

FEBRUARY 27, 2003

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, February 27, 2003, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Milam requested Boy Scout Derek Manwaring to come forward and lead those present in the Pledge of Allegiance.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes for the February 13, 2003 Regular Council Meeting.

The City Clerk presented several license applications, including BARTENDER PERMITS to Shirley M. DeLaGarza, Dina L. Elverud, Lorna M. Harrison, Chris M. Korbis, and Kasey A. Sievers, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on February 27, 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 associated with the adoption of the 2000

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International Fire Code. At the request of Councilmember Groberg, the City Clerk read the following memo from the Fire Chief:

City of Idaho Falls
January 30, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Dean Ellis, Fire Chief
SUBJECT: PROPOSED NEW FEES ASSOCIATED WITH THE 2000
INTERNATIONAL FIRE CODE

The Fire Department respectfully requests the Mayor and Council to approve the new fee schedule associated with the adoption of the 2000 International Fire Code. The proposed new fees were advertised February 9, 2003 and February 16, 2003.

The public hearing is scheduled for 7:30 p.m., Thursday, February 27, 2003 in the Council Chambers in the Electric Building at 140 South Capital Avenue in Idaho Falls, Idaho.

s/ Dean Ellis

Councilmember Groberg requested those present who wished to speak in favor of or in opposition to this issue to come forward at this time. There being no one to speak in favor of or in opposition to these new fees and fee increases associated with the adoption of the 2000 International Fire Code, Mayor Milam closed the public hearing.

It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to approve the new fee schedule associated with the adoption of the 2000 International Fire Code as presented. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Barnes to conduct a public hearing for consideration of new fees associated with providing Internet and computer services at the Idaho Falls Public Library to non-library cardholders. At the request of Councilmember Barnes, the City Clerk read the following memo from the Library Director:

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City of Idaho Falls
February 24, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Nancy Donahoo, Library Director
SUBJECT: HEARING ON AND APPROVAL OF FEE FOR NON-LIBRARY CARD
HOLDERS

Attached you will find a copy of the public notice which has been printed in the Idaho Falls Post Register as required by law setting Thursday evening, February 27, 2003 as the date for hearings on the matter of establishing a non-library cardholder fee for computer use at the Idaho Falls Public Library. Library policy requires ownership of a current library card in 'good standing' for individuals to use the Internet and other computer services, whether at home or in the Library. No provision is provided to allow non-library cardholders to use computer services. Setting the nominal fee of \$2.00 per 30 minutes of computer use allows non-residents, particularly those traveling from out-of-state, to access computer resources and allows the Library to recoup associated costs.

I am hereby requesting approval from the Mayor and City Council to allow the new non-library cardholder computer fee to go into effect on March 15, 2003.

s/ Nancy Donahoo

Councilmember Barnes requested Rena Ferguson, Assistant Library Director, to come forward and further explain the new fee. The Assistant Library Director appeared to state that if you have a City Library Card, there is access to the Internet. Due to the fact that the Library receives many out-of-town visitors who wish to check their e-mails, this fee has been requested to recoup those associated costs. Councilmember Groberg requested to know how the time is measured. The Assistant Library Director stated that the computers are equipped with a timer feature. Councilmember Shurtleff requested to know whether it was the private sector that charged higher fees for this same type of service. The Assistant Library Director stated that was correct. Councilmember Shurtleff requested to know how the fee amount was determined. Mayor Milam stated that the Gates Foundation provides computers across the country for libraries. One of the criteria for receiving those computers was to make them available at little or no cost. The fee was determined to recoup the actual costs associated with the service.

Councilmember Barnes requested those present who wished to speak in favor of or in opposition to this new fee to come forward at this time. There being no one to appear either in favor of or in opposition to this new fee, Mayor Milam closed the public hearing. It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to approve the new fee associated with providing Internet and computer services at the Idaho Falls Public Library to non-library cardholders. Roll call as follows:

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

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Nay: None

Motion Carried.

It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to recess the public hearing for consideration of an appeal from a decision of the Board of Adjustment for a variance to encroach 13 feet into the required 25 foot rear yard for the purpose of constructing single-family homes on property located generally on the north side of Summer Way, and the south side of Shady Pines Drive, legally described as Lots 1, 2, 3, and 4, Block 4 and Lots 12, 13, and 14, Block 2, St. Clair Estates Addition, Division No. 3, to the March 13, 2003 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Barnes, seconded by Councilmember Hardcastle, to recess the public hearing for consideration of a request for a Conditional Use Permit to locate a modular classroom from Taylorview Junior High School to Eagle Rock Junior High School, located generally at 2020 Pancheri Drive, legally described as Lot 16, Block 7, Skyline Terrace Addition, Division No. 6, to the March 13, 2003 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam turned the time over to Councilmember Shurtleff. Councilmember Shurtleff explained that he wanted to propose that the City Attorney prepare an Ordinance establishing the need to conduct run-off elections. Public comment will not be taken at this time, as this request is simply to prepare the documents. Public comment will be taken when the Ordinance is prepared and presented to City Council for consideration.

It was moved by Councilmember Shurtleff, to instruct the City Attorney to prepare an Ordinance in accordance with Idaho Law with regards to establishing a run-off election for the office of Mayor, when no candidate receives 50% + 1 vote in the November election.

Councilmember Groberg expressed a concern as to how the Ordinance would be written, especially with regard to when the run-off election would be conducted following the General Municipal Election.

Councilmember Shurtleff stated that if this motion passes, he would follow-up with another motion to include the Councilmember Seats in the run-off election process also. Councilmember Groberg stated that he has discussed this issue with the Bonneville County Election Office and there are certain timetables that they have to meet. The first week in December would be as soon as a run-off election could take place. That is the way that other cities have conducted their run-off elections.

Councilmember Groberg stated that he would want any run-off election to be conducted as quickly as possible following the General Municipal Election. The campaign has already taken place and people are familiar with the issues.

The City Attorney clarified that State Law does require that a run-off election be conducted within 30 days of the General Municipal Election.

Councilmember Lehto seconded Councilmember Shurtleff's motion to instruct the City Attorney to prepare an Ordinance in accordance with Idaho Law with regards to establishing a run-off election for the office of Mayor when no candidate receives 50% + 1 vote in the November election.

Councilmember Eldredge stated that this should be the first of a two-part process that would include both Mayor and the City Council for run-off elections. He has researched past elections. He has gone back 12 years because that covers the period of time that the City has conducted elections by Council Seats.

Mayor Milam clarified that prior to 1991, three Council seats were available on alternating elections. Anyone interested in running for Council would submit information for that race and the top three vote getters would be the new Councilmembers.

Councilmember Eldredge stated that in the last 12 years, there were 6 elections. Under the proposal for a run-off election, two run-off elections would have been conducted for Mayor (1993 and 2002) and four run-off elections for Councilmembers (1993, 1997, 1999, and 2001). In the elections that were held, the margin between the top two vote getters was fairly large. Only in two cases was there a race between the top two vote getters that was decided by less than 10 percentage points, and in no case were they decided by less than 5 percentage points. The closest race held in the last 12 years was in 1993 for Mayor where there were 5.9 percentage points between the top two vote getters. Under the current proposal, run-off elections would have been conducted in 1993, 1997, 1999, and 2001 at the cost of approximately \$100,000.00. Elections cost approximately \$25,000.00. Councilmember Eldredge made the comparison that the City Council could have approved the purchase of 5 police vehicles (as shown later in the meeting) for the total cost of any run-off elections that would have had to take place under the current motion. Generally speaking, if there is more than 10 percentage points between the top two candidates, that is a conclusive race. Even in a run-off election, that kind of a race would not result in any change. Only one time in the last 12 years, would a run-off election have had any chance of making a difference in the outcome. It behooves the City Council to be careful with the taxpayers money and not to spend it unwisely on something that is not going to make a difference. In a run-off election, if there is not a change in the top vote getters, it would be a waste of money. Councilmember Eldredge stated that there may be times when there is a need for a run-off election. In his opinion, that would be when there is a very small margin between the top two vote getters. A run-off election would be useful if the spread in the vote was 5 to 10 percentage points between the top two vote getters. However, State Law does not allow for this criteria at this time. Councilmember Eldredge offered as a substitute motion that the City Attorney be instructed to prepare draft legislation to be submitted to the State Legislature that would enable cities to have more flexibility in the run-off procedures, that would allow the City to set a spread or gap between the top 2 vote getters of 5 or 10 percentage points. With that situation, a run-off election could be held. It appeared to him that if there is a gap of 20 to 30 percentage points between the top 2 vote getters, a run-off election does not make sense.

Councilmember Shurtleff stated that he would not agree to the substitute motion made by Councilmember Eldredge. He would not have a problem with the City going to the State Legislature with this in the future, but that could not be accomplished this year. If the Ordinance that he is proposing is passed by City Council, it would be in effect this year. Then if draft legislation is submitted to the State Legislature, the Ordinance could be amended to comply with the legislation.

Councilmember Eldredge stated that the Ordinance as proposed by Councilmember Shurtleff is for Mayor. There is not a Mayoral race for two years. He submitted that within two years, the City would have the time necessary to go forward to the Legislature to change the existing legislation. A good case could be made to the State Legislature, especially if other cities were on board with the City of Idaho Falls through the Association of Idaho Cities.

Councilmember Shurtleff stated that he understood that the Mayoral race was not for another two years, but if his motion to have the City Attorney prepare an Ordinance for run-off elections was successful, he would follow-up with a motion for run-off elections to take place for Councilmembers. That race would be this year.

Councilmember Lehto stated that he agreed with many of the points made by Councilmember Eldredge. These issues were discussed in a Council Work Session, but could not reach a consensus. This vote might allow for a clear definition whether an Ordinance should be prepared, with public input being taken at that time. The reason he is supportive of a run-off election process is because in the last 30-35 years, there have only been 3 Mayors. This community seems to keep the Mayor that it elects. The chief executive of the community, the one that is fully paid and staffed to appoint all committees and all Division Directors, ought to go through this process.

Councilmember Barnes stated that the basis of a run-off election is 50% + 1 vote, which seems like the American way. In Idaho, this is the state statute. There are 203 cities in the State of Idaho, with only 6 conducting run-off elections. The reason there are so few conducting run-off elections is because of the additional cost involved. The run-off election results generally do not change from the General Municipal Election. Typically, voter apathy is an issue for run-off elections. Some cities have experienced as low as 5% turnout for a run-off election. Councilmember Barnes stated that he agreed with Councilmember Shurtleff's suggestion in the Council Work Session to have a run-off election when the vote spread between the top 2 vote getters was less than 10%. This would require a change in the State Statute and would be worth pursuing.

Councilmember Shurtleff stated that other cities have run-off elections for the Mayoral seat, with a smaller percentage of cities having run-off elections for Council seats. In General Elections, there is a Primary Run-off. That allows for the voters to have two chances to vote for their candidate. This does not happen in the General Municipal Election process. When a candidate runs in a race that has a great number of candidates, it is extremely difficult to get your message out. That makes it extremely important to have the run-off process. Councilmember Shurtleff agreed that it costs the City \$25,000.00 to run an election. That is a very cheap price to pay for what we consider in this country a sacred right, and that is the right to vote. He believed that this is money that the public is willing to pay. He stated that he shared an editorial from the Idaho Statesman newspaper in Boise, Idaho, with the Councilmembers. The Idaho Statesman is encouraging the City of Boise to have a run-off election because they believe it to be extremely important. The City of Idaho Falls, in the future, will have hotly contested races. This is the American way, allowing two candidates to run head-to-head, fighting for the ballot. Sometimes the turnout will be less, but sometimes it will be more. If there are more candidates in the race, then there is a greater turnout. Councilmember Shurtleff presented the following small poll from Brett Manwaring, which was not scientifically conducted:

SURVEY TOTALS – CITY OF IDAHO FALLS – RUN-OFF ELECTIONS

125 Completed Responses Completed February 26, 2003

Question #1

Are you a resident of the City of Idaho Falls?

All respondents were city residents.

Question #2

City of Idaho Falls elects only Mayor and City Councilmembers. There is no primary. If more than two people run (there has been as many as seven) in a given race, the general result is the winner receives less than 50% of the vote. Are you in favor of a run-off between the top two candidates?

YES 97 (77%) NO 23 (18%) NO OPINION 5 (4%)

Question #3

Should a run-off be for both council seats and Mayor's Office?

YES 68 (54%) NO 54 (43%) NO OPINION 3 (2%)

Question #4

Wouldn't a run-off requiring the winner to receive 50% plus one vote be a more fair outcome?

YES 100 (80%) NO 16 (13%) NO OPINION 9 (7%)

Councilmember Hardcastle stated that there has been minimal publicity on this issue. She has had one person contact her with an interest in conducting run-off elections. She expressed her concern over singling out Municipal Governments. School Boards do not conduct run-off elections. In the final election conducted for State Legislature, there was an Independent running. The ballot was not held for just two candidates.

Councilmember Eldredge stated that Councilmember Shurtleff has alluded to the fact that there are Primary Elections for State and other races. The fact is that Primary Elections are not a pre-requisite for running. In the past year, there was an Independent that did not appear on the Primary Ballot that did appear on the November General Election. The fact that there is a Primary Election has nothing to do with who is on the final ballot for the General Election.

Councilmember Groberg stated that it is not a correct representation to state that conducting run-off elections is the standard way. He stated that he was involved in one other vote that changed the election process, that being when the Council was assigned designated seats as opposed to running at large. He felt very awkward making a decision to change the voting process then and feels awkward now. He stated that he is influenced by what the public wants to do. As far as he is concerned, whatever the public wants to do, he will do it. He does not have a problem with having an Ordinance written, holding a public hearing on that Ordinance, and listening to the public speak to the issue.

There being no further comments, Mayor Milam called for the roll. Roll call as follows:

Aye: Councilmember Shurtleff
 Councilmember Lehto
 Councilmember Groberg

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Nay: Councilmember Hardcastle
Councilmember Eldredge
Councilmember Barnes

Motion Tied.

Mayor Milam stated that in the United States Congress, occasionally a Congressman or a Senator would introduce a bill called "personal privilege". It generally does not matter to anyone. It is something that needs to be done for someone who needs something. They introduce the bill and everyone is courteous about it. Mayor Milam stated that this State Statute strikes her as being one of "personal privilege". If there were really an interest in having run-off elections, why would they pass a bill that only spoke to cities. This statute did not speak to counties, school boards, fire districts, or State legislature. This past fall, there was a legislative race in this district, in which a legislator was elected by a plurality. It is very strange that the State Legislature would impose a rule only on cities. And they did not even impose a rule, they imposed an option. Mayor Milam stated that she does not have a personal interest in and will not be subject to the result of this issue. In the Mayor's office, they receive a lot of telephone calls. They have received no telephone calls on the run-off election issue. When there is an issue that people really care about, the Mayor's Office hears about it. At the Work Session, it was made very clear that any Councilmember who voted against the idea of a run-off, would have that made a major issue during the coming campaign. This sounded like a threat to her. If that happened, there would be a referendum started to put this issue on the ballot. She did not view that as a threat. There are 227 years of history in this Country. There are over 100 years of history in this City. The City has managed pretty well during all those years, under a system that is in effect throughout the Country. Mayor Milam stated that her vote is "No". Motion Denied. Mayor Milam then stated that if there is to be a referendum, let the people decide. If a change needs to be made to the electoral system that has been in place for over 100 years, perhaps it ought to be decided by the people.

It was moved by Councilmember Eldredge, seconded by Councilmember Barnes, that the City Attorney be instructed to prepare draft legislation to be submitted to the State Legislature that would enable cities to have more flexibility in the run-off procedures, that would allow the City to set a spread or gap between the top 2 vote getters of 5 or 10 percentage points. Roll call as follows:

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

Nay: None

Motion Carried.

Councilmember Groberg requested to know whether Councilmember Shurtleff wanted to proceed with the motion to include Councilmembers in the run-off election process. Councilmember Shurtleff stated that he would not proceed with that motion. Councilmember Groberg stated that the City Council made a decision in the past to designate seats to the Councilmembers. He has not seen any advantages to that approach. If the City Council is going to look into a change in the election process, he would like to see the City Council races taken back to the "at-large" approach.

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The City Attorney stated that there are two statutes to be dealt with, one relating to Mayor and one relating to City Councilmembers. He asked Councilmember Eldredge whether it was his intent to address both statutes. Councilmember Eldredge stated that was his intent.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
February 21, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-03-11, FOUR (4) NEW 2003 POLICE VEHICLES

Attached for your consideration is the tabulation for Bid IF-03-11, Four (4) New 2003 Police Vehicles.

It is the recommendation of Municipal Services to accept the bid for Smith Chevrolet to furnish 2003 Chevrolet Impala Sedans. Three (3) sedans would become Detective units for an amount of \$19,162.00 each with options and one (1) will become a Patrol sedan for an amount of \$19,627.00 with options. We will trade-in two (2) units for an amount of \$2,000.00.

Total purchase price for all vehicles required is \$75,113.00 with trade-ins.

s/ S. Craig Lords

It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, to accept the bid from Smith Chevrolet to furnish Four (4) New 2003 Police Vehicles as outlined. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
February 21, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-03-15, THREE (3) NEW REAR HAND LOAD REFUSE BODIES MOUNTED ON A NEW CAB AND CHASSIS

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Attached for your consideration is the tabulation for Bid IF-03-15, Three (3) New Rear Hand Load Refuse Bodies – 20 cubic yard mounted on a New Cab and Chassis.

It is the recommendation of Municipal Services to accept the low bid meeting specifications of Lake City International Trucks to furnish three (3) new 2003 Leach Rear Hand Load Refuse Bodies mounted on a new 2004 Cab and Chassis for an amount of \$259,023.00 with three (3) trade-ins and LED Light Options.

s/ S. Craig Lords

It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, to accept the low bid meeting specifications from Lake City International Trucks to furnish Three (3) Rear Hand Load Refuse Bodies Mounted on a New Cab and Chassis as presented. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
February 21, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PURCHASE TRAFFIC LINE STRIPING PAINT

The State of Idaho awarded Contract ITB01592 for Traffic Line Striping Paint to Pervo Paint Company for the period February, 2003 through February, 2005.

Municipal Services respectfully requests authorization to purchase the City's requirements for the aforementioned product per said contract.

s/ S. Craig Lords

It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, to approve the purchase of Traffic Line Striping Paint from Pervo Paint Company per Contract ITB01592 as presented. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Eldredge
Councilmember Hardcastle
Councilmember Groberg

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Councilmember Barnes
Councilmember Shurtleff

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
February 20, 2003

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: NOISE PARK TENANT LEASE AGREEMENT

Attached for your consideration is a Lease Agreement between the City of Idaho Falls and Adam Ackerman. The Agreement is for the purpose of the tenant to reside at Noise Park and outlines the duties and requirements for such residence. The contract period is for one year with automatic one-year renewals unless cancelled with thirty days written notice. There have been no changes from the previous Agreement with the exception of the term of the lease.

The City Attorney has reviewed this Agreement. It is, therefore, submitted for your approval.

s/ David J. Christiansen

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to approve the Lease Agreement with Adam Ackerman for the purpose of the tenant to reside at Noise Park 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.

The Police Chief submitted the following memo:

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City of Idaho Falls
February 21, 2003

MEMORANDUM

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

I respectfully request that the attached proposed Ordinance repealing and re-enacting Sections 4-2-26, 4-3-16, 4-3-17, 4-4-11 and 4-4-12 of the City Code of Idaho Falls regarding prohibiting possession of open containers be heard at the City Council Meeting of Thursday, February 27, 2003.

Thank you for your consideration.

s/ J. K. Livsey

Councilmember Groberg stated that he appreciated Chief Livsey, Councilmember Lehto, and the citizens who responded to the Mayor's invitation to participate. He introduced the following individuals who participated in the Ordinance development as follows: Rocky Deschamps, Mike Kuhns, John Stevens, Gary Christensen, and Cindy Keller. This Ordinance has been developed over the last six months. Approximately five years ago, an Ordinance was enacted prohibiting open containers in public places between 10:00 p.m. and 10:00 a.m. The proposed Ordinance has extended those hours to around the clock. At the same time, it creates several important exceptions to that general prohibition. Some of the exceptions would extend where liquor, beer and wine could be available from the previous Ordinance. These exceptions allow the continuance of popular community activities that have been held in the downtown area, along with clarifying and expanding other aspects to view the consumption of alcohol in private parking lots and particularly the Park and B redeveloped park as a venue for the activities in which open containers would be permitted. This Ordinance extends the reporting time from the existing Ordinance to 90 days and provides that the organization could get multiple permits with a single request and a single fee. This Ordinance does not provide for serving alcohol in a sidewalk café venue. The reason for that is there are so many issues involved in using our sidewalks. It is not the intention of the City Council to slam the door on that consideration, but to invite those that are interested in that type of exception to consider the issues and ask the Chief of Police and City Attorney to draft some of the issues so they could be made available to City Council for consideration, along with solutions to those issues. Some of the issues are: 1) defining the premises; 2) distinguishing between bars and restaurants; 3) distinguishing between beer, wine, and liquor; 4) dealing with the sidewalks, which are narrow; 5) charitable purpose; and, 6) distinction between permanent restaurants versus someone who drives up and wants to park his trailer there. Councilmember Groberg stated that in the process of proposing this Ordinance, the City Council looked at many Ordinances from other communities in order to make it specific to City of Idaho Falls' needs. Most cities the size of Idaho Falls have such ordinances in place.

Rocky Deschamps, Past President of Idaho Falls Civitan Club, 690 North 1100 East, Shelley, Idaho, appeared to state that the opportunity to work with Mayor Milam, Councilmember Groberg, Councilmember Lehto, City Attorney Dale Storer, and Police Chief Livsey has been great. They have put in long hours in the development of this Ordinance. He stated, further, that he believed that this Ordinance is a workable solution. No one wants to have open containers in the downtown area, but this would still allow service clubs (such

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as Civitan Club) to conduct events to raise funds. This Ordinance addresses that. It works to have public input and a forum to express issues that are meaningful.

Councilmember Barnes commented that he had a discussion with the City Attorney regarding bringing the definitions of Beer, Wine, and Liquor in line with that of the State Statutes. The City Attorney stated he viewed that as a separate issue. This does need to be revised. Councilmember Barnes questioned the hours of operation and whether there will be some leeway in serving alcohol a few minutes before or after the time line stated. Councilmember Groberg stated that the purpose of these Ordinances is to give law enforcement personnel an additional tool. The City Council expects everyone to obey the law. Councilmember Barnes questioned two areas under the "Wine" section regarding hours of sale and wondered whether they were conflicting in the time frame. The City Attorney stated that the first section addressed is with regard to "Exemptions", the other section states hours of sale for existing establishments. Councilmember Barnes stated some establishments have gone to "smoke-free". Someone who wants to smoke, can take their drink and their cigarette outside of the door and smoke. When they are finished they may return to their seat indoors. In the downtown area, a concern was expressed that someone could not step outside the door to have a cigarette and carry their drink with them. The City Attorney explained that under the exemptions of this Ordinance it allows open containers upon the premises of a licensed vendor. The premises are defined in the license by the State. This Ordinance would not alter that. If a premises has a veranda, patio, etc., the establishment would still be allowed to serve drinks there. If a person wished to go outside of the premises to have a cigarette, the open container could be left inside. Councilmember Barnes commended the committee for their work on this Ordinance.

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

ORDINANCE NO. 2481

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS 4-2-26, 4-3-16, 4-3-17, 4-4-11, AND 4-4-12 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROHIBITING THE POSSESSION OF OPEN CONTAINERS OF BEER, WINE AND LIQUOR WITHIN THE CITY OF IDAHO FALLS; PROVIDING FOR THE SEVERABILITY AND 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 Barnes
Councilmember Eldredge
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hardcastle
Councilmember Groberg

Nay: None

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Motion Carried.

The Police Chief appeared to state that this Ordinance has not ever been about prohibition, it has been about public safety to the community, to the people that attend the events, and more importantly to him, to his police officers. He thanked the people who worked hard to accomplish the development of this Ordinance and still maintain the integrity of adult activities in the downtown area. He also thanked the Mayor and City Council.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Eldredge, that the meeting adjourn at 8:35 p.m.

CITY CLERK

MAYOR
