

**DECEMBER 20, 2001**

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The City Council of the City of Idaho Falls met in Special Council Meeting, Thursday, December 20, 2001, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Linda Milam  
Councilmember Ida Hardcastle  
Councilmember Mary Klingler  
Councilmember Brad Eldredge  
Councilmember Mike Lehto  
Councilmember Joe Groberg  
Councilmember Bruce Rose

Also present:

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

The City Clerk read a summary of the minutes for the December 13, 2001 Regular Meeting. It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve the minutes as printed. Roll call as follows:

Aye:            Councilmember Rose  
                  Councilmember Eldredge  
                  Councilmember Lehto  
                  Councilmember Klingler  
                  Councilmember Hardcastle  
                  Councilmember Groberg

Nay:            None

Motion Carried.

**CONSENT AGENDA ITEMS**

Mayor Milam requested Council confirmation for the Re-Appointment of Don Ormond to serve on the Building Code Board of Appeals (Term to expire on December 31, 2004); the Re-Appointment of Robert Gustafson to serve on the Building Code Board of Appeals (Term to expire on December 31, 2004); the Appointment of Joe Belloff to serve on the Building Code Board of Appeals (Term to expire on December 31, 2004); the Re-Appointment of Grant Richardson to serve on the Electrical Code Board of Appeals (Term to expire on December 31, 2004); and, the Re-Appointment of Steve Smith to serve on the Electrical Code Board of Appeals (Term to expire on December 31, 2004).

The City Clerk presented several license applications, including BEER LICENSES to A Little Bit of Mexico, Aldo's Ristorante, Barbecue Pit, Beer Billie's, Blue Bell Gas, Blue Room, Bowlero, Bubba's Bar-B-Que Restaurant, Chicago Connection, Chili's Grill and Bar, China Super Buffet, Choices, Company Club, Crossings, D B's Steak House, Days Inn/Stardust, DeMartino's Idahoogie, Diamond Concessions, Earl's Food Store, Fanatics

Sports Grill, Flying J Convenience Store, Fred Meyer Stores, Inc., Funland/LOML, LLC, Garcia's Mexican Restaurant, Golden Crown Lounge, Gott Texaco Services, Great Wall Restaurant, Hattricks, Idaho Brewing Company, Inc., Jiffy Mart (Elm Street), Kwik Shop 2

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(17<sup>th</sup> Street), Kwik Shops, Inc. (Holmes Avenue), La Hidalquense, La Yaquesita, Leo's Place (Holmes Avenue), Littletree Inn, Lorenzo's Broken Spoke Restaurant, Made In Idaho, Mama Inez, Marcellar's Vintage Wines and Brews, Mi Casa, Inc., O'Callahan's Restaurant, On The Go, Outback Steakhouse, Outlaw, Papa Tom's Pizza (Woodruff Avenue), Plaza Lanes, Puerto Vallarta (Fremont Avenue), Puerto Vallarta Restaurant No. 2 (Jennie Lee Drive), Remo's of Idaho Falls, Inc., Rite Aid (Broadway), Rite Aid (Northgate Mile), Ritz dba Rocking Horse and Opie's, S & K Konvenience Stores, Inc., Sage Lakes Café, Samoa Club, Sand Creek Café, Sandpiper Restaurants East, Sato's Oriental Market, LLC, Saving Center (Memorial Drive), Short Stop Market and Laundry, Skipper's Fish and Chips (17<sup>th</sup> Street), Skyline Lanes, Smith's Food and Drug No. 121, Snake Bite, Tobacco Connection, Tom's Gyro and Burgers, Weston Lamplighter, and 19<sup>th</sup> Hole Cafe, 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 December 20, 2001.

It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve the Consent Agenda in accordance with the recommendations presented. Roll call as follows:

Aye:            Councilmember Lehto  
                  Councilmember Eldredge  
                  Councilmember Hardcastle  
                  Councilmember Groberg  
                  Councilmember Rose  
                  Councilmember Klingler

Nay:            None

Motion Carried.

**REGULAR AGENDA ITEMS**

Mayor Milam requested Councilmember Rose to conduct a public hearing for consideration of a Conditional Use Permit for a day care center on property located at 2752 Linda Circle, legally described as Lot 36, Block 2, Westridge Addition, Division No. 3. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls  
December 13, 2001

MEMORANDUM

TO:            Mayor and City Council  
FROM:        Renée R. Magee, Planning and Building Director  
SUBJECT:    CONDITIONAL USE PERMIT FOR DAY CARE CENTER – LOT 36,  
                  BLOCK 2, WESTRIDGE ADDITION, DIVISION NO. 3

Attached is the application and site plan for a Day Care Center at 2752 Linda Circle. The property is located in an R-1 zone at the eastern end of Linda

Circle. The Planning Commission at its November 27, 2001 Meeting, after hearing testimony and reviewing letters submitted to the Planning Department, recommended approval of the Day Care Center with the following conditions:

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1. The hours of operation be limited to 6:00 a.m. to 6:00 p.m.
2. The driveway aisle and parking area on the north of the home be paved or hard-surfaced.
3. An opaque fence be constructed in the back yard on the north, east, and south property lines of the applicant.
4. The number of outside employees be limited to two.
5. The number of children at the day care be limited to 24.
6. Landscaping with trees and dense shrubs be planted and maintained to buffer the parking area from the neighbor.

The Department concurs in this recommendation. This Conditional Use Permit is being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

- |           |   |
|-----------|---|
| Slide 1   | Vicinity Map showing surrounding zoning   |
| Slide 2   | Aerial Photo  |
| Slide 3   | Site Plan   |
| Slide 4   | Site Photo showing 2752 Linda Circle looking at home under consideration                                    |
| Slide 5   | Site Photo looking at property, north side of yard of home  |
| Slide 6   | Site Photo looking at the north side yard showing 2-3 parking spaces  |
| Slide 7   | Site Photo looking at back yard of home   |
| Slide 8   | Site Photo showing rear yard of home  |
| Slide 9   | Site Photo showing playground area  |
| Exhibit 1 | Planning Commission Minutes dated November 27, 2001   |
| Exhibit 2 | Staff Report dated November 27, 2001, including the following letters submitted to the Planning Department: |

Lane R. Archibald  
Attorney at Law  
497 North Capital Avenue  
Suite 100  
P. O. Box 51156  
Idaho Falls, Idaho 83405  
October 18, 2001

Todd Meyers  
City of Idaho Falls Planning and Zoning  
P. O. Box 50220  
Idaho Falls, Idaho 83405-0220

RE: Jiminey Cricket Day Care  
2752 Linda Circle

Dear Mr. Meyers:

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Mr. Joe Belloff, a member of the Architectural Control Committee of the Westridge Subdivision, has requested this letter to be directed to you. Please be advised that the Protective Covenants of Westridge require the lots to be used for residential uses. A use which did not include a single-family residence would be in violation of the Covenants.

The Architectural Control Committee has consented for the property to be used for a "Family Day Care Home" (6 children or less) or for a "Group Day Care Facility" (12 children or less). However, the Architectural Control Committee is opposed to a "Day Care Center" (by whatever name) which provides day care for more than twelve children. The Architectural Control Committee is very concerned a "Care Center" for more than twelve children with its increased vehicle and pedestrian traffic, including parking, drop offs, etc., would greatly escalate the risk of injury to the children in the center and the neighborhood.

In addition, the Architectural Control Committee believes a "Care Center" exceeding a capacity of twelve children will interfere and disrupt the peaceful possession of the neighboring lots. Such a "nuisance" is prohibited under the Covenants.

Please keep the Architectural Control Committee informed as to the Castro's efforts to proceed with expansion of the "Care Center" to provide care for more than twelve children at:

Joseph Belloff  
Westridge Architectural Control Committee  
P. O. Box 51535  
Idaho Falls, Idaho 83405-1535

If you have any questions or comments, do not hesitate to contact me. Thank you.

Sincerely,

s/ Lane R. Archibald  
Lane R. Archibald

Shawn and Candice  
McDaniel  
2283 South 55<sup>th</sup> West  
Idaho Falls, Idaho 83402  
November 12, 2001

ATTENTION: Planning Commission and City Council  
City of Idaho Falls Planning and Zoning  
P. O. Box 50220  
Idaho Falls, Idaho 83405-0220

RE: Jiminey Cricket Day Care  
2752 Linda Circle

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To Whom It May Concern:

In regards to the Conditional Use Permit to allow a day care center in an R-1 (Single-Family Residential) Zone on property located generally at 2752 Linda Circle, legally described as Lot 36, Block 2, Westridge Addition, Division No. 3.

We, Shawn and Candice McDaniel, are in the process of building a new home located at 2754 Linda Circle. Next door to the family day care home in question. During this process we have run into numerous problems.

First, we have chose to build in a cul-de-sac for reasons of less traffic and they are generally more quiet. With there being a family day care home, there appears to be more traffic in Linda Circle than in the whole addition of Westridge. Not only is the traffic loud and a nuisance, but when the driveway of the family day care home is full, our driveway and soon to be yard are driven and parked on without our consent and thus blocking our driveway as well as the street. We have spoken to the homeowners about this on more than one occasion and it doesn't seem to be a problem to them, because it still happens.

Second, we have a one-year old daughter and small pets. The traffic is a great threat to their personal safety.

Lastly, we believe that a busy day care center devalues all nearby property. Which makes it undesirable to buy, build, or own.

The residents at 2752 Linda Circle seem to be kind and fairly considerate. We do not mind them having a "family day care home" (6 children or less) or even a "Group Day Care Facility" (12 children or less). We do NOT in any way, shape, or form support having a "Day Care Center". Therefore, we DO NOT support the Conditional Use Permit for a Day Care Center at the property described in the above.

Thank you for your time.

s/ Candice A. McDaniel

s/ Shawn McDaniel

Shawn and Candice McDaniel

Jiminey Cricket Day Care  
Jamie Castro  
2752 Linda Circle  
Idaho Falls, Idaho 83402  
November 13, 2001

To Whom It May Concern:

I am very interested in obtaining education in Early Childhood Development. I would love to teach and care for my children in an

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educational way, yet having fun the whole time. Also, being able to learn more about dealing with Parents with problems arise would benefit my center. If I had to travel out of town to school it would be impossible for me to attend any classes. Hearing that your considering classes here in Idaho Falls makes it possible. Thank you for this opportunity to further my education.

Sincerely,

s/ Jamie Castro  
Jamie Castro

Brad and Karen Olson  
2755 Linda Circle  
Idaho Falls, Idaho 83402  
November 6, 2001

To Whom It May Concern:

We wanted to pass along that at this point in time we do not have a problem with the day care next door. Because of work schedules we are gone during most of the day and don't even notice it's there. We've lived in the neighborhood now for a couple of weeks and do not consider this to be an issue. If you have any other questions, please feel free to give us a call.

s/ Brad C. Olson  
s/ Karen G. Olson  
Brad and Karen Olson

2794 Linda Circle  
Idaho Falls, Idaho 83402  
November 3, 2001

To Whom It May Concern:

It has been recently brought to my attention that there are some concerns regarding the day care located at 2752 Linda Circle. My family lives at 2794 Linda Circle and will be unable to attend the public meeting concerning this matter. This letter is to voice our opinion on the day care.

We feel that Jamie should be allowed to operate this day care. We have not had any problems regarding safety or traffic in this location and feel confident that if any problems arise, Jamie will promptly address our concerns. We have two small children and think it is wonderful that Jamie and her family allow our children to play with the other children that attend her day care. The day care has been a great addition to the west side and we do not

think Jamie and her husband should be penalized for the mistakes of others. It was our understanding that they received the appropriate licenses and permission from the developers of

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this subdivision before they purchased and built their home. We strongly believe Jamie and her husband have taken the correct steps in building their business and should be allowed to continue the day care.

Thank you for your attention in this matter and do not hesitate to contact Trena or Jason Reinhart at 529-9495 concerning this issue.

Sincerely yours,

s/ Trena Reinhart  
Trena Reinhart

November 15, 2001

To Whom It May Concern:

Rick and Jamie Castro have been our son's child care providers for almost three years. We believe them to be wonderful caring people who put the children of their day care first. We were excited when they announced plans to build a new house because they were planning the entire basement around the children.

We are also neighbors of the Castros and have no objection whatsoever of allowing them to continue operating their home business in this neighborhood. We know their intent is to have a small number of children and that they will do everything in their power to ensure that the parents of these children will be cautious and courteous when dropping off and picking up their children.

Sincerely,

s/ Guy W. Bliesner  
s/ Cindy Bliesner  
Guy and Cindy Bliesner  
2785 Linda Circle  
Idaho Falls, Idaho 83402

November 12, 2001

To Whom It May Concern:

My husband and I are fully aware of the day care center that is being operated by Jamie and Rick Castro at 2752 Linda Circle. We live at 2795 Linda Circle, just down the street, and we have no problems or concerns with this day care continuing at its current location. We believe the Castros to be good people and they have provided an excellent facility for the children they tend.

Sincerely,

s/ Kelly Bradshaw

Kelly Bradshaw  
2795 Linda Circle  
Idaho Falls, Idaho 83402

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Amy and Clay Antonson  
383 Thomas Drive  
Idaho Falls, Idaho 83402  
(208) 529-2031

To Whom It May Concern:

I am a stay-at-home mother of two small children, and my husband and I live on the corner of Thomas Drive and Linda Circle. We wholeheartedly support the Castros and their day care. We were invited to tour the day care, and we did so. From my personal observation, the Castros have gone to a lot of trouble to convert their home to an environment in which the children feel safe and comfortable. Everything in their day care is scaled down to toddler and youth size.

We are privileged to call such a caring and friendly family our neighbors. Please let them continue to care for children in their home.

Sincerely,

s/ Amy Antonson  
s/ Clay Antonson

November 2, 2001

To Whom It May Concern:

In our opinion a neighborhood day care facility where we have many families with very young children whom both parents work can be advantageous in many ways.

The peace of mind for parents knowing that their children are safe and secure in the neighborhood in which they are familiar and live.

There is also an issue of expense regarding travel time to and from day care that would be of less concern for neighborhood participants due to the convenience of facility location.

This may also provide us an opportunity to become a closer and more protective neighborhood for our children.

s/ Mr. and Mrs. M.  
Shackelford

The Planning and Building Director stated that the issues that the Planning Staff and Planning Commission consider when looking at a proposed day care center in an R-1 Zone are the capacity of the day care center (used to determine the parking requirement), the off-street parking that is available, buffering that parking from adjacent residential uses, lighting

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proposed and if that lighting is buffered from adjacent residential uses, playground area location for safety, and loading areas. Under the Zoning Ordinance, the loading area for a day care center is allowed to be on a local street. This local street is a cul-de-sac with five lots located in that cul-de-sac. Approximately 50% of the cul-de-sac is taken by driveways to the individual residences and 50% would be available for on-street parking. The frontage on the street for the proposed day care is less than 40 feet. That would allow for 1-1/2 to 1-3/4 car lengths available for loading and unloading.

Councilmember Rose questioned that if a loading/unloading area is stipulated, how could it be enforced or controlled. The Planning and Building Director stated that the Planning and Building Division relies on complaints. She explained, further, that a certain day care center operating in Idaho Falls has certain signage placed on a residential street.

Richard Castro, 2752 Linda Circle, appeared to state that they are in compliance with all of the recommendations from the Planning Commission. They have limited the day care to 24 children to minimize any traffic issues in the area.

Councilmember Hardcastle questioned where the loading/unloading area would be for the day care. Mr. Castro explained that the children arrive in staggered intervals with only one or two parents arriving at the same time during the day. With the extra parking that is provided, it has not been an issue. The children enter from the front and from the rear of the home.

Councilmember Rose questioned Mr. Castro as to the peak hours of traffic for the day care center. Mr. Castro stated that there are two peaks, one between 7:30 a.m. until approximately 8:30 a.m., and again at approximately 5:30 p.m. Councilmember Rose questioned approximately how many of the 24 children arrive or leave during the time frames mentioned. Mr. Castro stated that approximately half of the children arrive or leave at those times. The remainder of the children arrive or leave throughout the day.

Councilmember Lehto questioned Mr. Castro whether he is currently operating this day care center. Mr. Castro stated that they are currently operating. Councilmember Lehto questioned how long the Castros had been in operation at this location. Mr. Castro stated that they have been operating since July, 2001.

Councilmember Hardcastle requested to know how many children they are taking care of presently. Mr. Castro stated that, on a daily basis, they have 16 to 20 children.

Councilmember Rose requested those in favor of this Conditional Use Permit to come forward at this time.

Cindy Bliesner, 2785 Linda Circle, appeared to state that she has been a neighbor to the Castros since October 1, 2001. She has not seen any traffic problem in the area regarding the day care center. Mrs. Bliesner stated that her son has been a part of the Castro's Day Care Center for approximately 3-1/2 years. The new day care center is retrofitted with children in mind, i.e., smaller toilets, sinks at shorter heights. When the day care opened, signs were posted to remind parents that they were in a residential area and to please follow the speed limits and be courteous. Mrs. Bliesner stated that she is in full support of allowing the Conditional Use Permit for this day care center.

Diana Gardetto, 525 Third Street, appeared to state that she is with a program called Child Care Resource and Referral, which is the hub of child care. This program serves 9 counties in the State of Idaho. This program provides training for child care providers. The main objective is to promote quality child care. She has known the Castros since they went into the formal business of child care. They have been very active in participating with the Agency. This facility was featured in the Child Care Conference for Child Care Resource and

Referral in March, 2001. She requested that the Conditional Use Permit be granted due to the quality of child care provided.

Guy Bliesner, 2785 Linda Circle, appeared to state that he has two interests in the neighborhood. He is a homeowner in the neighborhood and is concerned for property

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values and safety. He also has a son who attends the day care. He has not seen a negative effect to property values, given the nature of the business that the Castros operate. He did not believe that there was a conflict of interest in the two points of view.

Sheila Mitro, 5840 Indian Wells Circle, appeared to state that many of the children that attend the day care are brothers and/or sisters. With that in mind, two or three children may be dropped off at one time. She stated, further, that she is one of the first ones to arrive in the morning and is the only car on the street at that time of the day. She asked her husband about the traffic when he picks up the children and he has said that many times he is the only one at the center picking up their children.

Karlene Kerswell, 1236 Corinne, appeared to state that she is a grandmother of two children that attend the Castros day care. At different times, she has dropped her grandchildren off and picked them up and has found that she can just pull up in the driveway, pick up the children, and leave without any congestion. Ms. Kerswell requested approval of the Conditional Use Permit.

Councilmember Rose requested those present who wished to comment in opposition to this Conditional Use Permit request to come forward at this time.

Shawn McDaniel, 2754 Linda Circle, appeared to state that he is building next door to the day care center. One of the reasons that he purchased land to build a home in a cul-de-sac is that a cul-de-sac is typically a lower traffic area in a subdivision. While building their home, they have experienced much more traffic than is typical for a cul-de-sac. A few times, their driveway has been blocked from access by parents picking up or dropping off their children. Mr. McDaniel stated that there is not enough room for parking for loading and unloading of the children. He has concerns for the safety of his child with the traffic that comes to the day care. He expressed his concern for a negative effect on his property value with a day care next door.

Councilmember Groberg stated that he read Mr. McDaniel's letter and requested to know whether Mr. McDaniel was present at the Planning Commission Meeting addressing this Conditional Use Permit. Mr. McDaniel stated that he was not present and understood that his letter would be made part of the record.

Brenda Rhoades, 2283 South 55 West, Idaho Falls, appeared to state that she and her husband are owners of two lots, one that the McDaniels are building on and one next door to the McDaniels. She expressed her concern over the high traffic in the cul-de-sac. The Castros are terrific people and they have been super to work with while they have been trying to build the house. The traffic is the major concern.

Councilmember Eldredge questioned Ms. Rhoades as to whether they would be building on the second lot or were they going to sell the lot. Ms. Rhoades stated that they own the lot and are interested in selling it. They had someone who was interested in purchasing the lot, but when he found out that the day care could expand he decided that this was not the place for him to build his home.

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

Councilmember Lehto questioned how the Castros got into this situation with their day care. The Planning and Building Director stated that the Castros called the office and requested to know what the zone was prior to building this home. They believe that they were told that the zone for this lot was R-3. The zone for this lot is R-1, which would require a Conditional Use Permit for a day care center. Building plans were submitted in November, 1999, but on the plans there was no indication that this would be a day care center. The Castros filed a Home Occupation form in May, 2001, with notes indicating that this facility is in an R-1 Zone, with a limit of 12 children, and there would be Building Code requirements if

7 or more children would attend. The Planning and Building Director indicated that there has been some miscommunication and misinformation regarding this day care center for the last year.

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Mayor Milam indicated that under the Uniform Building Code there is an R-3 designation that refers to occupant dwelling. She requested that on the City's forms, an amendment needs to be made so that there is a distinction between the zones. On the permit, the Uniform Building Code designation and also the zone designation would be indicated so that a misunderstanding could be avoided in the future.

Councilmember Lehto questioned whether a City License or a State License is required for a day care facility. The Planning and Building Director stated that there is no requirement for licensing by either the City of Idaho Falls or the State of Idaho. If the day care center is under certain State funded programs, then the day care facility is licensed, but that is an optional program. When someone comes in to the City for a Day Care Inspection, information is presented to the applicant to make sure that zoning issues, Fire Code issues, and Building Code issues need to be addressed. That will still only reach those people who desire to enter that State program.

Councilmember Rose questioned the Planning and Building Director's comments regarding residential streets verses cul-de-sacs. The Planning and Building Director stated that there are very few provisions that direct day care centers in the Zoning Ordinance. The one that does has to do with parking and loading/unloading. If a day care center on an arterial street or collector street, loading and unloading has to be off-street; however, if the day care center is located on a local street, the loading/unloading can take place on the street.

Councilmember Groberg questioned the Planning and Building Director regarding whether the condition limiting this day care facility to 24 could be exceeded without that condition. The Planning and Building Director stated that the number of 24 could be exceeded. Under Idaho Law, only two day care providers are required for 24 children.

The Planning and Building Director stated that there is also a provision in the Zoning Ordinance that notes that traffic should not be backing out onto the street unless it is a single-family residence. With the parking as designed, there are 24 feet behind the parking spaces in the rear yard. If someone pulled into one of the spaces, that person could back out and enter the street driving forward.

Councilmember Rose questioned the Planning and Building Director that if a complaint was filed, what is the City's course of action at that time. The Planning and Building Director stated that if a person is blocking a driveway, that is a matter that can be handled by the Police Department. If the Planning and Building Division receives a complaint, the child care provider will be notified of the complaint and ask for their cooperation. If the City Council made it a condition as to where the loading/unloading area is to be located, and complaints from the neighborhood are received, then the Planning and Building Director would enforce that condition. This would be regulating a business, not regulating a use.

Councilmember Eldredge questioned the procedure for a Conditional Use Permit. The Planning and Building Director stated that a Conditional Use Permit goes with the ownership under the Zoning Ordinance.

Councilmember Hardcastle questioned whether the issue for the McDaniels is the traffic using the cul-de-sac or is the issue with the loading/unloading of children. The Planning and Building Director stated that according to the McDaniels letter, it appears that it is the loading/unloading issue. Councilmember Hardcastle questioned whether it would be possible to only load and unload in the rear of the home. Councilmember Eldredge requested to know whether the City Council could designate the driveway and parking area in the rear yard to be used for loading/unloading. The Planning and Building Director stated that there is one other day care facility in Idaho Falls that has a similar condition placed

upon it. Councilmember Eldredge stated that he would like to hear from the McDaniels and the Castros as to whether the McDaniels would be satisfied of the concerns they have and whether the Castros could operate with that condition.

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Mayor Milam indicated that the public hearing would be re-opened to take the comments from the Castros and the McDaniels regarding the question asked by Councilmember Eldredge.

Mr. Castro re-appeared to state that the neighbor's home is not yet occupied. The parents of the children at this day care facility are very responsible and the Castros would make sure that there would not be a problem with the loading and unloading of the children once they have moved into the residence. He stated that the driveway and rear entry loading and unloading would work fine for the Castros.

Mr. McDaniel re-appeared to state that they have issues with the loading/unloading and the traffic. He received complaints from their builders that there was a lot of traffic in the area and that they had trouble getting into the property because of cars blocking their driveway. During the loading times, there has not been enough room in the Castro's driveway and parents have had to park in the cul-de-sac to pick up their children. Mr. McDaniel stated that the space is provided in the rear yard at this time, and there has not been much utilization of that space for loading and unloading.

The City Attorney stated that it would be very difficult to enforce a parent that unloads his/her child in the street. The only options would be to cite the parent or to look at some type of revocation of the Conditional Use Permit directed at the Castros. The last option is a concern to the City Attorney because of the Castros inability to control what parents do.

There being no further comment, Mayor Milam closed the public hearing.

Councilmember Lehto stated that this Conditional Use Permit is an issue of property values and traffic. It is not one of whether the Castros are great day care providers.

Councilmember Rose questioned whether a day care facility could be established in the R-3 Zone. The Planning and Building Director stated that a day care center is a use by right in the R-3 Zone and would have to comply with the Building Code. Councilmember Klingler requested to know if there would be a limitation on the amount of children allowed in a day care center in the R-3 Zone. The Planning and Building Director stated that it would depend on the size of the structures and the amount of off-street parking that could be provided. Councilmember Rose stated that two blocks away from the Castros home would allow for a day care center in the R-3 Zone. Traffic would not be an issue. The Planning and Building Director stated that when Division No. 1 of Westridge Addition was considered, Protective Covenants were adopted which limited the R-3 Zone to single-family residences. The City of Idaho Falls deals with the Zoning Ordinance and what the City of Idaho Falls can enforce.

Councilmember Lehto stated that the City Council considered a day care center north of the Temple area and spot zoning. Mayor Milam stated that the Castro's request is not for a rezone and the request for spot zoning was in an RP-A Zone, which would not allow for a home business. The R-1 Zone allows for a home business.

Councilmember Groberg stated that this Conditional Use Permit comes with a recommendation from the Planning Commission and staff. As he has reviewed the material that was supplied to the City Council and what has been presented in the public hearing, he found it to be good information that was presented to both the Planning Commission and the City Council.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Conditional Use Permit for the day care center at 2752 Linda Circle, legally described as Lot 36, Block 2, Westridge Addition, Division No. 3, meeting the conditions as stipulated by the Planning Commission as follows:

1. The hours of operation be limited to 6:00 a.m. to 6:00 p.m.

2. The driveway aisle and parking area on the north of the home be paved or hard-surfaced.

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3. An opaque fence be constructed in the back yard on the north, east, and south property lines of the applicant.
4. The number of outside employees be limited to two.
5. The number of children at the day care be limited to 24.
6. Landscaping with trees and dense shrubs be planted and maintained to buffer the parking area from the neighbor.

In addition, the loading/unloading area should be limited to that portion of Linda Circle immediately in front of the applicant's home. Roll call as follows:

Aye: Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Rose  
Councilmember Eldredge  
Councilmember Groberg

Nay: Councilmember Lehto

Motion Carried.

Mayor Milam requested Councilmember Rose to conduct a public hearing for consideration of a rezoning from I & M-1 (Industrial and Manufacturing) to HC-1 (Highway Commercial) on property located generally south of Houston Street, east of and adjacent to I-15, west of Utah Avenue, and north of Pancheri Drive, legally described as a parcel of land in the Northwest Quarter of the Northeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian, and Lots 12 and 13, Block 1, Poitevin Addition. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls  
December 13, 2001

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: REQUEST TO REZONE FROM I & M-1 TO HC-1, BONNEVILLE ROAD AND BRIDGE PROPERTY

Attached is the application to rezone the Bonneville County Road and Bridge property from I & M-1 (Industrial and Manufacturing) to HC-1 (Highway Commercial). This parcel is located south of Houston Street, east of I-15, west of Utah Avenue, and north of Pancheri Drive. The Planning Commission considered this rezoning request at its November 27, 2001 Meeting and recommended approval. The Department concurs in this recommendation. This matter is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1      Vicinity Map showing surrounding zoning

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Slide 2	Future Land Use Plan - Comprehensive Plan
Slide 3	Aerial Photo
Slide 4	Site Photo north of site
Slide 5	Site Photo of north end of site
Slide 6	Site Photo as it abuts up to Utah Avenue
Exhibit 1	Planning Commission Minutes dated November 27, 2001
Exhibit 2	Staff Report dated November 27, 2001
Exhibit 3	Site Map

Roger Christensen, Chairman of the Bonneville County Commissioners, 605 North Capital Avenue, appeared to state that Bonneville County appreciated the opportunity to present this request for a rezone. He stated that from time to time, he has been told that this property is not a very attractive entryway to the City. The market conditions have changed to where it is economically feasible now, provided a minimum bid price can be attained, to relocate Bonneville County's Road and Bridge operation. This will be beneficial to the County in acquiring new facilities, clean up this entryway to the City of Idaho Falls and also be compatible with some of the changes in the area. One of the requirements from Bonneville County before the land was put up for sale was to have a qualified bidder willing to pay the minimum appraised price. The other qualification was making sure that this property was not purchased and used again for a construction site. Bonneville County wanted to have the property rezoned, with a condition of the sale that the County retain all salvage rights to the facility. Should the sale of the property not take place, Bonneville County would have the right to continue business as usual under the grandfather clause.

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

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the zone change from I & M-1 to HC-1 of a parcel of land in the Northwest Quarter of the Northeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian and Lots 12 and 13, Block 1, Poitevin Addition, and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

Aye:            Councilmember Lehto  
                  Councilmember Eldredge  
                  Councilmember Hardcastle  
                  Councilmember Groberg  
                  Councilmember Rose  
                  Councilmember Klingler

Nay:            None

Motion Carried.

Mayor Milam requested Councilmember Rose to conduct a public hearing for consideration of a rezoning from I & M-1 (Industrial and Manufacturing) to CC-1 (Central Commercial) on property located generally south of Milligan Road, east of Utah Avenue, west of the Porter Canal, and north of Pancheri Drive, legally described as Taylor Crossing on the River, Division No. 4. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

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City of Idaho Falls  
December 13, 2001

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: REQUEST TO REZONE FROM I & M-1 TO CC-1 – TAYLOR  
CROSSING ON THE RIVER, DIVISION NO. 4

Attached is the application to rezone 1.23 acres southeast of the Utah Avenue round-about, which is proposed to be platted as Taylor Crossing on the River, Division No. 4, from I & M-1 (Industrial and Manufacturing) to CC-1 (Central Commercial). The Planning Commission recommended at its November 27, 2001 Meeting, approval of this rezoning request. The Department concurs in this recommendation. This matter is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Comprehensive Plan – Future Land Use Map
Slide 3	Aerial Photo
Exhibit 1	Planning Commission Minutes dated November 27, 2001
Exhibit 2	Staff Report dated November 27, 2001
Exhibit 3	Site Map

The Planning and Building Director explained that the area west of the Snake River and south of the railroad is designated as mixed use, with the hope that area would develop as an area of retail, offices, residential and, if designed correctly, even light industrial. This would be an area where people could walk between land uses. The Planning Commission and Staff believe that this rezoning request is in accordance with the Comprehensive Plan.

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to state that he is a believer in the river and timeless architecture. This zone change will allow for marvelous things to be accomplished.

Councilmember Groberg requested to know whether this land was annexed. Mr. Kofoed explained that this land is annexed prior to platting. He explained, further, that he is working with the Department of Water Resources to be able to complete some water features to enhance the area.

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

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the rezone from I & M-1 to CC-1 of Taylor Crossing on the River, Division No. 4 and that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

Aye: Councilmember Eldredge

Councilmember Lehto  
Councilmember Rose  
Councilmember Groberg

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Councilmember Klingler  
Councilmember Hardcastle

Nay: None

Motion Carried.

Annexation Proceedings for the First Amended Plat of Sunnyside Estates Addition, Division No. 1 were withdrawn by the Division Director.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to recess the public hearing for consideration of a rezoning from RSC-1 (Residential Shopping Center) to R-3A (Apartments and Professional Offices) on property generally located east and adjacent to Woodruff Avenue, south and adjacent to Hoopes Avenue, and north of Parkwood Street, legally described as Lot 3, Block 2, Third Amended Plat of Parkwood Meadows Addition, Division No. 1 to the January 24, 2002 Regular Council Meeting. Roll call as follows:

Aye: Councilmember Groberg  
Councilmember Rose  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Lehto

Nay: None

Motion Carried.

The Airport Director submitted the following memos:

City of Idaho Falls  
December 17, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: AGREEMENT WITH UNITED STATES DEPARTMENT OF AGRICULTURE, WILDLIFE SERVICE

Attached for City Council approval is an Agreement with the United States Department of Agriculture, Wildlife Service, to conduct a Wildlife Hazard Assessment. This requirement is mandated by the FAA. The assessment will take over a year to complete. The cost of the work is \$22,634.00 and funding will come from part of the Fiscal Year 2002 State Aviation Grant.

The Airport Division recommends approval and requests the Mayor be authorized to sign the document.

s/ Mike Humberd

Councilmember Lehto requested to know what a Wildlife Hazard Assessment was. Mayor Milam read the Objective/Goal of this Wildlife Hazard Assessment as follows:

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“To provide a wildlife hazard assessment/ecological study including systematic qualitative and quantitative data collection through on-site observations and surveys of the entire Airport property and vicinity to evaluate the wildlife hazards at the Idaho Falls Municipal Airport.”

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Agreement with the United States Department of Agriculture, Wildlife Service, to conduct a Wildlife Hazard Assessment and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Rose  
Councilmember Eldredge  
Councilmember Lehto  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls  
December 13, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: DUANE YOST AIRPORT LEASE AGREEMENT

Attached for City Council approval is the Duane Yost Airport Hangar Lease Agreement. This Lease is for twenty years.

The City Attorney has reviewed this document.

The Airport Division recommends approval of this Airport Hangar Lease Agreement and requests the Mayor be authorized to execute the document.

s/ Mike Humberd

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Airport Hangar Lease Agreement with Duane Yost and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto  
Councilmember Eldredge  
Councilmember Hardcastle  
Councilmember Groberg  
Councilmember Rose

Councilmember Klingler

Nay: None

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Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
December 18, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mark Gendron, Idaho Falls Power Director  
SUBJECT: BROADBAND SERVICE RESOLUTION

Attached for your consideration is a Resolution regarding broadband service in Idaho Falls. This Resolution is self-explanatory.

Idaho Falls Power respectfully requests adoption of this Resolution.

s/ Mark Gendron

**RESOLUTION NO. 2001-11**

WHEREAS, the City of Idaho Falls owns, operates and maintains an electrical generation and distribution utility (the "Electric Light Division"), which supplies the electrical energy needs of the citizens of the City;

WHEREAS, the Electric Light Division currently owns, operates and maintains numerous electrical distribution lines, poles, easements, and rights-of-way which facilitate delivery of electrical energy to residents of the City; and,

WHEREAS, the City Electric Light Division employs a work force which is trained and skilled in constructing, operating and maintaining electrical distribution lines within the rights-of-way and easements owned by the City; and,

WHEREAS, the City is presently encountering an increasing number of requests to excavate trenches and make pavement cuts within the streets located within the City and whereas such pavement cuts tend to degrade the quality and durability of the streets located within the City and whereas it is desirable to minimize such pavement cuts as far as possible; and,

WHEREAS, the City owns, operates and maintains an electrical distribution system comprised of numerous poles, transformers and electrical distribution lines and whereas, the City continues to receive an increasing volume of redundant requests from various telecommunication providers to suspend telecommunication lines upon such poles, which redundancy increases maintenance costs and compromises safety margins in maintaining appropriate clearances for such lines; and,

WHEREAS, the City recognizes the competitive edge of local businesses and expansion of the local labor force may be enhanced by the development of modern, broad bandwidth telecommunications lines and

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facilities and whereas the City recognizes the value of having such facilities readily available at a reasonable price and on an open-access basis; and,

WHEREAS, the City recognizes that certain economies of scale and costs savings may be achieved by joint operation of its Electric Light Division and a high-speed data, video and voice telecommunications utility;

NOW, THEREFORE, be it hereby resolved that:

1. The City forthwith devote the necessary resources to conduct and complete a comprehensive feasibility study to explore the possibility of developing a high-speed broadband fiber optic telecommunications system (the "System") that would make available the use of such fiber lines to all private and public businesses within the City of Idaho Falls, including other telecommunications entities, on an open-access basis.

2. Assuming such feasibility study recommends the creation of such System, that the City hire or independently retain all necessary personnel, including skilled and reputable technical, legal and financial consultants to develop a business plan and to commence design and construction of such System for the use, benefit and enjoyment of all citizens and businesses within the City of Idaho Falls.

3. Notwithstanding the foregoing, nothing herein shall be construed as evidencing any intent to supply "content" (i.e., programming or voice or video signaling) across such telecommunications facilities, it being the intent of the City to provide telecommunication facilities over which such services may be supplied by the private sector.

DATED this 21<sup>st</sup> day of December, 2001.

s/ Linda M. Milam  
Linda M. Milam  
Mayor

It was moved by Councilmember Eldredge, seconded by Councilmember Klingler, to approve the Resolution regarding broadband service in Idaho Falls and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Eldredge  
Councilmember Lehto  
Councilmember Rose  
Councilmember Groberg  
Councilmember Klingler  
Councilmember Hardcastle

Nay: None

Motion Carried.



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Mayor Milam recognized the work that Bill Cole has done with the City of Idaho Falls. This is an expansion to the City's service, and an addition to the infrastructure, and is not something that is entered into lightly.

Councilmember Groberg stated that one of the real values to adopting this Resolution is to give notice to the public of what the City's intentions are. He questioned whether this would be released to the general public. Mayor Milam explained that there has been a significant amount of discussion with one of the reporters from the Post Register.

The Idaho Falls Power Director stated that he has had an interview with one of the reporters from the Post Register this evening.

The Municipal Services Director submitted the following memos:

City of Idaho Falls  
December 17, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: HEALTH INSURANCE RENEWAL

It is respectfully requested that the Mayor and City Council approve the renewal of the City's Health Insurance Coverage with Regence Blue Shield of Idaho for a one-year period and authorize the Mayor to sign the renewal documents.

s/ S. Craig Lords

It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve the renewal of the City's Health Insurance Coverage with Regence Blue Shield of Idaho for a one-year period and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Klingler  
Councilmember Eldredge  
Councilmember Lehto  
Councilmember Groberg  
Councilmember Rose

Nay: None

Motion Carried.

City of Idaho Falls  
December 17, 2001

MEMORANDUM

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

SUBJECT: BID IF-02-03, ONE (1) NEW GENERAL PURPOSE TRACTOR AND  
LOADER

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Attached for your consideration is the tabulation for Bid IF-02-03, One (1) New 2001 General Purpose Tractor and Loader.

It is the recommendation of Municipal Services to accept the low bid meeting specifications of Bonneville County Implement to furnish a new 2002 John Deere Tractor for an amount of \$81,500.00 without trade-in.

s/ S. Craig Lords

It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to accept the low bid meeting specifications from Bonneville County Implement to furnish a new 2002 John Deere Tractor and Loader as presented. Roll call as follows:

Aye: Councilmember Groberg  
Councilmember Rose  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls  
December 17, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: CHANGE ORDER NO. 1 – CONTROL BUILDING REMODEL

Attached for your consideration is the Change Order No. 1 in the amount of \$5,771.91 for additional materials and labor for changes to the renovation project at the Idaho Falls Power Control Building.

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

s/ S. Craig Lords

It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve Change Order No. 1 to Vern Clark and Sons Construction Company, Inc. for the Idaho Falls Power Control Building Remodel and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Rose

Councilmember Eldredge  
Councilmember Lehto  
Councilmember Groberg

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Nay:           None

Motion Carried.

The memo from the Planning and Building Director regarding the Articles of Incorporation and Financial Agreement for the Bonneville Metropolitan Planning Organization was withdrawn by the Division Director.

The following memo was submitted from the Planning and Building Director:

City of Idaho Falls  
December 14, 2001

MEMORANDUM

TO:            Mayor and City Council  
FROM:         Renée R. Magee, Planning and Building Director  
SUBJECT:     DEVELOPMENT AGREEMENT AND FINAL PLAT – TAYLOR  
               CROSSING ON THE RIVER, DIVISION NO. 4

Attached are the Development Agreement and Final Plat for Taylor Crossing on the River, Division No. 4. This is a one lot plat of 1.23 acres located southeast of the round about on Utah Avenue. The Planning Commission considered this Final Plat at its November 27, 2001 Meeting, and recommended approval. The Department concurs with this recommendation. This matter is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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

Slide 1       Final Plat  
Slide 2       Aerial Photo  
Exhibit 1     Planning Commission Minutes dated November 27, 2001  
Exhibit 2     Staff Report dated November 27, 2001  
Exhibit 3     Copy of Final Plat

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Development Agreement for Taylor Crossing on the River, Division No. 4 and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye:           Councilmember Lehto  
               Councilmember Eldredge  
               Councilmember Hardcastle  
               Councilmember Groberg  
               Councilmember Rose  
               Councilmember Klingler

Nay:           None

Motion Carried.

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It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to accept the Final Plat for Taylor Crossing on the River, Division No. 4 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

Aye: Councilmember Lehto  
Councilmember Eldredge  
Councilmember Hardcastle  
Councilmember Groberg  
Councilmember Rose  
Councilmember Klingler

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls  
December 17, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: SUPPLEMENTAL AGREEMENT NO. 3 – SERG, INC., SUNNYSIDE ROAD/YELLOWSTONE HIGHWAY TO HOLMES AVENUE, ENVIRONMENTAL CONSULTANT

Attached is a proposed Supplemental Agreement with SERG, Inc., to provide environmental consultant services on the Sunnyside Road Project/Yellowstone Highway to Holmes Avenue. This additional work is necessary to comply with new or changed Idaho Transportation Department and/or Federal Highway Administration requirements for completing the environmental assessments on the project.

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

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve Supplemental Agreement No. 3 with SERG, Inc., to provide environmental consultant services on the Sunnyside Road/Yellowstone Highway to Holmes Avenue Project 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 Rose

Councilmember Groberg  
Councilmember Klingler  
Councilmember Hardcastle

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Nay: None

Motion Carried.

City of Idaho Falls  
December 17, 2001

MEMORANDUM

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

As previously authorized, the City Attorney has prepared attached documents needed to vacate an easement located in Burns Addition, Division No. 1.

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

s/ Chad Stanger

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

**ORDINANCE NO. 2437**

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

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

Aye: Councilmember Hardcastle  
Councilmember Klingler  
Councilmember Eldredge  
Councilmember Lehto  
Councilmember Groberg  
Councilmember Rose

Nay: None

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Motion Carried.

City of Idaho Falls  
December 17, 2001

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: PROPERTY EXCHANGE OPTION – BONNEVILLE COUNTY

Attached is a proposed Property Exchange Option and Exchange Agreement between the City and Bonneville County. This exchange involves two (2) parcels of property located on Hemmert Avenue, one (1) owned by the City and one (1) owned by Bonneville County. The property parcels are of comparable value. The Agreement provides a 90-day option to Bonneville County to conclude the exchange contingent upon sale of property they presently owned located on Houston Street near I-15.

Public Works recommends that the City Council declare an intent to exchange the described property with Bonneville County; set a public hearing to accept testimony with respect to this exchange; and, authorize the publication of a notice for described hearing.

s/ Chad Stanger

**RESOLUTION DECLARING INTENT TO EXCHANGE REAL PROPERTY**  
**RESOLUTION NO. 2001-12**

BE IT RESOLVED that pursuant to the provisions of Title 50, Chapter 14, Idaho Code, the City Council of the City of Idaho Falls, Idaho, hereby declares its intent to exchange certain real property owned by the City and more particularly described in Exhibit "A" attached hereto, for other real property owned by Bonneville County, Idaho, a political subdivision of the State of Idaho, which property is more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof. Such proposed exchange will be without further monetary or other consideration and without formal appraisal.

BE IT FURTHER RESOLVED, that a public hearing be conducted on the 24<sup>th</sup> day of January, 2002, at the hour of 7:30 p.m., at the City Council Chambers, 140 South Capital Avenue, Idaho Falls, Idaho, for the purpose of considering such exchange and that the City Clerk be and hereby is directed to publish a Notice of Hearing and a summary of such declaration in the official newspaper not less than fourteen (14) days prior to the date of such hearing.

DATED this 21<sup>st</sup> day of December, 2001.

ATTEST:

s/ Rosemarie Anderson  
Rosemarie Anderson

CITY OF IDAHO FALLS

s/ Linda M. Milam  
Linda M. Milam

City Clerk  
(SEAL)

Mayor

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**EXHIBIT "A"**

**(City Property)**

Beginning at a point which bears N. 89° 23' 08" W. 764.51 feet along the common line between 2 (two) County parcels as described in Instrument No. 817391 as recorded in the Bonneville County Clerk's Office, and along the Quarter Section Line from the Center One-Quarter Corner of Section 8, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County, Idaho; running thence N. 89° 23' 08" W. 364.91 feet along said lines; thence N. 22° 37' 33" E. 367.21 feet to a point on the Southerly Right-of-Way Line on Hemmert Avenue; thence S. 68° 39' 33" E. 320.46 feet along said Right-of-Way to a point of a 981.41 foot radius curve to the right; thence 39.76 feet along said Right-of-Way and said curve through a central angle of 02° 19' 16" with a long chord bearing S. 67° 29' 55" E. 39.75 feet to a point on the northerly boundary of one said County parcel and being a point of a non-tangent 20.00 foot radius curve; thence 31.64 feet along said curve along said County parcel to the left through a central angle of 90° 38' 30" and having a long chord bearing S. 68° 19' 40" W. 28.44 feet; thence S. 23° 00' 41" W. 217.86 feet along with County parcel to the point of beginning.

Containing 2.36 Acres, more or less.

**EXHIBIT "B"**

**(County Property)**

Lots 1, 2, 3, and 4, Block 3, Spencer Addition, to the City of Idaho Falls, Bonneville County, Idaho.

AND

Beginning at a point that is N. 00° 08' 29" W. along the Section Line 826.10 feet and S. 89° 54' 16" E. 1040.82 feet from the West Quarter Corner of Section 8, Township 2 North, Range 38 East of the Boise Meridian; running thence S. 89° 54' 16" E. 565.17 feet to the West Right-of-Way Line of the Eastern Idaho Railroad; thence S. 27° 01' 44" W. along said West Right-of-Way Line 195.84 feet to the Northeast Corner of Spencer Addition, to the City of Idaho Falls, Bonneville County, Idaho; thence N. 89° 54' 16" W. along the North Line of said Spencer Addition 476.46 feet; thence N. 00° 05' 44" E. 174.60 feet to the POINT OF BEGINNING.

SUBJECT TO: Existing Easements of Record.

Containing 3.36 Acres.

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve the Resolution declaring an intent to exchange the described property with Bonneville County; set a public hearing to accept testimony with respect to the exchange; authorize the

publication of a notice for described hearing; and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Groberg

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Councilmember Rose  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Lehto

Nay:           None

Motion Carried.

There being no further business, it was moved by Councilmember Klingler, seconded by Councilmember Hardcastle, that the meeting adjourn at 9:00 p.m.

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CITY CLERK

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MAYOR

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