

**JUNE 10, 1999**

---

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, June 10, 1999, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Linda Milam  
Councilmember Gary Mills  
Councilmember Brad Eldredge  
Councilmember Larry Carlson  
Councilmember Beverly Branson  
Councilmember Ida Hardcastle  
Councilmember Joe Groberg

Also present:

Shan Perry, Assistant City Attorney  
Rosemarie Anderson, City Clerk  
All available Division Directors

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

The City Clerk read a summary of the minutes for the May 27, 1999 Regular Council Meeting. It was moved by Councilmember Branson, seconded by Councilmember Eldredge, that the minutes be approved as printed. Roll call as follows:

Aye:            Councilmember Groberg  
                  Councilmember Mills  
                  Councilmember Branson  
                  Councilmember Hardcastle  
                  Councilmember Eldredge  
                  Councilmember Carlson

Nay:            None

Motion Carried.

Mayor Milam announced that the next regularly scheduled City Council Meeting will be moved to Tuesday, June 22, 1999, due to the Association of Idaho Cities Annual Meeting that will also be held that week.

**CONSENT AGENDA ITEMS**

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

The City Clerk presented several license applications, including BARTENDER PERMITS to Tina M. Beard, Paul D. Freund, Michael A. Martinez, Maria Sato, Cody L. Scott, and Tawna L. Wilson, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on June 10, 1999.

**JUNE 10, 1999**

---

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

Aye: Councilmember Eldredge  
Councilmember Carlson  
Councilmember Mills  
Councilmember Groberg  
Councilmember Branson  
Councilmember Hardcastle

Nay: None

Motion Carried.

**REGULAR AGENDA ITEMS**

The City Clerk presented the following Expenditure Summary dated May 1, 1999 through May 31, 1999, after having been audited by the Fiscal Committee and paid by the Controller:

| <b><u>FUND</u></b>                   | <b><u>SERVICE<br/>AND<br/>MATERIALS</u></b> | <b><u>GROSS<br/>PAYROLL</u></b> | <b><u>TOTAL<br/>EXPENDITURE</u></b> |
|--------------------------------------|---|---------------------------------|-------------------------------------|
| General Fund                         | \$965,690.36                                | \$1,037,177.57                  | \$2,002,867.93                      |
| Street Fund                          | 65,851.29                                   | 57,751.48                       | 123,602.77                          |
| Airport Fund                         | 65,015.65                                   | 25,125.02                       | 90,140.67                           |
| Water and Sewer Fund                 | 276,799.01                                  | 127,861.02                      | 404,660.03                          |
| Electric Light Fund                  | 1,907,208.29                                | 226,260.42                      | 2,133,468.71                        |
| Sanitation Fund                      | 31,782.78                                   | 59,730.80                       | 91,513.58                           |
| Recreation Fund                      | 29,549.97                                   | 25,712.04                       | 55,262.01                           |
| Municipal Capital Improvement Fund   | 18,195.25                                   | .00                             | 18,195.25                           |
| Library Fund                         | 59,961.53                                   | 51,651.37                       | 111,612.90                          |
| Ambulance Fund                       | 52,117.60                                   | 59,832.96                       | 111,950.56                          |
| Municipal Equipment Replacement Fund | 34,948.88                                   | .00                             | 34,938.88                           |
| BPA Weatherization Loan Fund         | 28,217.17                                   | .00                             | 28,217.17                           |
| Surface Drainage Fund                | 300.00                                      | .00                             | 300.00                              |
| <b>TOTALS</b>                        | <b>\$3,535,637.78</b>                       | <b>\$1,671,102.68</b>           | <b>\$5,206,740.46</b>               |

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to approve Check No. 45655 in the amount of \$16.80 made payable to Barnes and Noble BookSellers. Roll call as follows:

Aye: Councilmember Branson  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg

Nay: None

Abstain: Councilmember Mills (as he is employed by Barnes and Noble BookSellers and also owns stock in the Company)

**JUNE 10, 1999**

---

Motion Carried.

It was moved by Councilmember Branson, seconded by Councilmember Groberg, to approve Check No. 45839 in the amount of \$640.00 and Check No. 45987 in the amount of \$100.00, both made payable to the University of Idaho. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Branson  
Councilmember Carlson  
Councilmember Groberg  
Councilmember Mills

Nay: None

Abstain: Councilmember Eldredge (as he is employed by the University of Idaho)

Motion Carried.

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to ratify the payment of the remainder of the expenditures for the month of May, 1999. Roll call as follows:

Aye: Councilmember Eldredge  
Councilmember Carlson  
Councilmember Mills  
Councilmember Groberg  
Councilmember Branson  
Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Mills to conduct Annexation Proceedings for Channing Way Addition, Division No. 5. At the request of Councilmember Mills, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls  
June 7, 1999

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: CHANNING WAY ADDITION, DIVISION NO. 5

Attached is the Final Plat, Annexation Agreement, and Annexation Ordinance for Channing Way Addition, Division No. 5. The requested initial zoning is R3-A for Lot 3, Block 5, and the adjoining portion of the Sand Creek Canal. The

southern portion of the Sand Creek Canal will be zoned C-1 if this annexation is approved. Lot 12, Block 2, and Lot 2, Block 5, are presently within City

**JUNE 10, 1999**

---

boundaries and are zoned R3-A. The Planning Commission considered this request at its April 13, 1999 Meeting and recommended approval. This Department concurs. This annexation request is now being submitted for consideration.

s/ Renée R. Magee

Councilmember Groberg stated that he has a conflict of interest on this Annexation request, so he would not participate in the discussion and voting.

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:

|         |  |
|---------|--|
| Slide 1 | Vicinity map   |
| Slide 2 | Aerial Photo   |
| Slide 3 | Final Plat   |
| Slide 4 | Preliminary Plat   |
| Slide 5 | Site Photo looking northeast from intersection of Coronado and Cortez Avenue                                       |
| Slide 6 | Site Photo - looking east from the intersection of Coronado and Cortez Avenue, looking at the new Spectrum Theater |

Councilmember Mills questioned whether this would have frontage on a street, if an interior circulation pattern is used for this development. The Planning and Building Director stated that these types of developments are developed with private roads, which provides the street frontage.

Darrell Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared as a Representative of the Developer, to answer any questions from the Mayor and City Council.

There being no further discussion either in favor of or in opposition to this Annexation request, it was moved by Councilmember Mills, seconded by Councilmember Hardcastle, to accept the Final Plat for Channing Way Addition, Division No. 5 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

Aye: Councilmember Carlson  
Councilmember Eldredge  
Councilmember Hardcastle  
Councilmember Mills  
Councilmember Branson

Nay: None

Abstain: Councilmember Groberg (Due to Conflict of Interest)

Motion Carried.

It was moved by Councilmember Mills, seconded by Councilmember Hardcastle, to approve the Annexation Agreement for Channing Way Addition, Division No. 5 and,

further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

Aye: Councilmember Mills  
Councilmember Branson

**JUNE 10, 1999**

---

Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Carlson

Nay: None

Abstain: Councilmember Groberg (Due to Conflict of Interest)

Motion Carried.

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

**ORDINANCE NO. 2326**

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 Mills 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 and the Ordinance be passed on all three readings. Roll call as follows:

Aye: Councilmember Carlson  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Mills  
Councilmember Branson

Nay: None

Abstain: Councilmember Groberg (Due to Conflict of Interest)

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 Mills, seconded by Councilmember Hardcastle, to establish the initial zoning of Channing Way Addition, Division No. 5 as R3-A (Multi-Family and Office Buildings) and C-1 (Limited Retail) 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 Branson  
Councilmember Hardcastle  
Councilmember Mills

**JUNE 10, 1999**

---

Councilmember Eldredge  
Councilmember Carlson

Nay: None

Abstain: Councilmember Groberg (Due to Conflict of Interest)

Motion Carried.

Mayor Milam requested Councilmember Mills to conduct Annexation Proceedings for Ironwood Estates Addition, Division No. 11. At the request of Councilmember Mills, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls  
June 7, 1999

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: IRONWOOD ESTATES ADDITION, DIVISION NO. 11

Attached is the Final Plat, Annexation Agreement, and Annexation Ordinance for Ironwood Estates Addition, Division No. 11. The requested zoning is R-1. This Final Plat is in accordance with the Preliminary Plat. Emergency access will be available through the City's access to the storm water retention pond. The Planning Commission considered this request at its May 11, 1999 Meeting and recommended approval. This Department concurs. This Annexation request is now being submitted 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:

Slide 1 Vicinity Map  
Slide 2 Aerial Photo  
Slide 3 Final Plat  
Slide 4 Preliminary Plat  
Slide 5 Site Photo of Ironwood Drive at the end of the street

Darrell Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared as a representative of the Developer, to answer any questions. He explained for Council that there is an access to the school, but it is probably in the wrong location. The school built a fence, and someone else built a fence. Where one ends and the other begins, there is a gap. He did not believe that this access is in the right location. Mr. Kofoed stated that he owns property in another area, which would provide for another access. The School District is deciding whether to accept the new access location or not.

Councilmember Carlson questioned as to how long it would be before Ironwood Drive would be complete. Mr. Kofoed explained that he did not know when Ironwood Drive would be fully constructed. Mayor Milam stated that this is an issue of economics.

**JUNE 10, 1999**

---

Councilmember Groberg requested more information on the access to the school. Mr. Kofoed explained that the access being offered would be on the southwest corner of Lot 18.

Councilmember Carlson requested the Fire Chief to come forward and express any of his concerns about the 1100 foot roadway that is not complete. The Fire Chief appeared to state that the Fire Department does not have a concern with this long, unfinished roadway because there is a second access into this area.

There being no further discussion either in favor of or in opposition to this Annexation request, it was moved by Councilmember Mills, seconded by Councilmember Groberg, to accept the Final Plat for Ironwood Estates Addition, Division No. 11 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat. Roll call as follows:

Aye: Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Groberg

Nay: None

Motion Carried.

It was moved by Councilmember Mills, seconded by Councilmember Groberg, to approve the Annexation Agreement for Ironwood Estates Addition, Division No. 11 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

Aye: Councilmember Branson  
Councilmember Hardcastle  
Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg

Nay: None

Motion Carried.

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

**ORDINANCE NO. 2327**

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.

**JUNE 10, 1999**

---

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

Aye: Councilmember Carlson  
Councilmember Eldredge  
Councilmember Hardcastle  
Councilmember Groberg  
Councilmember Mills  
Councilmember Branson

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 Mills, seconded by Councilmember Groberg, to establish the initial zoning of Ironwood Estates Addition, Division No. 11 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 Groberg  
Councilmember Mills  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Carlson

Nay: None

Motion Carried.

It was moved by Councilmember Mills, seconded by Councilmember Groberg, to recess the Annexation Proceedings for PI-R Square to the June 22, 1999 Special Council Meeting. Roll call as follows:

Aye: Councilmember Eldredge  
Councilmember Carlson  
Councilmember Mills  
Councilmember Groberg  
Councilmember Branson  
Councilmember Hardcastle

Nay: None

Motion Carried.

Mayor Milam indicated that this was the time for citizens to appear who had issues for the City Council that are not otherwise listed on the Agenda.

Brad Hall, 2840 Sunnybrook Lane, appeared to state that the residents of his area have major concerns regarding the development of the property on Woodruff Avenue

**JUNE 10, 1999**

---

and 25<sup>th</sup> Street and St. Clair Road. He stated that American Properties is in the process of purchasing this property and will be putting 158 apartments at this location. The neighbors do not feel that this is a proper use of this property. Mr. Hall explained that approximately 150 residents from this area met with the developer. He stated that this was a very productive meeting. The neighbors had prepared a list of their concerns and gave it to the developers for them to take back to their constituents to be addressed. Before going forward with this development, the developer promised that they would again meet with the neighborhood to address the concerns submitted. Mr. Hall stated that he would like to invite some of the neighborhood representatives to appear to express certain issues.

Mayor Milam stated that she would like to make some comments before proceeding with the concerns from the representatives. Mayor Milam explained that the proposed development does not front onto 25<sup>th</sup> Street, as there is another development at that location. The proposed development is to the south of that particular development. Mayor Milam explained, further, that in 1978 this land was annexed and zoned. Both of these actions required a public hearing. The only action that was considered at the last City Council Meeting was a Final Plat for the Teton Apartments Addition, Division No. 1. This item was within the parameters of the zone already established. Because the request was well within the allowed use and was less than the allowed density, it would have been arbitrary and capricious to have considered another action. Mayor Milam commented that there have been some questions regarding conversations held with the owner of the property. If there is an issue with the owner of the property, it would be a civil issue, as is any action that the neighbors might be undertaking with the proposed buyer.

Brad Hall stated that he would like to present information to the Mayor and City Council. He told the Mayor that he believes that the City Council could have responded in other ways.

Mayor Milam stated that the City Council could not take any action at this time, based upon the comments that representatives will be making. The property owner would have to be notified for any considerations.

Mr. Hall stated that there are major safety concerns for this property (Richard Peterson will be addressing this issue), concerns for the schools (Robert Collette will be addressing this issue), concerns over representations made by the current property owner (Kim Girton will be addressing this issue), and other issues (Roger Tall will be addressing these). Mr. Hall also stated that he would like to be the concluding speaker.

Richard Peterson, 1650 Claremont Lane, appeared to state that he was surprised to learn from the Developer that there was not a requirement to do a traffic or school impact study due to the density of population in this area. With the 158 units proposed, there will be approximately 300 ingress and egress events of vehicles daily. St. Clair Road has a 150-yard 20 MPH school zone. Most of this traffic would be traveling during the time that the children would be on the streets. There is a concern for the children's safety in the dense traffic area at this time.

Robert Collette, 5238 South 11<sup>th</sup> East, appeared to state that he lives approximately one mile from the proposed development. He has recently been elected to the School Board and this development is in the area that he represents. As a member of the community, he stated that this is not the right location for this development. During the meeting with the Developer last evening, the Chairman of the Planning Commission commented that if this annexation were being considered today, there would be no way that the Commission would zone this property as multi-family residential. Mr. Collette stated that he understands that the Mayor and City Council cannot make the Developers go away. They have a legal right to complete this development. Again, he stated that this is not the right

place to put this development. He said that it could be made to look like poor people are getting a bum wrap from people with nice houses. To him, it looks like some really rich people (Skidmores, Mrs. Weiss, and the Developers) are looking for a tax shelter. These rich

**JUNE 10, 1999**

---

people are taking advantage of a group of middle class people who have homes in that neighborhood. Mr. Collette explained, further, that the Developers have 60 other developments just like the one that is proposed for this neighborhood. They rely on the good will of municipalities where they build these projects, to be able to build other projects. Mr. Collette requested that the Developers be asked to find a better location in the City that is more compatible with the surroundings of what they are proposing to build. He, further, requested Mayor Milam to call the President of American Properties to request that the City help them find a better location for their development. This action would demonstrate to the neighborhood, the good will of the Mayor and City Council by helping to persuade the Developer to do something else. With regard to the school issues, this area has been through a nasty year with the School District. Hundreds of families have been affected by the votes that have been taken over the last few months. There are too many children on the south side of Idaho Falls. Unfortunately, the School District has not done a good job of working with the City to coordinate the new developments with school needs. Mr. Collette stated that he hopes to make the communication better between the School District and the City in the future. He stated that Dr. Manning would be contacting the Mayor's Office regarding the impact of approximately 200 more students being added to this area. Mr. Collette felt that it would be unfair to bus an additional 200 students to other areas of the City to attend school. He stated that this development needs to be closer to other elementary schools that have the space to accommodate these children. Again, Mr. Collette stated that he would appreciate the telephone calls to the developer.

Kim Girton, 1473 St. Charles Circle, appeared to state that she is a realtor working for Voigt-Davis Realty. This is the same place that Linda Weiss (part owner of the property in question) works. Approximately one year ago, she had her house for sale. At that time, she received an offer on her house. The possible purchasers requested to know what would be happening with the land behind her home. She stated that she did not know of the plans for that property. At that time, she found out that Ms. Weiss was part owner of the property. Upon asking Ms. Weiss about the property, Ms. Weiss explained that townhouses and condominiums were planned for that location. Apartments were not discussed as a possibility for this area. She stated that this was a misrepresentation to all of the surrounding property owners.

Roger Tall, 1655 Coronado, appeared to state that he has a petition in his possession signed by the neighbors opposing this development in this location. He would deliver the petition to the Mayor's Office. He stated that last evening, the neighborhood met with the American Properties developers. They found them to be gentlemen, they found them to be good, but they did not find them to be neighbors. They questioned whether any of them lived near an affordable housing development, such as the one proposed. Only one listed the nearest vicinity to such a development, was two miles away. Dr. Tall stated that he hoped that the City Council could discourage them and hopes that the developers would back out of this development. He stated that the neighborhood found out about the perception for this development through the local newspaper. He questioned the 150 people present at the meeting, as to how many had received assurances by Custom Land Development, that this property would be used for townhouses and/or condominiums. No one understood that this property would be used for apartments. Dr. Tall explained that many things have changed in the immediate neighborhood since 1978, when this land was originally annexed and zoned. If this were to be considered today, the zoning would be completely different. The R3-A zone is not compatible with the surrounding neighborhood, it is not compatible with the school system, and it is not compatible with safety concerns. Dr. Tall stated that possible civil actions need to be taken against Custom Land Development. No matter how much the

developers decorate this project, it does not belong in this neighborhood. He stated that Robert Collette gave a persuasive argument for calling the President of American Properties and gave his name as follows:

**JUNE 10, 1999**

---

Roger Kuula - Telephone Number: 1-800-635-0315  
President of American Property Development

Dr. Tall requested the City Council to consider issuing a variance. Before the final permit is issued on closing, imposing this development on his neighborhood, give this neighborhood group some time. The Developer has given them some time. There has been a misrepresentation of material fact. He is fearful that the surrounding property will be degraded by the presence of this particular development. Since this development is not a "Legends-like" development, the neighborhood is ready for a catfight. He thanked the Mayor and City Council for their audience.

Barry Tegeler, 1565 Delmar Circle, appeared to state that he is a newcomer to the area. He perceived a quality of life here and generally the people are very nice. His first profession was that of a Certified Public Accountant. He explained for City Council how these types of developments work. A company of this size has people looking for land. There are two people who become general partners. They are the people who are going to own this project over time. They make one investment. That investment is to get the bonds issued. The taxpayers, basically, finance this project. The tax credits are syndicated to individuals across the country. About 3-4% of the project is charged for management fees, with approximately 2-1/2% being profit for them. At the end of the term, which is approximately 8-10 years, due to deterioration of the project, the general partners bail out. At that time, the government says that something needs to be done to clean up the project. At the end of 10 years, another tax credit is presented to refurbish the project. The developer indicated that they always spend the full amount of the tax credit to refurbish the project. Basically, the whole project is a capital gain. When people are sent out to look for areas to build the projects in, anything that is zoned properly can and does get used. There is no concern about the neighborhood or the impact. There were various people present at this meeting, who have lived in such projects. After signing and completing a 6-month lease, they were out of that project because of the nature of the people living in these projects. Mr. Tegeler visited with the Skidmores recently, and they stated that they would gladly develop this area as a "Legends". In talking with the developers last night, if the neighborhood could show them a way to put the project in an area where it would be more accepted, would that be of interest. The developers stated that they would be interested. Mr. Tegeler suggested that a building permit could take a long period of time to receive, with a project of this size. He indicated that, for a company of this size, that would exert a considerable amount of pressure, as time is money.

Delwin Roberts, 3232 Merlin Drive, appeared to encourage the Mayor and City Council to look at Idaho Code Section 67-6521. The City Council has authority within that statute, upon the request of these citizens and twenty people who signed the petition, to take a look at this matter and hold a public hearing on it before a final action is taken on the building permit. Mr. Roberts went on to address Idaho Code Section 67-6502 (L), to allow school districts to participate in the community planning and development process so as to address public school needs and impacts on an on-going basis.

Mayor Milam stated that the School District is invited and does have a member on the Planning Commission, so all of the information for some decades has gone directly to the School District, from the Preliminary Plat onward.

Brad Hall re-appeared to submit the following excerpt from the July 20, 1978 Regular Council Meeting:

"Councilman Hovey said he wished to be heard at this time, prior to consideration of the Rose Nielsen Prestwich Farm annexation agreement or the

annexation ordinance, relative to the concept of annexing large, unplatted areas into the City. Using the Rose Nielsen Prestwich Farm for purposes of illustration, inasmuch as this proposed annexation contained 49.387 acres, Hovey said that, in his opinion, such action was fraught with potential danger

**JUNE 10, 1999**

---

in contrast with the commonly accepted annexation practice where the Council has an opportunity to review a final plat and perhaps even a development plan. Hovey continued by saying that if the Prestwich Farm were to be annexed at this time, for instance, the Council would have no concept of the future traffic pattern or structural development within said annexation. He said the only one who would benefit would be the developer, inasmuch as there are few adjacent property owners to protest the concept, making it relatively easy at some future date or dates to effect rezoning of a portion or portions of the undeveloped lands. Hovey refuted the argument that annexation and zoning of large, unplatted areas would serve as an advantage to interested land purchasers when said land is so volatile, zoning-wise."

"Benton continued by saying that density could be determined and controlled by Planned Unit Developments as the area was developed and that these, in each instance, would be reviewed by the City Council."

Mr. Hall stated, with regard to the statement by Dave Benton, that this has not been reviewed by the City Council. When he has talked with some City Councilmembers, they did not believe that they had a say because the land was already zoned. Mr. Benton made it very clear, when he came before the City Councilmembers at that time, that if they would approve this before each development was done, that the City Councilmembers would have the right to review them.

Mayor Milam clarified that if this area were a Planned Unit Development, every development would go before the Planning Commission and the City Council, through a public hearing process. This area was not platted, annexed, or zoned with a Planned Unit Development. This is a specific legal category of development which generally includes items, such as private streets, residents of such areas have associations that set aside monies for commons area maintenance, etc. The City Council does have the opportunity to review those developments. The motion did not include a Planned Unit Development.

Mr. Hall questioned if this annexation and initial zoning were to come before the Mayor and City Council today, would it be approved as it is today. Mayor Milam stated that she did not have an answer for him. The Council cannot answer that question, as there has not been any testimony or recommendation through a public hearing process. She stated that Mr. Hall was requesting an emotional response. This is an inappropriate question. Mr. Hall stated that the neighborhood is organized opposing this development. He stated that the meeting last evening was a productive one, in that the developers who attended that meeting will respond before the property is purchased. This neighborhood group has recommended to the developers that they find another piece of property that would be more in line with where this should be built, in line with other apartments, and more in line with schools. The developers have indicated that they would look into this. Mr. Hall stated that they know from the Chairman of the Planning Commission, and from several of the Councilmembers, that today, this would never be passed. This is the wrong place to put this development. The neighborhood is in the process of organizing a corporation in the community, an attorney has been hired, and they promise that they are very sincere in their desires to see this not be placed at this location. The neighbors stated that there would be civil action taken because of misrepresentation of material facts and material matters in this area. Mr. Hall requested that the Mayor and Councilmembers make a telephone call to the President of American Properties. He also requested that the City Council pass a Resolution

authorizing a 30-day cooling off period so that the developer and the property owner can resolve this issue.

Mayor Milam reviewed for the City Council that the Final Plat for Teton Apartment Addition, Division No. 1 was passed and the Mayor, City Engineer, and City Clerk were authorized to sign said plat. The Development Agreement for same was passed with

**JUNE 10, 1999**

---

authorization for the Mayor and City Clerk to sign said Agreement. She did not believe that she had a legal basis to stop this construction from going forward. She stated that she would have the City Attorney and City Planner check into any rules and regulations that might allow that. Mayor Milam indicated that this City has had a Comprehensive Plan in place and it has been revised every 5 years for approximately 20 years. It has shown the growth of the City always to be primarily to the south, as has been the case for almost 50 years. The School District is an ongoing part of the planning process. They have a member on the Planning Commission. Mayor Milam stated that she would not do anything that can be viewed as coercion.

Councilmember Carlson questioned the Assistant City Attorney as to whether it would be appropriate to make a motion to grant a 30-day cooling off period. The Assistant City Attorney stated that it is not provided anywhere to allow for cooling off periods on Final Plat approvals. This is not allowed. Councilmember Carlson questioned why the neighborhood was not notified about the consideration of the Final Plat for Teton Apartments Addition, Division No. 1. The Mayor explained that a public hearing is not required for consideration of a Final Plat.

It was moved by Councilmember Carlson, to issue a 30-day cooling off period for the Teton Apartments Addition, Division No. 1. Councilmember Branson commented that if the Developer is willing to work with the neighborhood, it is not necessary for the City Council to take any action at this time. Due to the lack of a second to the motion, the motion failed. Mayor Milam commented that the Planning and Building Director and the Assistant City Attorney would look at the issues that have been raised.

Richard Peterson, 1650 Claremont, re-appeared to state that there was no notification from anyone that this development would be taking place or they would have been present at the City Council Meeting on May 27, 1999.

Following a brief recess, the Airport Director submitted the following memos:

City of Idaho Falls  
June 2, 1999

MEMORANDUM

TO: Honorable Mayor and Council  
FROM: Mike Humberd, Airport Director  
SUBJECT: ADVERTISE FOR BIDS

The Airport Division is requesting authority to advertise and receive bids for the replacement of the Airport Terminal Building Roof. Due to the estimated costs and condition of the roof and front canopy, the entire roof area has been divided into 4 sections. The west section of the roof is the most critical area and the replacement estimate is \$92,400.00. The remaining sections requiring replacement will be addressed in the 1999-2000 budget. The Airport Division currently has funds in our account for this project.

The Director of Aviation recommends the City Council's approval of this request.

s/ Mike Humberd

Mayor Milam indicated that this item was being considered under the Regular Agenda as the funds have not been budgeted for this year. There are some serious leaks in the roof and something needs to be done now to correct the problem.

**JUNE 10, 1999**

---

It was moved by Councilmember Groberg, seconded by Councilmember Eldredge, to give authorization to advertise and receive bids for the replacement of the Airport Terminal Building Roof. Roll call as follows:

Aye: Councilmember Branson  
Councilmember Hardcastle  
Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls  
June 4, 1999

MEMORANDUM

TO: Honorable Mayor and Council  
FROM: Mike Humberd, Airport Director  
SUBJECT: AMENDMENT NO. 1 TO GRANT AGREEMENT FOR AIP 18

The F. A. A. has approved Amendment No. 1 to the AIP 18 Grant Agreement. The Amendment No. 1 is for removal of trees to improve the safety area on Runway 17-35.

The Amendment must be accepted on or before June 24, 1999.

The Airport Division requests authorization for the Mayor to accept the Amendment.

s/ Mike Humberd

It was moved by Councilmember Groberg, seconded by Councilmember Eldredge, to approve Amendment No. 1 to the AIP 18 Grant Agreement and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Branson  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg  
Councilmember Mills

Nay: None

Motion Carried.

The Electric Division Director submitted the following memo:

**JUNE 10, 1999**

---

City of Idaho Falls  
June 8, 1999

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Mark Gendron, Electric Division Director  
SUBJECT: AMENDATORY AGREEMENT WITH BONNEVILLE POWER  
ADMINISTRATION

Attached for your consideration is Amendment No. 1 to Contract No. 96-MS95386 with B. P. A. This Amendment will clarify and enhance the delivery point options for the City.

The Electric Division requests City Council approval of this Agreement and authorization for the Mayor to execute the document.

s/ Mark Gendron

Councilmember Eldredge explained that this Amendment would allow the City to take delivery of power in various locations that have not been specified in the past.

The Electric Director appeared to explain that this is an Amendment to the Contract that was entered into in October, 1996 where the City agreed to purchase 30 megawatts from Bonneville Power Administration. This is a Power Purchase Contract that also includes delivery of that power to specific points.

It was moved by Councilmember Eldredge, seconded by Councilmember Mills, to approve Amendment No. 1 to Contract No. 96-MS95386 with Bonneville Power Administration and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

Aye: Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Groberg

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls  
June 3, 1999

MEMORANDUM

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

SUBJECT: BID IF-99-24, ONE (1) NEW 1999 BACKHOE LOADER

Attached for your consideration is the tabulation for Bid IF-99-24, One (1) New 1999 Backhoe Loader for the Cemetery Department.

**JUNE 10, 1999**

---

It is the recommendation of Municipal Services to accept the sole bid of Arnold Machinery Company to furnish the required new 1999 JCB Model 212S Backhoe Loader for an amount of \$50,391.00. It is also recommended that we sell the trade-in Unit No. 697 to Ed Biddulph for an amount of \$10,281.00.

s/ S. Craig Lords

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to accept the sole bid of Arnold Machinery Company to furnish the required Backhoe Loader and, further, give authorization to sell Trade-In Unit No. 697 to Ed Biddulph as requested. Roll call as follows:

Aye:            Councilmember Branson  
                  Councilmember Hardcastle  
                  Councilmember Mills  
                  Councilmember Eldredge  
                  Councilmember Carlson  
                  Councilmember Groberg

Nay:            None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls  
June 8, 1999

MEMORANDUM

TO:            Honorable Mayor and City Council  
FROM:        David J. Christiansen, Parks and Recreation Director  
SUBJECT:    COMMUNITY AND ROLLANDET PARK CONCESSION  
                  AGREEMENT

The attached is a Concession Agreement between the City of Idaho Falls and Mr. Lloyd Westbrook for the purpose of providing seasonal vending at Community and Rollandet Parks. This Agreement has been prepared and reviewed by the City Attorney and terminates in September, 1999. It is, therefore, being submitted for your approval.

s/ David J. Christiansen

Councilmember Mills explained that Proposals were requested to provide this service. This will allow for control of any vending businesses in these parks, and will also allow for some revenue to be received. Rich Straub, Recreation Superintendent, appeared to explain that barbecue will be served at the larger events. General sales will be for drinks, snow cones, popcorn, candy, etc.

There being no further discussion, it was moved by Councilmember Mills, seconded by Councilmember Carlson, to approve the Concession Agreement with Lloyd

Westbrook to provide seasonal vending in Community Park and Rollandet Park and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

**JUNE 10, 1999**

---

Aye: Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Groberg

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memo:

City of Idaho Falls  
June 7, 1999

MEMORANDUM

TO: Mayor and City Council  
FROM: Renée R. Magee, Planning and Building Director  
SUBJECT: DEVELOPMENT AGREEMENT - DUNKLEY GALLATIN ADDITION,  
DIVISION NO. 1

Attached is the Development Agreement for the Dunkley Gallatin Addition, Division No. 1. The Final Plat was approved on April 5, 1999. The Department respectfully requests approval of the Development Agreement.

s/ Renée R. Magee

The Planning and Building Director stated that the Development Agreement addresses the construction of 21-1/2 feet of pavement, curb, gutter, and sidewalk along Gallatin Avenue.

It was moved by Councilmember Mills, seconded by Councilmember Groberg, to approve the Development Agreement for Dunkley Gallatin Addition, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign said Agreements. Roll call as follows:

Aye: Councilmember Branson  
Councilmember Hardcastle  
Councilmember Mills  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg

Nay: None

Motion Carried.

The Police Chief submitted the following memos:

**JUNE 10, 1999**

---

City of Idaho Falls  
May 14, 1999

MEMORANDUM

TO: Honorable Mayor Linda Milam and City Councilmembers  
FROM: J. K. Livsey, Chief of Police  
SUBJECT: LASER POINTER ORDINANCE

Attached please find a copy of the proposed Laser Pointer Ordinance enacting Section 5-21-8 of the City Code of Idaho Falls, Idaho, providing for the governing of possession and use of laser pointing devices.

The Idaho Falls Police Department has been experiencing problems related to the misuse of laser pointers by the general public. This is a problem for Law Enforcement Officers nationwide, not just in Idaho Falls. The attached article from the May 1999 issue of the "FBI Law Enforcement Bulletin" details problems that are occurring with increasing frequency.

I respectfully request adoption of this Ordinance.

s/ J. K. Livsey

Councilmember Hardcastle clarified for Council that this Ordinance does not prohibit the use of laser pointers, just provides for the misuse of the pointers.

Chief Livsey appeared to explain that there is a concern for these laser pointers to be flashed in the eyes of drivers. His main concern for Police Officers was the flash in the eye, causing temporary blindness. If an officer is not prepared for such a flash, in an already heated situation, this could cause a psychological effect upon the officer, resulting in a different judgement call and possible disaster. Chief Livsey explained, further, that there have been officers shot by guns that have laser sites on them. There is no difference between the laser sited gun dot and a laser pointer dot. Officers do not need an additional issue to worry about. He went on to describe the Laser Pointer Ordinance that has been adopted by the City of Pocatello.

Ernie Lake, 456 Cleveland, appeared to state that he was out to dinner with his family at a truck stop recently. A red dot appeared on his forehead and he thought that someone was going to shoot him. Mr. Lake stated that this is a scary situation.

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

**ORDINANCE NO.**

AN ORDINANCE ENACTING SECTION 5-21-8 OF THE CITY CODE OF IDAHO FALLS, IDAHO; PROVIDING FOR THE UNLAWFUL ABUSE OF LASER POINTING DEVICES; PROVIDING FOR A PENALTY THEREFORE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Hardcastle, seconded by Councilmember Branson, to pass this Ordinance on the first reading only. Roll call as follows:

**JUNE 10, 1999**

---

Aye: Councilmember Groberg  
Councilmember Mills  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Eldredge  
Councilmember Carlson

Nay: None

Motion Carried.

City of Idaho Falls  
June 10, 1999

MEMORANDUM

TO: Mayor and Council  
FROM: J. K. Livsey, Chief of Police  
SUBJECT: DENIAL OF NON-COMMERCIAL KENNEL LICENSE

Attached please find an application for a Non-Commercial Kennel License submitted by Renee Lake, 456 Cleveland, Idaho Falls, Idaho.

The Animal Control Division conducted the required survey of the neighbors of Ms. Lake that live within one hundred feet of her property. The survey reveals that the required 75 percent approval was not attained. Therefore, it is my recommendation that the license be denied.

s/ J. K. Livsey

Councilmember Hardcastle stated that the Lakes received 63% approval of the surrounding neighbors, and invited Mr. Lake to comment.

Ernie Lake, 456 Cleveland, appeared to explain that when he married, they had two older housedogs. His new daughter experienced a traumatic event recently. Mr. Lake gave her a puppy. His daughter has been training the dog. They have a neighbor who complains constantly. He stated that the housedogs only go outside for potty privileges. He requested the Mayor and Council to reconsider this application, as this new dog is a great comfort to his new daughter.

Councilmember Hardcastle explained that the Council is very sensitive to these issues, but with only a 63% approval and a number of telephone calls being received by the Police Department about the dogs, it would not be possible to approve this Non-Commercial Kennel License.

There being no further discussion, it was moved by Councilmember Hardcastle, seconded by Councilmember Branson, to deny the Non-Commercial Kennel License to Renee Lake. Roll call as follows:

Aye: Councilmember Eldredge  
Councilmember Carlson  
Councilmember Mills  
Councilmember Groberg

Councilmember Branson  
Councilmember Hardcastle

Nay: None

**JUNE 10, 1999**

---

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls  
June 4, 1999

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: EASEMENT VACATION - LOTS 5, 6, AND 7, BLOCK 6, HODSON  
ADDITION

Attached are documents prepared for the vacation of utility easements in Lots 5, 6, and 7, Block 6, Hodson Addition.

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

s/ Chad Stanger

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

**ORDINANCE NO. 2328**

AN ORDINANCE VACATING A CERTAIN EASEMENT WITHIN 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 Carlson 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 and the Ordinance be passed on all three readings. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Branson  
Councilmember Eldredge  
Councilmember Carlson  
Councilmember Groberg  
Councilmember Mills

Nay:           None

Motion Carried.

**JUNE 10, 1999**

---

City of Idaho Falls  
June 4, 1999

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: PANCHERI DRIVE PROJECT NO. 2.37.24.4.STR.88.01  
CHANGE ORDER NO. 15

Attached is proposed Change Order No. 15 to the Pancheri Drive Project. The Change Order provides for installation of expansion couplings on electrical conduit in an amount of \$2,221.40.

Public Works recommends approval of this Change Order; and, authorization for the Mayor and City Clerk to sign the Contract Documents.

s/ Chad Stanger

It was moved by Councilmember Carlson, seconded by Councilmember Hardcastle, to approve Change Order No. 15 to Idaho Construction Company for the Pancheri Drive Project and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

Aye: Councilmember Mills  
Councilmember Groberg  
Councilmember Carlson  
Councilmember Branson  
Councilmember Hardcastle  
Councilmember Eldredge

Nay: None

Motion Carried.

City of Idaho Falls  
June 8, 1999

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Chad Stanger, Public Works Director  
SUBJECT: DEVELOPMENT AGREEMENT - TETON SPECTRUM, CITY OF AMMON (HITT ROAD)

Attached is the Development Agreement between the City and Hawkins-Smith Development Company for the Teton Spectrum Development located on Hitt Road in the City of Ammon. The Agreement, as written, describes the responsibilities of the parties with respect to constructing improvements to Hitt Road.



**JUNE 10, 1999**

---

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

s/ Chad Stanger

Following a brief description of the work to be done, it was moved by Councilmember Carlson, seconded by Councilmember Hardcastle, to approve the Development Agreement with Hawkins-Smith Development Company for the Teton Spectrum Development located on Hitt Road in the City of Ammon and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

Aye:            Councilmember Groberg  
                  Councilmember Mills  
                  Councilmember Branson  
                  Councilmember Hardcastle  
                  Councilmember Eldredge  
                  Councilmember Carlson

Nay:            None

Motion Carried.

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

---

CITY CLERK

---

MAYOR

\*\*\*\*\*