

**SEPTEMBER 28, 2000**

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The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, September 28, 2000, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

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

Also present:

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

Mayor Milam and Councilmembers honored Dennis Price on his recent retirement from the Idaho Falls Power Division by presenting him with gift certificates to Home Depot.

The City Clerk read a summary of the minutes for the September 14, 2000 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 Groberg  
Councilmember Lehto  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge

Nay: None

Motion Carried.

**CONSENT AGENDA ITEMS**

The City Clerk presented several license applications, including BARTENDER PERMITS to Tracy L. Byington, Shirley L. Jorgensen, Cynthia L. Kunz, and Marsha McGinty, 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 September 28, 2000.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mark Gendron, Idaho Falls Power Director  
SUBJECT: REQUEST FOR BIDS FOR POWER PLANT IMPROVEMENT

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Idaho Falls Power respectfully requests Council authorization to advertise to receive bids for the Old Lower Power Plant Tailrace Concrete Refurbishment Project. This is a budgeted item.

s/ Mark Gendron

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls  
September 26, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: David J. Christiansen, Parks and Recreation Director  
SUBJECT: TAUTPHAUS PARK ZOO HOSPITAL

The Division of Parks and Recreation respectfully requests authorization to bid the construction of an animal hospital to be located at the Tautphaus Park Zoo.

s/ David J. Christiansen

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 Groberg  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Rose  
Councilmember Klingler

Nay: None

Motion Carried.

Mayor Milam commented regarding the above memo from the Parks and Recreation Director. The CHC Foundation has presented a Grant to the City of Idaho Falls for the Tautphaus Park Zoo Animal Quarantine Hospital without requiring a matching grant. There will also be funds contributed by the Zoological Society, but recognizing that the hospital was an important addition, the CHC Foundation has provided the remainder of the needed money. This is a very generous contribution from CHC Foundation, and she wanted to recognize them for that.

**REGULAR AGENDA ITEMS**

Mayor Milam requested Councilmember Rose to conduct Annexation Proceedings for Amherst Addition, Division No. 1. 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  
September 25, 2000

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: AMHERST ADDITION, DIVISION NO. 1

Attached is the Annexation Agreement, Annexation Ordinance, and Final Plat for Amherst Addition, Division No. 1. Amherst Addition, Division No. 1, is a Final Plat of 22 single-family lots located immediately north of and adjacent to Sunnyside Road and east of Sonora Drive. The requested initial zoning is R-1, Single-Family Residential. The Planning Commission considered this request for annexation at its August 8 Meeting and recommended approval. The Department concurs with this recommendation. This annexation request 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 annexation request:

Exhibit A Vicinity Map showing surrounding zoning  
Exhibit B Land Use Map  
Exhibit C Final Plat for Amherst Addition, Division No. 1  
Exhibit D Planning Commission Minutes dated August 8, 2000  
Exhibit E Staff Report for August 8 Planning Commission Meeting

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to state that this Final Plat is in compliance with City standards and regulations.

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

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Annexation Agreement for Amherst Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

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

Nay: None

Motion Carried.

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



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**ORDINANCE NO. 2392**

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS, IDAHO; DESCRIBING THESE LANDS; REQUIRING THE FILING OF THE ORDINANCE AND AMENDED CITY MAP AND AMENDED LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Rose moved, and Councilmember Eldredge 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 and the Ordinance be passed on all three readings. Roll call as follows:

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

Nay: None

Motion Carried.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to accept the Final Plat for Amherst Addition, Division No. 1 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

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

Nay: None

Motion Carried.

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

Aye: Councilmember Rose  
Councilmember Groberg  
Councilmember Lehto

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Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge

Nay:           None

Motion Carried.

The Airport Director submitted the following memos:

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO:           Honorable Mayor and Council  
FROM:       Mike Humberd, Director of Aviation  
SUBJECT:   PASSENGER FACILITY CHARGE CODE OF ORDINANCE CHANGE

Attached for City Council approval is a change to the Passenger Facility Charge Chapter of the City Code of Ordinances that will change the collection rate from \$3.00 to \$4.50. Congress as part of FY-2001 Transportation Bill approved the rate increase. The Airport is in the early stages of the FAA application process to collect increased PFC's for the Terminal Renovation Project.

The Aviation Division recommends approval of this Ordinance change.

s/ Mike Humberd

Councilmember Eldredge requested to know when this increase would take effect. The Airport Director stated that the increase would take effect April 1, 2001.

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

**ORDINANCE NO. 2393**

AN ORDINANCE REPEALING AND RE-ENACTING SECTION 8-12-3 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR THE CHANGE IN THE AMOUNT OF THE PASSENGER FACILITY CHARGE IMPOSED ON ALL PASSENGERS ENPLANED AT THE IDAHO FALLS MUNICIPAL AIRPORT; PROVIDING FOR THE SEVERABILITY OF THE SECTIONS OF THIS ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE OF THE ORDINANCE.

The foregoing Ordinance was presented by title only. Councilmember Groberg moved, and Councilmember Hardcastle 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:

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

Nay: None

Motion Carried.

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: CHANGE ORDER NO. 1 TO THE REHABILITATION OF TAXIWAY  
"C" PROJECT

Attached for City Council approval is Change Order No. 1 to the Taxiway "C" Project. The Contract is being reduced by \$37,500.00 for work that will not be accomplished by the Contractor.

The Aviation Division recommends approval and requests the Mayor be authorized to execute the Agreement.

s/ Mike Humberd

Councilmember Rose questioned whether this savings that will be realized by the City or whether the work would be done under another Contract. The Airport Director appeared to state that the referenced work reduction was for a security-fencing project to support the rental car service area. The rental car companies are paying for the fence line itself and are dividing it equally among those businesses.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve Change Order No. 1 to HK Contractors, Inc. for the Rehabilitation of Taxiway "C" Project and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.



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City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: AMENDMENT TO ROXINE STONE HANGAR LEASE AGREEMENT

Attached for City Council approval is a renewal Amendment to the Roxine Stone Hangar Lease for five years.

The City Attorney has approved this document.

The Aviation Division recommends approval and requests the Mayor be authorized to execute the Agreement.

s/ Mike Humberd

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the renewal of the Amendment to the Hangar Lease Agreement with Roxine Stone and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. 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  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mike Humberd, Director of Aviation  
SUBJECT: LEASE AGREEMENT WITH RECREATIONAL SPORTS

Attached for City Council approval is a Lease Agreement with Recreational Sports for five years.

The City Attorney has approved this document.

The Aviation Division recommends approval and requests the Mayor be authorized to execute the Agreement.

s/ Mike Humberd



to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 67-2343, Idaho

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Code, as amended, I gave public notice of the agenda, date, time and place of the September 28, 2000, regular public meeting held by the Council of the City, by:

(a) causing a notice of the regular meeting schedule of the Council for calendar year 2000 to be posted at the principal office of the City; said Notice of Public Meeting having continuously remained so posted and available for public inspection during the regular office hours of the Council until the convening of the meeting; and,

(b) causing a copy of the agenda for the September 28, 2000, regular public meeting of the Council, in the form attached hereto as *Exhibit A*, to be posted at the principal office of the City at least 48 hours before the convening of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the City, this 28<sup>th</sup> day of September, 2000.

s/ Rosemarie Anderson  
City Clerk  
City of Idaho Falls,  
Bonneville County, Idaho

(SEAL)

EXHIBIT A

(Agenda for September 28, 2000 Public Meeting – Attachment located in City Clerk’s Office)

After the conduct of other business not pertinent to the following, Councilmember Eldredge announced that the time had come to consider the approval and authorization of the Block and Slice Power Sales Agreement (The “*Slice Agreement*”) between the City and the Bonneville Power Administration (“*BPA*”). Mr. Gendron presented to the Council the Consulting Engineer’s Report of Mooney Consulting regarding the Slice Agreement. The Consulting Engineer’s Report of Mooney Consulting was accepted by the Council and ordered to be placed in the official records of the City and is as follows:

(Consulting Engineer’s Report from Mooney Consulting – Attachment located in the City Clerk’s Office.)

Mr. Gendron noted that the City had purchased the majority of its requirements for electric power and energy from BPA for many years and that the Slice Agreement was one of the several alternative power purchase arrangements now being offered by BPA to its preference customers. Mr. Gendron observed that the Slice Agreement was the most advantageous power purchase alternative for the City because of, among other things, the full complement of BPA’s resources that were committed to support power deliveries under the Slice Agreement and the operational independence and flexibility available to the city

under the Slice Agreement. Mr. Gendron advised the Council that the amount of power and energy available to the City under the Slice Agreement would likely be reduced by BPA

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because the total amounts of power and energy being requested by all of BPA's preference customers under all of the Slice Agreements exceeded BPA's limit on the amounts of power and energy it would sell under these agreements. Mr. Gendron noted that the City would supplement its reduced amount of power and energy with flat block purchases under the Slice Agreement so as to equal the City's full net power and energy requirements.

Mr. Gendron then noted that BPA was requiring the City (and all the other customers of BPA executing Slice Agreements with BPA) to enter into a Creditworthiness Agreement with BPA. Mr. Gendron advised the Council that the City and its counsel were engaged in discussions with BPA regarding the terms of the Creditworthiness Agreement and that it would be presented to the Council for approval when such discussions were completed.

E. Robert Mooney, Consulting Engineer, appeared to review the following conclusions and recommendations with Council from his Consulting Report. Based on the information presented in this report, Mooney Consulting is of the opinion that:

The Slice Product either in whole or combined with the Block Partial is the most favorable for Idaho Falls Power considering both the benefits and potential risks.

The Slice Product has risks relating to water variability and other factors, which can be mitigated on a year-to-year basis using the Idaho Falls Rate Stabilization Fund and access to or participation in one or more thermal resources.

Idaho Falls Power has the opportunity to establish seasonal exchanges using Slice, which can be valuable in more closely matching the resources available to the Idaho Falls Power load.

Based on the findings and conclusions above, Mooney Consulting recommends that Idaho Falls Power:

Subscribe to the maximum amount of Slice permitted by BPA for the 10-year term offered.

Combine Slice with Block Partial if Idaho Falls Power is not offered Slice in the full amount requested. Select the most favorable terms for Block Partial (several variations possible).

Establish relationships with one or more entities for seasonal exchanges of Slice output when advantageous to better match the Idaho Falls Power loads.

Consider acquiring a cost-based thermal generating resource as a Slice supplement to partly manage market volatility and energy shortfall in near-critical water years and to provide an alternative for load growth.

Maintain sufficient moneys in the Rate Stabilization Fund to mitigate the risks inherent in the Slice Product from year-to-year and to provide reserves for prudent management of Idaho Falls Power.

Mr. Storer advised the Council that, under the opinions of the Idaho Supreme Court in Asson V. City of Burley and certain other cases, it was possible that the Slice Agreement and the Creditworthiness Agreement could be construed to create an "indebtedness or liability" of a the City within the meaning of the Idaho Constitution because

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it was a long-term contract that obligated the City make payments to BPA and to take certain actions for the benefit of BPA. Mr. Storer stated that, while he was of the opinion as City Attorney that the City's execution and performance of the Slice Agreement and the Creditworthiness Agreement were consistent with the City's legal powers under the Constitution and statutes of the State of Idaho and did not create an "indebtedness or liability" of the City, it was his recommendation that the City initiate a proceeding under the Judicial Confirmation Law contained in Title 7, Chapter 13 of the Idaho Code to confirm the validity of the Slice Agreement and the Creditworthiness Agreement.

The following Resolution was then introduced in written form and pursuant to motion duly made by Councilmember Eldredge and seconded by Councilmember Klingler, was adopted and approved by the following vote:

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

Nay:            None

Motion Carried.

The Resolution was thereupon signed by the Mayor, was attested by the City Clerk and was ordered recorded in the official records of the City. The Resolution is as follows:

**RESOLUTION**

A RESOLUTION AUTHORIZING THE EXECUTION AND  
DELIVERY OF THE BLOCK AND SLICE POWER SALES  
AGREEMENT WITH BONNEVILLE POWER ADMINISTRATION,  
THE COMMENCEMENT OF A JUDICIAL CONFIRMATION  
PROCEEDING WITH RESPECT TO SUCH AGREEMENT AND  
RELATED MATTERS.

\*\*\*\*\*            \*\*\*\*\*            \*\*\*\*\*

WHEREAS, City of Idaho Falls, Bonneville County, Idaho (the "City") has determined that, in order to obtain a long-term supply of electric power and energy necessary for the continued operation of Idaho Falls Power, it is necessary, desirable and in the best interests of the City to enter into the Block and Slice Power Sales Agreement (the "Slice Agreement") with the United States of America, Department of Energy, acting by and through the Bonneville Power Administration ("BPA"); and

WHEREAS, the City Attorney is of the opinion that it is necessary and desirable to institute a judicial confirmation proceeding with respect to the Slice Agreement and the related Creditworthiness Agreement to confirm and

establish that each constitutes the legal, valid and binding agreement of the City;

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NOW, THEREFORE, BE IT RESOLVED by the City Council of City of Idaho Falls, Bonneville County, Idaho, as follows:

*Section 1. Execution and Delivery of the Slice Agreement.* The Slice Agreement, in substantially the form attached hereto as *Exhibit B*, is hereby authorized and approved, and the Mayor is hereby authorized, empowered and directed to execute and deliver the Slice Agreement on behalf of the City, and the City Clerk is hereby authorized, empowered and directed to attest such execution and to affix the corporate seal of the City to the Slice Agreement, with such changes to the Slice Agreement from the form attached hereto as *Exhibit B* as shall be approved by the Mayor and the City Attorney, the Mayor's execution thereof to constitute conclusive evidence of such approval.

*Section 2. Other Actions with Respect to the Slice Agreement.* The Mayor, the City Clerk, the Director of Idaho Falls Power, the City Attorney and other officers and employees of the City shall take all actions necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all actions necessary to carry out the execution and delivery of the Slice Agreement and the performance thereof, including, without limitation, the delivery of such certificates and opinions as may be required by BPA.

*Section 3. Judicial Confirmation.* The City Attorney, Mayor, City Clerk and other appropriate officers of the City are hereby authorized and directed to take all actions necessary to commence and prosecute a judicial confirmation proceeding pursuant to the provisions of the Judicial Confirmation Law, Title 7, Chapter 13, Idaho Code, as amended, to confirm that the Slice Agreement and the Creditworthiness Agreement constitute legal, valid and binding agreements of the City.

*Section 4. Miscellaneous; Effective Date.* (a) This resolution shall be and remain irrevocable until the expiration or termination of the Slice Agreement in accordance with its terms.

(b) All previous acts and resolutions in conflict with this resolution or any part hereof are hereby repealed to the extent of such conflict.

(c) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(d) This resolution shall take effect immediately upon its adoption and approval.

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ADOPTED AND APPROVED this 28th day of September, 2000.

CITY OF IDAHO FALLS, BONNEVILLE  
COUNTY, IDAHO

S/ LINDA M. MILAM  
Mayor

ATTEST:

S/ ROSEMARIE ANDERSON  
City Clerk

[SEAL]

The memo from the Idaho Falls Power Director regarding the Resource 2000 Project Power Sales Contract with UAMPS was withdrawn by the Division Director. The Municipal Services Director submitted the following memos:

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: SALARY AND BENEFIT INCREASE

Attached for your consideration are wage and benefit increases for the Police Association, Municipal Employees Association and all other non-covered employees.

It is respectfully requested that the Mayor and Council approve said wage and benefit increases.

s/ S. Craig Lords

Councilmember Klingler reviewed for the Mayor and Council the salary and benefit increases. There being no discussion, it was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve the wage and benefit increases for the Police Association, Municipal Employees Association, and all other non-covered employees. 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  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: 2000-2001 LEGAL SERVICES PROPOSAL

Attached for your consideration is a proposal from Dale Storer and Holden, Kidwell, Hahn and Crapo to provide legal services for the 2000-2001 fiscal year.

It is the recommendation of Municipal Services to accept this proposal and authorize the Mayor to execute the Contract.

s/ S. Craig Lords

It was moved by Councilmember Klingler, seconded by Councilmember Lehto, to approve the proposal from Dale Storer and Holden, Kidwell, Hahn and Crapo to provide legal services for the 2000-2001 fiscal year 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

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls  
September 27, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: David J. Christiansen, Parks and Recreation Director  
SUBJECT: ROSE HILL CEMETERY ASPHALT PAVING AND STORM DRAINAGE PROJECT – PROJECT NO. 2-38-30-2-PRK-2000-16

Attached for your consideration is the bid tabulation for the Rose Hill Cemetery Asphalt Paving and Storm Drainage Project. It is respectfully requested that the Contract be awarded to the apparent low bidder HK Contractors of Idaho Falls

in the amount of \$45,210.00. The Engineer's Estimate on this project was \$50,700.00.

s/ David J. Christiansen

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It was moved by Councilmember Hardcastle, seconded by Councilmember Rose, to accept the low bid from HK Contractors, Inc. to complete the Rose Hill Cemetery Asphalt Paving and Storm Drainage Project and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. 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  
September 27, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: David J. Christiansen, Parks and Recreation Director  
SUBJECT: PINECREST GOLF COURSE PARKING LOT, PHASE I PROJECT  
PROJECT NO. 2-38-17-2-PRK-2000-11

Attached for our consideration is the bid tabulation for Phase I of the Pinecrest Golf Course Parking Lot Project. It is respectfully requested that the Contract be awarded to the apparent low bidder Silver Creek Construction of Rigby, Idaho in the amount of \$30,267.00. The Engineer's Estimate on this project was \$34,085.00.

The Golf Course Capital Improvement Fund is providing the necessary funds for this project.

s/ David J. Christiansen

Councilmember Hardcastle explained the project in more detail. Councilmember Lehto requested to know how many phases of this project that there were going to be. The Parks and Recreation Director appeared to state that there are two phases to the Pinecrest Golf Course Parking Lot Project. The first phase involves the infrastructure and utility work. The second phase involves the paving, which will occur in approximately two years. There being no further questions or comments, it was moved by Councilmember Hardcastle, seconded by Councilmember Rose, to accept the low bid from Silver Creek Construction to complete the Pinecrest Golf Parking Lot, Phase I Project and, further, give authorization for the Mayor and City Clerk to sign 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.

The Planning and Building Director submitted the following memos:

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: BLUE RIDGE ESTATES, DIVISION NO. 2 – AMENDMENT TO ANNEXATION AGREEMENT

Attached is an Amendment to the Annexation Agreement for Blue Ridge Estates, Division No. 2. The Amendment covers the payment of costs for a water main in Mill Road between Blue Ridge Estates, Division No. 2 and Bellin Road. The Department respectfully requests approval of the Amendment.

s/ Renée R. Magee

The Planning and Building Director explained the Amendment to the Annexation Agreement in more detail. It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Amendment to the Annexation Agreement for Blue Ridge Estates, Division No. 2 and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: ORDINANCE ESTABLISHING REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES

Attached is the Ordinance establishing regulations for sexually oriented businesses. The Ordinance provides for licensing sexually oriented businesses and establishes distances between such businesses and schools, churches,

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          parks, and residential zones. This Ordinance reflects revisions made in response to comments received during the September 14, 2000 Council Meeting. This Ordinance is now being submitted for consideration by the Mayor and City Council.

s/ Renée R. Magee

Councilmember Rose gave a brief history of this Ordinance.

          The Planning and Building Director appeared to state that there were two major revisions in the Ordinance that is before the City Council. In Section 6, the language was altered to clarify “non-conforming uses”. Section 30 of the Ordinance, regarding the prohibition of the distribution of sexual devices has been eliminated from the new Ordinance provided. The Planning and Building Director requested that as the public reviews the Ordinance, to carefully look at the purpose of the Ordinance under Section 1, the definitions of sexually oriented businesses, and the exceptions under Section 27.

          Councilmember Lehto requested clarification of the cost associated with applying for a Sexually Oriented Business License. The Planning and Building Director stated that the License Fee is \$100.00.

          Councilmember Eldredge stated that the substantial portion of the business means that if less than 25% of the business is made up of sexually oriented items, then the business is not covered by this Ordinance.

          Councilmember Rose stated that the Sexually Oriented Business Ordinance has been opened for public comment on two occasions. He felt that it would be more productive to allow time for public review of the new Ordinance and take comment from the public in two weeks at the next regularly scheduled Council Meeting.

          The City Attorney stated that if anyone wants to submit written comments to the Planning and Building Office prior to the next Council Meeting, that would provide the opportunity to review and consider the comments prior to the Council Meeting.

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

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, ESTABLISHING REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES AND LIMITING THEM TO SPECIFIED ZONING DISTRICTS; PROVIDING FOR LICENSING AND REGULATION OF SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES; AND PROVIDING ADDITIONAL HEALTH AND SAFETY REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES; AND REPEALING PRIOR ORDINANCES INCONSISTENT THEREWITH IN PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATE.

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

Aye: Councilmember Rose  
Councilmember Groberg

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Councilmember Lehto  
Councilmember Klingler  
Councilmember Hardcastle  
Councilmember Eldredge

Nay:           None

Motion Carried.

Mayor Milam stated that several letters were received regarding the Sexually Oriented Businesses Ordinance and requested they be made part of the record as follows:

September 16, 2000

Dear Mr. Meyers/Members of the City Council:

I just completed reviewing the proposed City Ordinance pertaining to sex business regulations in Idaho Falls. I first learned of the proposed Ordinance after reading an article in the Post Register on September 3. I had planned to attend your public hearing on September 14 in support of the Ordinance but was unusually busy with an activity at work, which needs to be completed by next week.

After talking with Mr. Meyers yesterday, I understood that my input may still yet be received.

First, I wanted to say that I am appreciative of the forward vision which this Ordinance reflects and also the effort which has been made to consider information from other communities regarding this issue.

The position that signs should not be visible outside the business and that there should be no advertising I feel are very important. We moved to this area from Salt Lake City almost 11 years ago. This was an issue there and because the businesses were already established was only addressed by citizens picketing the establishments standards regarding structural configuration of the business facility, lighting and management office visibility throughout the business are also important.

Finally and most importantly, I feel that the location of any such businesses and the activities which can legally take place within the business premises be consistent with the Idaho Code and City Ordinances which address these issues.

I feel that maintenance of these legally accepted standards of personnel conduct are essential to the health and well being of our community, state, and nation.

A wise man once told me if you want to know the virtue or truth of any issue just ask yourself what would the world be like if everyone in the world did this. With regard to the issue of sexually oriented businesses, I shutter to think of the results.



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I apologize for not being at your public hearing on September 14. I ask that I may please have an opportunity to provide input at your next hearing.

Sincerely,

s/Charles G. Dietz

Idaho Falls Arts Council  
Willard Arts Center  
Colonial Theater  
September 25, 2000

TO: Mayor Linda Milam  
Idaho Falls City Council  
Dale Storer, City Attorney

FROM: Idaho Falls Arts Council Gallery Committee

SUBJECT: City Ordinance Establishing Regulations for Sexually Oriented  
Businesses

The members of the Idaho Falls Arts Council's gallery committee are concerned about the proposed *Sexually Oriented Businesses Ordinances* and how it will affect fine art galleries and studios. After reading the proposed Ordinance, it is unclear to us as to whether the Ordinance will apply to 1) art galleries with exhibits that include nude work, and/or 2) art studios where nude models are used in instruction. There is also some concern as to who determines whether or not something is "indecent".

*Section 1. Purpose and Intent* states in the first sentence that businesses that "sell, display, or distribute indecent materials, or which sponsor, exhibits or engage in conduct, which is indecent" would be affected by these regulations. This sounds like it could apply to fine art galleries. The Carr Gallery in the Willard Arts Center has exhibited art that depicts nude human bodies. Our gallery committee does not condone censorship of fine art, but is sensitive to the community when reviewing artist materials for exhibit, especially considering our role in the schools – we often give tours to school children. We think that, as a committee of qualified artists and professionals, we are quite capable of determining whether or not a piece of art is obscene or distasteful and would not welcome someone else making that determination for us.

*In Section 2. Definitions*, "nude model studios" is included in the list of Sexually Oriented Businesses. This could apply to studios that provide art instruction using nude models. Though the Willard Arts Center has not to date provided adult art instruction on nude human form, the possibility exists for classes in the future. Our position is that art instruction using nude models is a standard practice among professional and amateur artists, and an essential part of traditional art instruction.

We don't believe that the intention of this Ordinance is to prohibit the use of nude models in creating art or to restrict the exhibition of fine art that depicts nudes. However, the wording in the proposed Ordinance seems to imply that

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this would, in fact, be the case. We recommend that fine art galleries and studios be exempt from this Ordinance and stated as such in the context.

Idaho Falls Arts Council  
Gallery Committee – 2000  
Debra Kern, Chair  
Sherry Best  
Dava Dahlgran  
Sally Ellis  
Jeannie Frazell  
Nancy Hertz

Lisa Kelly  
Elizabeth LaRowe  
Jenny Likes  
Linda S. Martin  
Rita Meyers  
John Stevens  
Carrie Getty, Ex-Officio  
Althea Cudaback, Staff

E-Mail from Thompson Family ([Thompson@srv.net](mailto:Thompson@srv.net))

DATE: Wednesday, September 27, 2000 7:41 a.m.

TO: [info@ci.idaho-falls.id.us](mailto:info@ci.idaho-falls.id.us)

SUBJECT: PROPOSED ORDINANCE

Dear Members of the City Council:

You are currently considering an Ordinance concerning sex businesses. The Ordinance is intended to keep Idaho Falls free of smutty businesses that degrade downtown areas in many cities. I agree with this and want to see Idaho Falls stay a clean and safe community. However, one paragraph of the Ordinance you are considering concerns the practice of using nude models as art subjects. I don't think this paragraph in the Ordinance is necessary, and it could cause problems for artists and gallery owners in Idaho Falls. Since the practice of using nude artist's models for subjects of paintings and sculptures is an old and accepted one in our culture it should not be subjected to city regulations. A few artists in Idaho Falls whom I am aware of use nude subjects at least occasionally. They have exhibited pictures with nude subjects in art guild shows locally and these shows have been well accepted by the public. There have been no problems, locally or nationally, with artists who follow the tradition of using nude subjects in their work. I think the Council should steer clear of introducing Ordinances that must be interpreted carefully to be enforced. These can be used, once on the books, to harass legitimate businesses and stop normal activities of community groups. Idaho Falls has a lively arts community which adds greatly to our community life. As a Council, please do not enact an Ordinance that includes language that will make a long tradition of artistic expression illegal. Target the sex businesses in a specific way. Adding language such as this to a City Ordinance is like having a drug law that is written so broadly that the use of needed medications is illegal.

Thank you for your consideration of this.

Sincerely,

Colleen Thompson  
2187 Brandon Drive  
Idaho Falls

Member Colored Pencil  
Society of America  
District Chapter 217

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The Public Works Director submitted the following memo:

City of Idaho Falls  
September 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: EASEMENT VACATION – LOTS 1 AND 2, BLOCK 1, ROSE  
NIELSEN ADDITION, DIVISION NO. 109

Public Works requests authorization for the City Attorney to prepare the documents needed to vacate an easement located between Lots 1 and 2, Block 1, Rose Nielsen Addition, Division No. 109.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare the documents needed to vacate an easement located between Lots 1 and 2, Block 1, Rose Nielsen Addition, Division No. 109. Roll call as follows:

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

Nay: None

Motion Carried.

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

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CITY CLERK

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MAYOR

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