEW SKID STEER LOADER

Attached for your consideration is the tabulation for Bid IF-03-21, One (1) New 2003 Skid Steer Loader.

It is the recommendation of Municipal Services to accept the low bid of Scott Machinery Company to furnish a Bobcat Loader for a total amount of \$27,505.00. It has been determined not to purchase any options at this time.

s/ S. Craig Lords

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It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, to accept the low bid from Scott Machinery Company to furnish a Bobcat Loader as presented. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Barnes
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
June 2, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: RIVER GAZEBO OVERLOOK RENOVATION

Attached for your consideration is the bid tabulation that was opened Tuesday, May 20, 2003 for the reconstruction of the Gazebo Overlook in Pedersen/Sportman's Park. It is recommended that we award said bid in the amount of \$18,711.00 to BECO Construction Company, Inc. This project is being funded by Rotary. It is, therefore, submitted for your approval.

s/ David J. Christiansen

Councilmember Hardcastle stated that the Rotary Club has been very good to the City and expressed her appreciation for this donation. It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to accept the low bid from BECO Construction Company, Inc. to complete the River Gazebo Overlook Renovation and, further, give authorization for the Mayor and City Clerk to execute the necessary Contract Documents. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Barnes
Councilmember Groberg
Councilmember Shurtleff
Councilmember Hardcastle

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

JUNE 12, 2003

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION -
CONDITIONAL USE PERMIT, SINGLE-FAMILY ATTACHED, R-1
ZONE, BLOCK 16, BRODBECKS ADDITION

Attached is a draft of the Findings of Fact, Conclusions of Law, and Decision for the Conditional Use Permit for single-family attached homes in an R-1 Zone on Lots 4 through 11 and Lots 32 through 41, Block 16, Brodbecks Addition. This document has been reviewed by the City Attorney, and this Division respectfully requests adoption of these findings.

s/ Renée R. Magee

It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to adopt the Findings of Fact, Conclusions of Law and Decision for the Conditional Use Permit for Single-Family Attached Homes located in the R-1 Zone in Lots 4 through 11 and Lots 32 through 41, Block 16, Brodbecks Addition and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Barnes
Councilmember Shurtleff

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION -
FIRST AMENDED PLAT OF BRODBECKS ADDITION

Attached is the draft of the Findings of Fact, Conclusions of Law, and Decision for the Final Plat entitled First Amended Plat of Brodbecks Addition. This document has been reviewed by the City Attorney, and this Division respectfully requests adoption of these findings.

s/ Renée R. Magee

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It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to approve the Findings of Fact, Conclusions of Law and Decision for the Final Plat entitled First Amended Plat of Brodbeck's Addition and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Shurtleff
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg
Councilmember Barnes

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT – INTERMOUNTAIN BUSINESS
AND TECHNOLOGY PARK, DIVISION NO. 4

Attached is the Development Agreement for Intermountain Business and Technology Park, Division No. 4. This Agreement has been reviewed by the City Attorney. The Division respectfully requests approval of this Agreement.

s/ Renée R. Magee

It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to approve the Development Agreement for Intermountain Business and Technology Park, Division No. 4 and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

The Police Chief submitted the following memos:

JUNE 12, 2003

City of Idaho Falls
June 10, 2003

MEMORANDUM

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

I respectfully request the attached Ordinance amending certain definitions within the Idaho Falls City Code relating to beer and wine in Sections 4-3-1, 4-3-16 D and E, 4-4-11 D and E be heard at the City Council Meeting of Thursday, June 12, 2003.

Thank you for your consideration.

s/ J. K. Livsey

Councilmember Groberg explained, further, that this Ordinance brings the Idaho Falls City Code into compliance with the State Laws for the alcohol content for beer and wine. At the request of Councilmember Groberg, the City Attorney read the following Ordinance by title:

ORDINANCE NO. 2492

AN ORDINANCE AMENDING CERTAIN DEFINITIONS WITHIN THE IDAHO FALLS CITY CODE RELATING TO BEER AND WINE; AMENDING THE DEFINITION OF "BEER" IN SECTION 4-3-1; AMENDING THE DEFINITION OF "WINE" IN SECTION 4-4-1; AMENDING SECTIONS 4-3-16 (D) AND (E), AND 4-4-11 (D) AND (E); PROVIDING FOR SEVERABILITY; PRESERVING PRIOR ORDINANCE; ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Groberg moved, and Councilmember Lehto 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 Barnes
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

JUNE 12, 2003

City of Idaho Falls
June 10, 2003

MEMORANDUM

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

Councilmember Groberg has requested the Mayor and Council approve rescinding the Ordinance that allows bus stop benches or shelters on public property.

Thank you for your consideration.

s/ J. K. Livsey

Councilmember Groberg stated that for nearly one year, he has been looking at ways to accommodate the ridership of public transportation with bus stop benches. Most of the bus companies do not have an interest in having a bus stop bench system. He proposed to rescind the existing ordinance at the end of calendar year 2003. During the remaining time in this year, TRPTA could investigate how they would like to have the bus stop benches handled. He sensed that there might be an ordinance that would be desirable for use of the City right-of-way for that purpose. The present ordinance does not accomplish that purpose.

Councilmember Shurtleff requested to know whether TRPTA attempted to run their own bus stop benches at one time. Councilmember Groberg stated that there had been talk about such a system, with no action being taken. Shelters were considered.

Mayor Milam stated that TRPTA has requested signage only, indicating where the bus stops are. No decision has been made, nor funding identified, for shelters. As CART has not been providing established route service, TRPTA has been in the process of amending their routes to provide services requested around the City. The Police Chief was requested to get information from CART, INEEL, and TRPTA, regarding each route service through town. INEEL expressed no interest in the bus benches. CART is no longer providing route service. TRPTA is amending their services. In a new Ordinance, it would be desirable for the bus companies to become responsible for designating bus stops.

Councilmember Groberg stated that a new Ordinance should have some requirement for the bus companies to designate particular bus stops. He commented, also, that the Planning and Building Division could be involved to review bus stops to be sure that they are legitimate and current.

Councilmember Shurtleff requested to know what the driving force was to rescind the current bus stop bench ordinance. He requested to leave the current ordinance in place until a study has been conducted relative to bus stops.

Councilmember Groberg stated that much study has been made. The bus companies are not sure whether they want bus benches at all. The existing use of City right-of-way, with regard to bus benches, does not accomplish what public transportation requires. His purpose in rescinding the current ordinance as of the end of 2003, is so that all companies will know that the existing ordinance will not continue past this year.

Lee Gagner, 2555 West Fieldstream Lane, appeared to express his appreciation for being asked to respond to this proposal to rescind the bus bench ordinance. He stated that he has run the bus bench company for fifteen years and he is in attendance with his partner Ken Hopkin. He requested to know what the problems were with the bus bench ordinance as it is. He received a letter last November from the City, stating that the site no longer needed the bus stop benches. Mr. Gagner visited with Steve Winn, who reports to Bill

JUNE 12, 2003

Shipp, Manager of the site buses. Mr. Shipp had informed Mr. Winn that he has not made a statement of that type to anyone. Mr. Shipp has visited with the Police Chief and with news media about locations for the bus stop benches, but has not responded in a negative manner regarding the bus stop benches. Mr. Gagner has not been able to determine, from the site bus department, as to where they have bus stops due to security issues. He has done what he can to try to identify sites where site buses stop to pick up passengers. If this issue has been studied in the past year, it is ironic that he has not been invited to attend any of those meetings to address any issues had with the bus stop benches. Mr. Gagner stated that approximately one year ago, TRPTA contacted him requesting 6 free benches. TRPTA indicated that they wanted the benches to be able to sell the advertising that would be placed on them. Mr. Gagner stated that they offered TRPTA as many benches as they had locations. TRPTA decided that they did not want to become involved in that process. The news media told Mr. Gagner that a concern had been expressed that the bus stop benches were blocking streets. This has been discussed three times in the last fifteen years. The benches were designed specifically so they would not stick out more than two feet into the sidewalk. That would allow plenty of room for those in wheel chairs to pass without obstruction. He made no apology for the fact that this business is a "for profit" venture. The result of rescinding this Ordinance would be to effectively shut his business down. All advertisers are local, all people who build benches are local, all people who paint the benches are local, and all people who maintain the benches are local. In the past fifteen years, Mr. Gagner's business has paid the City of Idaho Falls approximately \$6,000.00. This business has brought in approximately \$525,000.00 to the local economy. Two jobs would be eliminated if this Ordinance were to be rescinded. There is another alternative to determining the locations of benches, and that would be to get up at 5:00 a.m. and drive the routes themselves to determine where the buses make their stops. He invited a Councilmember to ride with him at that time to verify the location of the bus stop benches. Mr. Gagner stated that the Ordinance that is in place at this time is very specific on a number of issues. The Police Chief indicated to Mr. Gagner that it was taking too much time for his officers to verify the location of bus benches and whether the benches were needed at a particular location. Mr. Gagner stated that he would not be opposed to an increase of fees. He would like to have a Work Session with the City Council to address any concerns regarding the current bus bench ordinance. Mr. Gagner submitted the following petition:

**PETITION TO RETAIN IDAHO FALLS
BUS BENCH ORDINANCE**

We, the undersigned, believe that the Idaho Falls Bus Bench advertising has been instrumental in the success of our local businesses. We would respectfully request the City Council do not rescind the current Bus Bench Ordinance.

1. s/ David Rhoades, Bennett's, 340 North Eastern Avenue, Idaho Falls
2. s/ William D. Bott, 100 Maple Street, Idaho Falls, Idaho
3. s/ Clay Jensen, Wood Funeral Home
4. s/ Spencer Barnard, 2335 East Oakmont, Idaho Falls, Idaho
5. s/ D. J. Skinner, 3832 Summer Circle, Idaho Falls, Idaho
6. s/ Shawna Fellows, 191 East 21st Street, Idaho Falls, Idaho
7. s/ Deborah Hall, 1855 East Camrose, Idaho Falls, Idaho
8. s/ Nancy Archibald, 635 Tyson Avenue, Idaho Falls, Idaho
9. s/ Nancy Thorsen, 334 Westmoreland Drive, Idaho Falls, Idaho
10. s/ Bebe Hitz, 2212 Belmont Avenue, Idaho Falls, Idaho
11. s/ Garth Jones, 8008 South 87 West, Idaho Falls, Idaho

12. s/ Linda Owens, 3057 Greentree Lane, Idaho Falls, Idaho
13. s/ George Tate, 661 East 97th South, Idaho Falls, Idaho
14. s/ Sheldon Dance, 5161 Long Cove Drive, Idaho Falls, Idaho
15. s/ Jill Andrus, 6805 Marble Circle, Idaho Falls, Idaho
16. s/ Sue Shadley, 2837 Tipperary Lane, Idaho Falls, Idaho
17. s/ JoAn Long, 3446 Cobblestone Lane, Idaho Falls, Idaho
18. s/ Greg Vinolla, 430 Ladino Drive, Idaho Falls, Idaho
19. s/ Kevin Murray, 225 Amy Lane, Idaho Falls, Idaho
20. s/ Daren Long, 5135 East 57th South, Idaho Falls, Idaho
21. s/ Brett Magleby, 5360 Lindee Lane, Idaho Falls, Idaho
22. s/ Mike Hicks, 9471 East 8th West, Idaho Falls, Idaho

Councilmember Hardcastle requested to know whether the bus stop benches placed for non-profit organizations were in the public right-of-way. Mr. Gagner stated that some benches are on public right-of-way and some are not.

Councilmember Barnes stated that the sad part about this is that it affects Mr. Gagner who has been a strong supporter for economic development in the City and a good supporter of the City. Councilmember Barnes requested to know whether Mr. Gagner has inquired of the bus companies about their bus stops. Mr. Gagner stated that for the first 8-10 years, he was religious about verifying the location of bus stops. Over the past several years, that has not been done as regularly.

A general discussion was held between Mr. Gagner and the City Council regarding the location and use of bus benches around the City. It was determined that an evaluation needed to be conducted regarding the location of bus benches and whether they were being used in that location.

Councilmember Lehto stated, that from his perspective, there was not a need for the bus stop benches. The Council Committee sent a letter to the providers of transportation, and received a cold response regarding the bus stop benches. TRPTA was the only company that indicated that at some point in time they might identify locations where a stop would be made. The Council Committee came to the conclusion that a kiosk might be the answer, instead of bus benches. He stated that Mr. Gagner has not been present at any of the Council Committee Meetings conducted with this issue on the Agenda.

Mr. Gagner stated that the first time he has heard that this issue was being considered, was for this meeting. He received a faxed letter on June 10. He requested to know why he was not invited to any of the other meetings and studies that were held in the past regarding the bus bench ordinance.

Councilmember Groberg apologized to Mr. Gagner for not having received the letter earlier. He thought that Mr. Gagner should have had 2 weeks notice. He understood that Mr. Gagner has a very big interest in this issue and should have been involved. Councilmember Groberg stated that he has received calls from people who have not seen any public benefit to the use of bus benches. They have been disturbed by the fact that their sidewalks have been blocked by the bus benches. If there were a significant public benefit, then the public right-of-way could be encumbered. He has not seen that benefit. For that reason, Councilmember Groberg requested to have the Bus Bench Ordinance rescinded effective the end of the 2003 Calendar Year with the idea that the current license would expire with plenty of time to consider other options and fashion another ordinance that meets the public benefit criteria.

Councilmember Lehto stated that he would not be opposed to tabling this proposal until such time that Mr. Gagner could meet with the Council Committee for further discussion.

It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to table the proposed Ordinance for a period of time to give the Public Safety Committee an opportunity to have it on their Agenda for public discussion. Roll call as follows:

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Aye: Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – BLOCK 10, LOT 12, MILL RUN
ADDITION, DIVISION NO. 7

The owner of Lot 12, Block 10, Mill Run Addition, Division No. 7, has requested vacation of an unused utility easement located along the side of the referenced lot. 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 Barnes, to give authorization for the City Attorney to prepare the documents necessary to vacate a utility easement located in Lot 12, Block 10, Mill Run Addition, Division No. 7. Roll call as follows:

Aye: Councilmember Barnes
Councilmember Groberg
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: ARCHITECTURAL SERVICES – SEWER ADMINISTRATION
BUILDING

JUNE 12, 2003

Public Works recently advertised to receive proposals with respect to securing architectural services for construction of a Sewer Administration Building. Those proposals have been received and evaluated by the Architectural Evaluation Committee.

The Committee recommends approval of the firm of Alderson, Karst and Mitro; and, authorization for Public Works to negotiate an agreement and fee for providing these services.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Barnes, to approve the firm of Alderson, Karst and Mitro to provide architectural services for the construction of a Sewer Administration Building and, further, give authorization for Public Works Division to negotiate an Agreement and fee for providing these services. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Barnes
Councilmember Shurtleff

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: ENGINEERING SERVICES AGREEMENT - HITT ROAD, 17TH STREET TO 25TH STREET

Attached is a proposed Engineering Services Agreement between the City and Six Mile Engineering to provide traffic evaluation and design work on Hitt Road between 17th Street and 25th Street. The estimated cost of this work is \$56,720.00.

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

s/ Chad Stanger

Councilmember Shurtleff gave a brief explanation of this Agreement. He stated that this Agreement sets the project into three phases. The first phase is to verify the concept that was discussed in a City Council Work Session. Six Mile Engineering will respond with an analysis as to whether that concept will work or will not work. The second phase is signal design, and the third phase is a roadway design and project management should the concept be built.

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The Public Works Director appeared to state that a significant portion of the concept study was the existing overload of 17th Street Intersection and what the impact of the concept will be on that intersection.

It was moved by Councilmember Shurtleff, seconded by Councilmember Barnes, to approve the Engineering Services Agreement with Six Mile Engineering to provide traffic evaluation and design work on Hitt Road between 17th Street and 25th Street and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Barnes
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls
June 9, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: STATE/LOCAL AGREEMENT – MAPLE STREET RAILROAD CROSSING

Attached is a proposed State/Local Agreement between the City and Idaho Transportation Department for construction of improvements at the Maple Street Railroad Crossing. The estimated cost of the project is \$25,000.00, of which 90% is reimbursable by the Federal Highway Administration.

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

s/ Chad Stanger

RESOLUTION NO. 2003-4A

WHEREAS, the Idaho Transportation Department, hereafter called the STATE, has submitted an Agreement stating obligations of the STATE and the CITY OF IDAHO FALLS, hereafter called the CITY, for construction of Maple Street Railroad Crossing; and,

WHEREAS, the STATE is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-Aid Highway System when there is federal participation in the costs; and,

JUNE 12, 2003

WHEREAS, certain functions to be performed by the STATE involve the expenditure of funds as set forth in the Agreement; and,

WHEREAS, the STATE can only pay for work associated with the State Highway System; and,

WHEREAS, the CITY is fully responsible for its share of project costs; and,

NOW, THEREFORE, BE IT RESOLVED:

1. That the Agreement for Federal Aid Highway Project STP-6500(108) is hereby approved.

2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the CITY.

3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed at a regular meeting of the City Council, City of Idaho Falls, held on June 12, 2003.

s/ Rosemarie Anderson
City Clerk

(SEAL)

It was moved by Councilmember Shurtleff, seconded by Councilmember Barnes, to approve the State/Local Agreement with the Idaho Transportation Department for the Maple Street Railroad Crossing 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 Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Eldredge, seconded by Councilmember Lehto, that the meeting adjourn at 9:30 p.m.

CITY CLERK

MAYOR
