

**OCTOBER 10, 2002**

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The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, October 10, 2002, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

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

Mayor Milam announced that she had received a number of letters, resumes, and telephone calls expressing interest in becoming a Councilmember. The announcement of the new Councilmember will be on October 24, 2002.

The City Clerk read a summary of the minutes for the September 26, 2002 Regular Council Meeting. It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, that the minutes be approved as printed. Roll call as follows:

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

Nay: None

Motion Carried.

**CONSENT AGENDA ITEMS**

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 several license applications, including a BARTENDER PERMIT to LaNae Lee Parsons, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on October 10, 2002.

The Municipal Services Director submitted the following memo:

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City of Idaho Falls  
October 2, 2002

MEMORANDUM

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

Municipal Services respectfully requests authorization to advertise and receive bids for the following items approved in the 2002-2003 Budget:

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

s/ S. Craig Lords

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 Shurtleff  
Councilmember Hardcastle  
Councilmember Groberg

Nay: None

Motion Carried.

**REGULAR AGENDA ITEMS**

The City Clerk presented the following Expenditure Summary dated September 1, 2002 through September 30, 2002, after having been audited by the Fiscal Committee and paid by the Controller:

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<b>FUND</b>	<b>TOTAL EXPENDITURE</b>
General Fund	\$536,747.13
Street Fund	106,469.64
Recreation Fund	11,304.71
Library Fund	76,179.85
Municipal Equipment Replacement Fund	25,303.80
Electric Light Public Purpose Fund	42,570.33
Business Improvement District	6,716.36
Sanitary Sewer Capital Improvement Fund	1,750.00
Street Capital Improvement Fund	1,500.00
Bridge and Arterial Street Fund	37,683.87
Water Capital Improvement Fund	13,000.00
Airport Fund	106,838.55
Water and Sewer Fund	909,410.17
Sanitation Fund	1,374.67
Ambulance Fund	8,473.70
Electric Light Fund	3,135,087.84
Payroll Liability Fund	1,602,894.58
Airport Fund Certificates of Participation	244,031.75
<b>TOTALS</b>	<b>\$6,867,336.95</b>

It was moved by Councilmember Eldredge, seconded by Councilmember Groberg, to ratify the payment of the expenditures for the month of September, 2002. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Groberg to conduct a public hearing for consideration of the expenditure of the Local Law Enforcement Block Grant Funds. At the request of Councilmember Groberg, the City Clerk read the following memo from the Chief of Police:

City of Idaho Falls  
September 25, 2002

MEMORANDUM

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

The Idaho Falls Police Department has requested the opportunity to hold a public hearing (see attached notice) at the City Council Meeting of October 10,

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2002. This public hearing will be to gain approval for the 2002-2003 Local Law Enforcement Block Grant Expenditures, as per the attached list.

These items are respectfully submitted for your consideration.

s/ J. K. Livsey

Attachment:

Idaho Falls Police  
Department  
September 10, 2002

MEMORANDUM

TO: Councilmember Groberg  
Councilmember Lehto  
FROM: Chief Livsey  
SUBJECT: PUBLIC HEARING FOR THE 2002-2003 LAW ENFORCEMENT  
BLOCK GRANT

The Local Law Enforcement Block Grant Committee has approved the following items for the 2002-2003 budget.

2 Police Equipped Mountain Bikes (Replacements)	\$ 2,600.00
2 Moving Radar Units (Replacements)	13,290.00
2 In-Car Video Camera/Recorders	11,250.00
1 Display Booth (Job Fairs, Etc.)	1,500.00
1 ATV Utility Vehicle	7,500.00
Discretionary Money	<u>460.00</u>
TOTAL	\$36,600.00

I am requesting a public hearing to be held at City Council to authorize the expenditures as per the Grant requirements.

s/ J. K. Livsey

Councilmember Groberg requested Captain Mark McBride to come forward to give a further explanation of the Local Law Enforcement Block Grant.

Captain Mark McBride appeared to state that the Local Law Enforcement Block Grant is in the amount of \$36,600.00 and to review the information listed above.

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

It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to approve the expenditures of the 2002-2003 Local Law Enforcement Block Grant as submitted. Roll call as follows:

Aye: Councilmember Eldredge  
Councilmember Lehto

Councilmember Groberg  
Councilmember Shurtleff  
Councilmember Hardcastle

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Nay: None

Motion Carried.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to recess the Annexation Proceedings for Fairway Estates Addition, Division No. 10 to the October 24, 2002 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to recess the Annexation Proceedings for Fairway Estates Addition, Division No. 11 to the October 24, 2002 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to recess the consideration of a Conditional Use Permit to allow single-family attached homes in an R-1 Zone on property located generally south of 65<sup>th</sup> North, west of Gleneagles Drive, to the north and south of Tapitio Drive, legally described as Fairway Estates Addition, Division No. 11, to the October 24, 2002 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to recess the Annexation Proceedings for Grupo Modelo Malt Plant Acres, Division No. 1 and Annexation Prior to Platting to the October 24, 2002 Regular Council Meeting. Roll call as follows:

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

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Hardcastle to conduct a public hearing for consideration of an appeal from a decision of the Board of Adjustment for a variance to encroach 5 feet into the 30-foot front setback to construct an enclosed handicap accessible ramp to be used for the enhancement of a home occupation on property located generally at 1925 Malibu Drive, legally described as Lots 2 and 21 and the North 27 feet of Lots 3 and 30, Block 10, Rose Nielsen Addition, Division No. 7. At the request of Councilmember Hardcastle, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls  
October 1, 2002

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: VARIANCE REQUEST – 1925 MALIBU DRIVE, LOT 2, AND NORTH 27 FEET OF LOT 3, BLOCK 10, ROSE NIELSEN ADDITION, DIVISION NO. 7

Attached is the appeal of Ron Duersch, 1925 Malibu Drive, from the decision of the Board of Adjustment. On September 17, 2002, the Board of Adjustment, in a 3 to 3 vote, denied the variance request to encroach five feet into the required thirty-foot setback from a public street to construct a sunroom over a handicapped ramp. The Board did not find unique site conditions. The Board also found to grant a variance would alter the residential character of the home in contradiction to the requirements of Section 4-26-H, Home Occupations. Planning Staff recommends the variance be granted. Although staff is concerned applicant's home is beginning to take on aspects of an office parking lot, a minimal variance to protect a handicapped ramp on the north, and therefore icy side of the home, should be permitted to accommodate the needs of the handicapped. This home, according to the applicant, has always contained an office; first, a sales office for the developer of the subdivision and then an insurance office under the second owner. The handicapped ramp is the first alteration the present owner has made, and the purpose of the ramp is to comply with the American with Disabilities Act. In addition, the staff is considering proposing a Zoning Ordinance revision, which permits a five-foot encroachment into required front and rear yards to roof a handicapped accessible ramp. This variance request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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Ron Duersch, 1925 Malibu Drive, appeared before the Mayor and City Council to present the following statement:

October 10, 2002

TO: The Mayor and City Council Members of the City of Idaho Falls  
FROM: Ron Duersch, 1925 Malibu Drive, Idaho Falls, Idaho

Dear Madam Mayor and City Council Members:

I am here to appeal the decision of the Board of Adjustment on my request for a 5-foot variance in the 30-foot setback requirement. I feel that the Board of Adjustment made the wrong decision based on the following reasons:

1. My request is reasonable. Covering or enclosing a stoop or handicap ramp at the entrance on the north side of my house is not only prudent but almost mandatory because the roof slopes to the north. During winter thawing and freezing cycles, snow and ice build up on the eve and even though I use heat tape and a rain gutter, it is almost impossible to keep the entryway free of ice.

2. The Board of Adjustment's main concern was that this enclosure would alter the residential character of the home. I do not believe that this is true. I am a CPA and I do operate my business in my home and while it is true that my business clients and I will benefit from this enclosure, it will not alter the residential appearance of the home. There are many homes that have sunrooms attached, which in my opinion enhances the beauty of a home. (Ironically, even though a non-illuminated wall sign is allowed for a home occupation, I will have to remove my sign because the sunroom has to be attached to the home where the sign is located. I doubt I will even attach a sign after the enclosure is built.) Included with the material I have given you, is a brochure produced by **Lindal Building Products** distributed locally by **Stagecoach Enterprises, Inc.** As you will notice, all of the sunrooms are for homes not commercial establishments. The sunroom that I have chosen is similar to the one pictured on Page 12 with the Idaho mountains.

3. The reasons I chose a sunroom instead of a frame enclosure were threefold. I) The snow and ice won't accumulate on the roof. II) There would not be a need to have an additional two feet overhanging eve, encroaching further into the setback. III) By using a sunroom, the need for heating the enclosure can be reduced or eliminated.

4. This entrance to my home is not only used by my business clients, but it is also used by family and friends who come to visit my family. Interestingly, because the house sits on the lot at an angle to Niagara Street, I could have built an enclosure around a 5' X 5.5' step at the entrance and still maintained the 30' setback requirement. It is only the northeast corner of the enclosure that requires the full 5' variance. Since I have installed the handicap ramp, my sister and any others who are wheelchair bound or that use walkers are able to

enter our home without difficulty. However, without covering the ramp, ice and snow could make it dangerous for anyone using it.

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5. When I first applied for the building permit in August, Renée R. Magee, Planning and Building Division Director, indicated that the City was looking into some sort of Zoning Ordinance revision or automatic variance for those trying to comply with the Americans with Disabilities Act (ADA). Since my meeting with the Board of Adjustment, I researched the U. S. Department of Justice website and found a section entitled "**The ADA and City Governments: Common Problems**". I have included Page 9 of that section which states that, "*City governments are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability. Reasonable modifications can include modifications to local laws, ordinances, and regulations that adversely impact people with disabilities. **For example, it may be a reasonable modification to grant a variance for zoning requirements and setbacks.***" (bold type added) (<http://www.usdog.gov/crt/ada/comprob.htm>).

6. This property has some very unique characteristics. (I) Mr. Jack Jensen, a developer of the Rose Nielsen subdivision, built this home for his own residence as a model home. He built the office portion so that it could be used as a sales office for the development. While the main home entrance faces Malibu Drive, the office entrance faces Niagara Street. When the house was purchased by Mr. and Mrs. Grover Chatterton, they continued to use the office for their insurance business. I have used the office for my CPA business since moving here five years ago. Therefore, the office area has always been used as a business office since the home was built twenty-five years ago. (II) There are many mature evergreen trees on the north side of the property, which would obscure the view of the sunroom any farther than about 100 feet away. (III) The house is located close to the edge of commercial zoning. The Grant Teton Mall is located just two blocks to the east with many other commercial establishments between it and our home.

7. I have talked to our neighbors about this sunroom addition and they are very supportive of it. Many of them expressed disbelief that the Board of Adjustment had denied my variance request. To my knowledge none of our neighbors have expressed any reservations or concerns about the addition. I have enclosed a copy of the signed petition requesting this variance be granted.

I am convinced that if I would have had the opportunity to present these same arguments to the Board of Adjustment, the outcome would have been in favor of this variance.

In conclusion, I would like to thank you for hearing my appeal, and I would like to thank you in advance for voting favorably in my behalf. I would also like to thank the employees of the Planning and Building Division for their help and support in this matter. Every one of them has treated me in a very courteous and professional manner.

Sincerely,

s/ Ron Duersch  
Ron Duersch

Attachment No. 1:

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Issue: Local Laws, Ordinances, and Regulations

Common Problem:

City governments may fail to consider reasonable modifications in local laws, ordinances, and regulations that would avoid discrimination against individuals with disabilities.

Result:

Laws, ordinances and regulations that appear to be neutral often adversely impact individuals with disabilities. For example, where a municipal zoning ordinance requires a setback of 12 feet from the curb in the central business district, installing a ramp to ensure access for people who use wheelchairs may be permissible without a variance from the city. People with disabilities are therefore unable to gain access to businesses in the city.

Requirement:

City governments are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability. Reasonable modifications can include modifications to local laws, ordinances, and regulations that adversely impact people with disabilities. For example, it may be a reasonable modification to grant a variance for zoning requirements and setbacks. In addition, city governments may consider granting exceptions to the enforcement of certain laws as a form of reasonable modification. For example, a municipal ordinance banning animals from city health clinics may need to be modified to allow a blind individual who uses a service animal to bring the animal to a mental health counseling session. 28 C.F.R. Section 35.130(b)(7).

Attachment No. 2:

To: The City of Idaho Falls Mayor and City Council Members

From: Neighbors and homeowners residing near the residence of Ron and Linda Duersch Family at 1925 Malibu Drive, Idaho Falls.

Subject: Support of a variance request for the addition of a sunroom entryway

We the undersigned neighbors and homeowners living near the Duersch residence wish to make it known that we support the 5-foot variance request for the addition of a sunroom entryway on the north side of their home. We believe that their home improvement will not only add to the beauty, value and safety of their property, but that it would also add to the beauty and value of the entire neighborhood. We are therefore respectfully requesting that the 5-foot variance from the 30-foot setback be granted.

s/ Craig and Sandra Perrenoud

1977 Niagara

522-9808

Craig and Sandra Perrenoud

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<u>s/ Don and Chloe Skeen</u> Don and Chlor Skeen	1955 Niagara	524-4853
<u>s/ Saul Mandell</u> Saul Mandell	1950 Malibu	529-5540
<u>s/ Beth Milam</u> Beth Milam	1949 Malibu	529-8844
<u>s/ John Piccolo</u> John Piccolo	1928 Malibu	524-0092
<u>s/ MaNell Piccolo</u> MaNell Piccolo	1928 Malibu	524-0092
<u>s/ Cal and Carolyn Stone</u> Cal and Carolyn Stone	1915 Niagara	529-6864

Attachment No. 3:           Photos from a Lindal Sunrooms book.

Councilmember Hardcastle requested the Assistant Planning and Building Director to come forward to further explain this request for a Variance. The Assistant 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 Appeal request:

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Site Plan
Slide 4	Site Photo showing Niagara entrance
Slide 5	Site Photo looking west from site
Slide 6	Site Photo looking east from site
Slide 7	Site Photo of site

The Assistant Planning and Building Director explained that the amount of the encroachment is small. The sunroom will not have any eaves. The landscaping on the property helps to hide the encroachment.

Councilmember Lehto requested to know whether the home business was in the R-1 Zone. The Assistant Planning and Building Director stated that it was.

There being no comment either in favor of or in opposition to the appeal, Mayor Milam closed the public hearing.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, to grant the variance to encroach 5 feet into the 30-foot front setback to construct an enclosed handicap accessible ramp to be used for the enhancement of a home occupation on property located generally at 1925 Malibu Drive, legally described as Lots 2 and 21 and the North 27 feet of Lots 3 and 30, Block 10, Rose Nielsen Addition, Division No. 7. Roll call as follows:

Aye:	Councilmember Eldredge
	Councilmember Lehto
	Councilmember Groberg

Councilmember Shurtleff  
Councilmember Hardcastle

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Nay: None

Motion Carried.

The Airport Director submitted the following memo:

City of Idaho Falls  
October 7, 2002

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: UNITED STATES GENERAL SERVICES ADMINISTRATION LEASE  
APPROVAL

Attached for City Council approval is the Lease Agreement between the Idaho Falls Airport and the United States General Services Administration for lease of office space for their Screening and Security Departments.

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 Lease Agreement with the United States General Services Administration for lease of office space for their Screening and Security Departments and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Fire Chief submitted the following memo:

City of Idaho Falls  
October 10, 2002

MEMORANDUM

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

Attached for your review is the annual renewal of an Ambulance Service Agreement between the City of Idaho Falls and Bonneville County for the FY

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2002 beginning October 1, 2002. This Agreement is basically the same as in years past, but includes an Ambulance Service Charge revision due to the cost of accepting assignment with Medicare and buying our own disposable supplies. This is included as Exhibit "A".

The Fire Department respectfully requests the Council's review and approval with permission for the Mayor and City Clerk to execute the document.

s/ Dean Ellis

It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to approve the Ambulance Service Agreement with Bonneville County 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 Groberg  
Councilmember Shurtleff  
Councilmember Hardcastle

Nay: None

Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
October 7, 2002

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mark Gendron, Idaho Falls Power Director  
SUBJECT: BONNEVILLE POWER ADMINISTRATION – SLICE AND BLOCK  
CONTRACT – REVISION NO. 2 TO EXHIBIT J – TECHNICAL  
OPERATING PROCEDURES

Attached for your consideration is Revision No. 2 to Exhibit J, Technical Operating Procedures to the Slice and Block Contract with Bonneville Power Administration. The City Attorney has reviewed this exhibit.

Idaho Falls Power respectfully requests Council authorization for the Mayor to execute this document.

s/ Mark Gendron

The Idaho Falls Power Director appeared to give a further explanation of this revision. He stated that the revision addresses three technical issues in the Block and Slice Contract, in

particular, treatment of election to displace WNP2 generation, ramp rate violations, pondage and elective spill.

It was moved by Councilmember Lehto, seconded by Councilmember Shurtleff, to approve Revision No. 2 to Exhibit J, Technical Operating Procedures to the Slice and Block

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Contract with Bonneville Power Administration and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls  
October 7, 2002

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: ORDINANCE REGARDING LICENSING OF PUBLIC  
CONVEYANCES

Attached for your consideration is a proposed Ordinance regarding licensure of public conveyances. The only change in the proposed Ordinance from the existing Ordinance would be that publicly funded or operated systems would be exempt from licensure.

It is the recommendation of Municipal Services that the Council adopt said Ordinance.

s/ S. Craig Lords

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

**ORDINANCE NO. 2461**

AN ORDINANCE AMENDING SECTIONS 4-15-5 AND 4-15-6 OF THE CITY CODE OF IDAHO FALLS, IDAHO; ESTABLISHING CERTAIN EXEMPTIONS TO THE REQUIREMENT FOR LICENSING OF PUBLIC CONVEYANCES; REQUIRING LICENSE OF OPERATORS OF PUBLIC CONVEYANCES; PROVIDING FOR THE SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Eldredge 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

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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 Shurtleff  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Lehto

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memo:

City of Idaho Falls  
October 1, 2002

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: RESOLUTION FINDING THE SUPPLEMENTAL ELIGIBILITY REPORT – LINDSAY BOULEVARD, URBAN RENEWAL PROJECT - MAY 15, 2002, TO BE TRUE AND CORRECT AND DESIGNATING SUCH AREA DETERIORATING (MEMORIAL DRIVE BETWEEN BROADWAY AVENUE AND RIVERSIDE DRIVE)

Attached is a *Resolution Determining a Certain Area Within the City a Deteriorated and Deteriorating Area As Defined by Idaho Code Section 50-2018(h) and 50-2903(6)(b)*. This Resolution is based on the findings contained in the Supplemental Eligibility Report, which the Idaho Falls Urban Renewal Agency accepted on August 22, 2002. The findings of deteriorating condition are based on:

1. The unsafe condition between "A" and "D" Streets due to parking in the median area;
2. The deteriorated condition of the curb and gutter on the west side of Memorial Drive;
3. The excessive pavement created by numerous overlays;
4. The frayed insulation on adjacent overhead power lines; and,
5. The inclusion of Memorial Drive in the Downtown Eligibility Report completed in September, 1994.

The Idaho Falls Urban Renewal Agency respectfully requests consideration of designation and adoption of the attached Resolution.

s/ Renée R. Magee

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**RESOLUTION**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, DETERMINING A CERTAIN AREA WITHIN THE CITY TO BE A DETERIORATED AND DETERIORATING AREA AS DEFINED BY IDAHO CODE SECTIONS 50-2018(h) AND (i) AND 50-2903(6)(b).

WHEREAS, the Legislature of the State of Idaho enacted a law known as the "Idaho Urban Renewal Law of 1965" (Title 50, Chapter 20), and among other things, said Law created in each municipality an independent public body, corporate and politic, to be known as the "Urban Renewal Agency" of each city, and said Law provides that such agency shall not transact any business or exercise its powers, and no municipality shall exercise the authority conferred by the Law, until or unless the City Council has adopted a Resolution wherein certain findings are made;

WHEREAS, on the 6<sup>th</sup> day of July, 1966, the Council and Mayor of Idaho Falls, Idaho, respectively, created the Idaho Falls Redevelopment Agency (hereinafter "Agency"), authorizing it to transact business and exercise the powers granted by Session Laws 1965, Chapter 246 (Chapter 20, Title 50, Idaho Code), upon making the findings of necessity required for creating said Urban Renewal Agency;

WHEREAS, the City Council of the City of Idaho Falls, Idaho (the "City"), on December 22, 1988, after notice duly published, conducted a public hearing on the Lindsay Boulevard Urban Renewal Plan (the "Urban Renewal Plan");

WHEREAS, following said public hearing, the City Council adopted its Ordinance No. 1926 on December 23, 1988, approving the Urban Renewal Plan and making certain findings;

WHEREAS, the City, on December 10, 1992, after notice duly published, conducted a public hearing on the Amended and Restated Urban Renewal Plan (the "Amended and Restated Urban Renewal Plan");

WHEREAS, following said public hearing, the City adopted its Ordinance No. 2084 on December 10, 1992, approving the Amended and Restated Urban Renewal Plan and making certain findings;

WHEREAS, as a result of the activities within the Lindsay Boulevard Project Area, the Agency and others identified a number of issues that are affecting certain geographical areas adjacent or in close proximity to the Lindsay Boulevard Project Area;

WHEREAS, the Agency authorized a study or report to consider incorporating certain property in proximity to the Lindsay Boulevard Project Area, and to analyze and determine whether the area is eligible for urban

renewal planning, and provide the full Agency Board with a report and recommendation;

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WHEREAS, the Agency obtained an eligibility report (the "Supplemental Report"), which examined the Memorial Drive Area for the purpose of determining whether such area is a deteriorating area and deteriorated area as defined by Idaho Code, Sections 50-2018(i) and 50-2903(6)(b);

WHEREAS, the Supplemental Report dated May 15, 2002, has been submitted to the Agency, a copy of which is attached hereto as Exhibit 1;

WHEREAS, pursuant to Idaho Code Section 50-2008, an urban renewal project may not be planned or initiated unless the local governing body has, by resolution, determined such area to be a deteriorated area or deteriorating area, or combination thereof, and designated such area as appropriate for an urban renewal project;

WHEREAS, Idaho Code Section 50-2906, also requires that in order to adopt an urban renewal plan containing a revenue allocation financing provision, the local governing body must make a finding or determination that the area included in such plan is a deteriorated area or deteriorating area;

WHEREAS, the Agency, on August 22, 2002, adopted Resolution No. 02-04 (a copy of which is attached hereto as Exhibit 2), accepting the Supplemental Report and authorizing the Chairman of the Agency to transmit the Supplemental Report to the City Council requesting its consideration for designation of an urban renewal area;

WHEREAS, it is desirable and in the best public interest that the Agency prepare an amended urban renewal plan for the area identified in the Supplemental Report located in the City of Idaho Falls, County of Bonneville, State of Idaho.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, AS FOLLOWS:

1. That the above statements are true and correct.
2. That the Council of Idaho Falls finds and declares:
  - a. That the described area in the Supplemental Report is a deteriorated or deteriorating area existing in Idaho Falls, Idaho as defined by Chapters 20 and 29, Title 50, Idaho Code, as amended;
  - b. That the area identified in the Supplemental Report is determined to be a deteriorated or deteriorating area, or a combination thereof, and such area is designated as appropriate for an urban renewal project;
  - c. The Agency shall include such area in the planning analysis for amendments to the Lindsay Urban Renewal Plan.

3. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

**OCTOBER 10, 2002**

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PASSED BY THE MAYOR AND COUNCIL this \_\_\_\_ day of \_\_\_\_\_, 2002.

SIGNED BY THE MAYOR this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Linda Milam, Mayor

ATTESTED:

\_\_\_\_\_  
Rosemarie Anderson, City Clerk

Exhibit 1 – “Supplemental Report dated May 15, 2002”

Exhibit 2 – “Resolution No. 02-04 from the Board of Commissioners of the Renewal Agency of Idaho Falls, Idaho”

Councilmember Hardcastle requested Councilmember Groberg give a further explanation of this Resolution as a member of the Idaho Falls Redevelopment Agency. Councilmember Groberg stated that at the time that this was discussed by the Redevelopment Agency, it seemed appropriate to amend the plan for the area, which was to move from simply developing some streets to aiding and encouraging the transition of uses. He felt that Memorial Drive should be added to the plan because of discussions that were held at the Council level to redevelop Memorial Drive, alter the parking, and turn it back into a parkway. There was a concern that the amount of money involved would be more than the Redevelopment Agency could afford. It was determined that Memorial Drive would be included, with only enough money being allocated to that portion of the project, to give the City some leverage if it became a doable project later. Since that time, there has been much discussion among Council to not include Memorial Drive in the designated area at this time. If the City Council determined that these conditions did not exist, that could later be used as an argument for not including funds in a subsequent Redevelopment Agency District. Councilmember Groberg called Ryan Armbruster, Attorney for the Idaho Falls Redevelopment Agency, who felt that it would be appropriate for the City Council to decline to act on this Resolution, with the statement that the reason being that the City Council does not want to extend the boundaries to include Memorial Drive at this time. This would preserve future options for Memorial Drive.

It was moved by Councilmember Hardcastle, seconded by Councilmember Eldredge, that the City Council acknowledges Mr. Harlan Mann’s eligibility recommendations for this identified area, but at this time the City Council declines the opportunity to include Memorial Drive in the Redevelopment Agency boundaries to preserve future options for that area. Roll call as follows:

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

Nay: None

Motion Carried.

**OCTOBER 10, 2002**

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The Police Chief submitted the following memo:

City of Idaho Falls  
September 26, 2002

MEMORANDUM

TO: Mayor and Council  
FROM: J. K. Livsey, Chief of Police  
SUBJECT: SCHOOL RESOURCE OFFICER AGREEMENT

I respectfully submit the attached 2002-2003 School Resource Officer Agreement between the City of Idaho Falls and Idaho Falls School District No. 91 for your approval. This Agreement is specific to the duties, schedules, and compensation of the School Resource Officers. It has been updated to reflect the change in the computer system.

Thank you for your consideration.

s/ J. K. Livsey

It was moved by Councilmember Groberg, seconded by Councilmember Lehto, to approve the 2002-2003 School Resource Officer Agreement with Idaho Falls School District No. 91 and, further give authorization for the Mayor to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Lehto, that the meeting adjourn at 8:10 p.m.

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CITY CLERK

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MAYOR

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