

APRIL 22, 2010

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, April 22, 2010, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Mayor Jared D. Fuhriman
Councilmember Ken Taylor
Councilmember Thomas Hally
Councilmember Michael Lehto
Councilmember Sharon D. Parry
Councilmember Karen Cornwell
Councilmember Ida Hardcastle

Also present:

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

Mayor Fuhriman requested Boy Scout Troop No. 6 to lead those present in a flag ceremony and the Pledge of Allegiance.

Mayor Fuhriman requested those to come forward who had issues for the City Council that were not otherwise listed on the Council Agenda.

Gerald Baranick, 455 Cypress Avenue, appeared to state that approximately two years ago he appeared before the Mayor and City Council to address the issue of a Muffler Ordinance. He understood that there was a State Statute regarding this issue and wanted the City of Idaho Falls to adopt similar rules and regulations. Mr. Baranick requested to know where the City was in the process of the development of such an Ordinance.

Mayor Fuhriman requested the Police Chief to come forward to address this concern.

Chief Roos appeared to state that there has been much discussion regarding a Noise or Muffler Ordinance. The City Attorney has spent a considerable amount of time drafting possible Ordinances. Further, Chief Roos stated that he has visited with the Prosecuting Attorney regarding this issue. Following this lengthy process, it was determined not to move forward with an Ordinance Amendment.

The City Attorney stated that the State Statute addresses this issue, as well as a City Ordinance that is a "Disturbing the Peace" Ordinance. These provisions are amendable to enforcing these types of disturbances. It is not a matter of having the right statutory authority or ordinances. It is a matter of documenting a loud muffler noise and being able to have an officer issue a citation. The City Attorney stated that if there is that type of problem occurring in his neighborhood, to be sure to report it to the Police Department for their action.

Mr. Baranick stated that it was not his problem to enforce the laws. There is a State Statute that should be complied with. This statute deals with decibels that should be complied with. The City Ordinances should be equal or more stringent than the State Statute is.

The City Attorney stated that the rules and regulations that are now in place are sufficient to enforce. It becomes a matter of being able to prove the violation, making sure that there are witnesses to document that the muffler was noisy and did disturb the peace of the neighborhood.

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Mr. Baranick questioned what “noisy” constitutes.

The City Attorney stated that “noisy” is anything that disturbs the peace and tranquility of the neighborhood.

Mayor Fuhriman stated that Mr. Baranick could sign a complaint, making him the victim, to allow for prosecution of the offending person.

Mr. Baranick indicated that decibel meters should be available in patrol cars.

The Police Chief stated that the law is subjective. The law states that a decibel meter should be set up a certain distance from the noise at issue. Muffler noises are moving targets.

Mayor Fuhriman invited Mr. Baranick to bring this issue before the Public Safety Council Committee for further consideration.

Mr. Baranick stated that it has been two years since he appeared before the City Council regarding this issue. He believed the City Council to be non-responsive.

Councilmember Parry requested to know whether an officer could be requested to be present at a given time, whether the problem is in a neighborhood or along the Greenbelt at concert time. There are certain events that are disturbed.

The Police Chief explained that a number of Disturbing the Peace citations are issued each year, and what Councilmember Parry described can be done.

CONSENT AGENDA ITEMS

Mayor Fuhriman requested Council confirmation for the Re-Appointment of Darren Cook to serve on the Traffic Safety Committee (Term to Expire on December 31, 2011); the Re-Appointment of Bruce Lawrence to serve on the Traffic Safety Committee (Term to Expire on December 31, 2011); the Re-Appointment of Chris Fredericksen to serve on the Traffic Safety Committee (Term to Expire on December 31, 2011); and, the Re-Appointment of Mark Reed to serve on the Traffic Safety Committee (Term to Expire on December 31, 2011).

The City Clerk requested approval of the Minutes from the April 6, 2010 Council Work Session, the April 8, 2010 Regular Council Meeting, and the April 13, 2010 Executive Session.

The City Clerk presented several license applications, including BEER Licenses to Buddy’s I. F. and Wrangler Roast Beef and Ham, all carrying the required approvals, and requested authorization to issue those licenses.

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

Aye: Councilmember Hardcastle
 Councilmember Lehto
 Councilmember Cornwell
 Councilmember Hally
 Councilmember Parry
 Councilmember Taylor

Nay: None

Motion Carried.

REGULAR AGENDA

The Airport Director submitted the following memo:

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City of Idaho Falls
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MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Len Nelson, Airport Director
SUBJECT: ADVERTISING – ALLEGIANT AIR TO LOS ANGELES ROUTE

The Airport Director requests approval for authorization to sign the Allegiant Air Advertising Fund Summary to support the IDA/LAX Route. Available funds \$10,000.00. Funds to begin April 7, 2010 to September 30, 2010.

s/ Len Nelson

The Airport Director appeared to state that this is a Cooperative Agreement, where the City of Idaho Falls Airport commits to paying \$10,000.00 and Allegiant Air commits to the remainder of the advertising costs which could exceed \$30,000.00.

It was moved by Councilmember Cornwell, seconded by Councilmember Parry, to approve the Allegiant Air Advertising Fund Summary, with available funds being \$10,000.00, to support the IDA/LAX Route and, further, give authorization for the Airport Director to execute the necessary documents. Roll call as follows:

Aye: Councilmember Taylor
Councilmember Hally
Councilmember Lehto
Councilmember Parry
Councilmember Cornwell
Councilmember Hardcastle

Nay: None

Motion Carried.

The Idaho Falls Power Director submitted the following memos:

City of Idaho Falls
April 14, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jo Elg, Assistant Idaho Falls Power Director
SUBJECT: CONFIRMATION AGREEMENT WITH UAMPS

Attached for your consideration is a Confirmation Agreement to purchase power through UAMPS for July 2010. The Agreement is for 4.73 megawatts on peak at \$59.00 per megawatt hour. The total cost is \$116,093.00.

Idaho Falls Power respectfully requests ratification of the Confirmation Agreement.

s/ Jo Elg

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It was moved by Councilmember Lehto, seconded by Councilmember Parry, to ratify the Confirmation Agreement to purchase power through UAMPS for July, 2010 for 4.73 megawatts on peak at \$59.00 per megawatt hour for a total cost of \$116,093.00. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Parry
Councilmember Lehto
Councilmember Taylor
Councilmember Cornwell

Nay: None

Motion Carried.

City of Idaho Falls
April 22, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jackie Flowers, Idaho Falls Power Director
SUBJECT: ORDINANCE REPEALING AND RE-ENACTING CHAPTER 13,
TITLE 8, OF THE IDAHO FALLS CITY CODE RELATED TO THE
PUBLIC FIBER OPTIC NETWORK

Attached for your consideration is an Ordinance repealing and re-enacting Chapter 13, Title 8 of the Idaho Falls City Code related to the public fiber optic network. Over the past several months, staff has worked with the City Attorney's Office and held discussions with current Internet Service Providers related to changes in the Ordinance and development of the forms to be used by staff in implementing the Ordinance.

Staff recommends that City Council repeal and re-enact Chapter 13, Title 8 of the Idaho Falls City Code and approve the associated forms.

s/ Jackie Flowers

Councilmember Lehto requested the Idaho Falls Power Director to come forward to address this Ordinance further.

The Idaho Falls Power Director appeared to state that there have been a number of work sessions and three specific meetings with the service providers in developing this Ordinance for the Public Fiber Optic Network System. One of the most important changes has been the change of the words "service" to "access", which represents the dark fiber nature of the business. Due to this large change in the existing Ordinance, the City Attorney recommended that the previous Ordinance be repealed and re-enacted. Also, attached to the Ordinance are forms that the staff will use to implement the Ordinance. Adjustments have been made to the amortization. Idaho Falls Power has met numerous times with the Internet Service Providers to discuss the terms of those adjustments. The Internet Service Providers are comfortable with those terms. Adjustment

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has been made to late fees, disconnect fees, and initial fees. Lease customers are required to lease for a minimum of one year. Extensions will not be made if an account is past due. There is a clarification on voluntary and involuntary termination of service, as well as a clarification of equipment to be provided.

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

ORDINANCE NO. 2835

AN ORDINANCE OF THE CITY CODE OF THE CITY OF IDAHO FALLS, IDAHO; REPEALING AND RE-ENACTING CHAPTER 13, TITLE 8 OF THE IDAHO FALLS CITY CODE RELATING TO THE PUBLIC FIBER OPTIC NETWORK; REPEALING AND RE-ENACTING SAID CHAPTER; PROVIDING FOR PRESERVATION OF PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Lehto moved, and Councilmember Parry 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 execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

City of Idaho Falls
April 22, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Jackie Flowers, Idaho Falls Power Director
SUBJECT: PERSONAL SERVICES AGREEMENT WITH JDH GROUP FOR ENERGY EFFICIENCY EDUCATION CENTER

The City of Idaho Falls received an Energy Efficiency and Conservation Block Grant (EECBG) in 2009. One of the projects to be funded by that grant was completion of the Energy Efficiency Education Center at the Idaho Falls Power Building. JDH Group did the concept for the center and previously completed two displays. Staff recommends continuing to use the services of JDH Group

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to complete the third phase of this project. The contract amount, \$126,121.00, will be paid by funds from the EECBG Grant. The City Attorney has reviewed the agreement.

Idaho Falls Power respectfully requests approval of the Personal Services Agreement to JDH Group for \$126,121.00 and authorization for the Mayor to sign the document.

s/ Jackie Flowers

Councilmember Parry questioned why this was not part of the bidding requirements.

Councilmember Lehto explained that this grant is being managed by the Grants Administrator. Personal Services Contracts can be signed without having to go through the bidding requirements for the State of Idaho. This is an expeditious method to completing this project.

The City Attorney explained that there is no requirement for a Personal Services Agreement to be bid.

Councilmember Lehto explained that this Energy Efficiency Education Center should be complete by the Idaho Falls Power Open House, which is usually conducted late in September or early in October.

It was moved by Councilmember Lehto, seconded by Councilmember Parry, to approve the Personal Services Agreement with JDH Group in the amount of \$126,121.00 for Phase 3 of the Energy Efficiency Education Center and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Parry
Councilmember Cornwell
Councilmember Hally
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
April 15, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-10-15 – WATER LINE MATERIALS

Attached for your consideration is the tabulation for the above subject bid.

It is the recommendation from Municipal Services to accept the low evaluated proposal meeting specifications as per Attachment "A". Total purchase

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amount will be \$292,401.28. As per the bid specifications, the bids were evaluated according to lump sum amounts in each section.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to accept the low evaluated proposal meeting specifications as per Attachment "A" for a total purchase amount of \$292,401.28 for Water Line Materials. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Taylor
Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

City of Idaho Falls
April 15, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-10-14, ONE (1) NEW 2010 OR NEWER AERIAL DEVICE - 55' SINGLE BUCKET, KNUCKLE BOOM DESIGN MOUNTED ON A NEW 2010 OR NEWER CAB AND CHASSIS

Attached for our consideration is the tabulation for the above subject bid.

The apparent low bid submitted by Southern Idaho Freightliner did not meet the specification in regards to the required fuel tank. Therefore, it is the recommendation of Municipal Services to accept the next low bid of Lake City Trucks to furnish a New 2011 International 4300 Cab and Chassis to be mounted with a New 2010 Versalift Aerial Device for an amount of \$152,614.00 with Trade-In Unit No. 378.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to reject the low bid submitted by Southern Idaho Freightliner which did not meet specifications with regard to the required fuel tank and accept the next low bid from Lake City Trucks to furnish a New 2011 International 4300 Cab and Chassis to be mounted with a New 2010 Versalift Aerial Device for an amount of \$152,614.00 with Trade-In Unit No. 378. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto

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Councilmember Cornwell
Councilmember Hally
Councilmember Parry
Councilmember Taylor

Nay: None

Motion Carried.

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April 22, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: PURCHASE OF PROPERTY FROM THE STATE OF IDAHO

It is respectfully requested that the City Council authorize the purchase of two parcels of surplus property from the State of Idaho Transportation Department. The purchase price for Parcel 1 for 23.24 acres is \$58,000 and the purchase price for Parcel 2 for 19.16 acres is \$48,000. The two properties are adjoining and located north of Idaho Falls between Interstate 15 and the Snake River with access from North 49th West. In addition to the purchase price, there is a \$400 administrative fee for each parcel.

It is respectfully requested that the Municipal Services Division and the City Attorney be authorized to negotiate and draft an appropriate Contract of Sale to purchase this property.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to give authorization for the City Attorney and General Services Administrator to negotiate and draft an appropriate Contract of Sale to purchase Parcel 1 and Parcel 2 from the State of Idaho Transportation Department. Roll call as follows:

Aye: Councilmember Taylor
Councilmember Hally
Councilmember Lehto
Councilmember Parry
Councilmember Cornwell
Councilmember Hardcastle

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memo:

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City of Idaho Falls
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MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: BEER AND WINE ORDINANCE – AMENDMENT SECTION 4-3-16

Attached for your consideration is an Amendment to the Beer and Wine Ordinance as it pertains to the Tautphaus Park Zoo. The revision allows for the dispensing and sale of beer and wine in that area bounded by the perimeter fence of the Idaho Falls Tautphaus Park Zoo, but in no event closer than thirty (30) feet measured perpendicularly to such fence.

A request for this revision was submitted to the Parks and Recreation Division by the Tautphaus Park Zoological Society. It is therefore submitted for your consideration.

s/ David J. Christiansen

Councilmember Hardcastle recognized the Tautphaus Park Zoological Society Members in attendance this evening for their hard work for the Zoo. Councilmember Hardcastle introduced the following letter from Eric K. Gravatt, President of the Tautphaus Park Zoological Society:

Tautphaus Park Zoological Society of
Idaho Falls
January 19, 2010

Mr. Dave Christiansen, Parks and Recreation Director
City of Idaho Falls
P. O. Box 50220
Idaho Falls, Idaho 83405

Dear Dave,

Since the original Ordinance allowing for the distribution of beer and wine at the City Zoo for special events was passed by the Mayor and City Council, the Tautphaus Park Zoological Society, Inc. (TPZS) has held four very successful GALA fundraising dinner and auction events. Over \$37,000.00 has been raised to benefit the Zoo. There have been no security related issues at any of these events. There have been no intoxicated individuals causing problems, no harassment of any animals, nor have there been any complaints from any adjoining property owners or neighbors. As expected, allowing the sale of beer and wine at special events has benefited the City and the Zoo.

Considering the historical success of the events and the Society's desire to upgrade the GALA, the TPZS Board of Directors would like to ask the Mayor and Council to consider changing the current ordinance by expanding the distribution area allowing for distribution of beer and wine throughout the

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entire Zoo and extending the time beer and wine could be served by one hour. These changes would allow us the opportunity to have refreshment stations in the different world regions represented at the Zoo, and entice event attendees to stroll through the Zoo and enjoy our beautiful park that they are there to support in the first place. By extending the GALA by just one additional hour, it would allow the Society Board to plan an evening's event that would create a much more enjoyable atmosphere for potential donors and supporters of the City Zoo. The event, which may include a cocktail hour, dinner, live and silent auctions, and a dance, would be a much more relaxed and fun experience for the participants.

The Society Board is continually reassessing ways to improve the events that offer direct support to the City Zoo. Consideration of this request is greatly appreciated. Please contact me or any TPZS Executive Committee member with any questions you may have.

Sincerely,

s/ Eric K. Gravatt
Eric K. Gravatt
President, TPZS, Inc.

Councilmember Lehto clarified that the two GALA Events are closed to the public and are for those that are 21 years of age or older.

At the request of Councilmember Hardcastle, the City Clerk read the following Ordinance by title only:

ORDINANCE NO. 2836

AN ORDINANCE OF THE CITY CODE OF IDAHO FALLS, IDAHO; AMENDING SECTIONS 4-3-16 AND 4-4-11 OF THE IDAHO FALLS CITY CODE; RELATING TO THE SALE OF BEER AND WINE FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES; PROVIDING FOR METHODOLOGY; PRESERVING PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Hally 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 execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Parry
Councilmember Lehto
Councilmember Taylor
Councilmember Cornwell

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Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
April 15, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AWARD – WATER MAIN REPLACEMENTS 2010, PHASE I

On April 6, 2010, bids were received and opened for Water Main Replacements 2010, Phase 1. A tabulation of the bid results is attached.

Public Works recommends award to the firm providing the low bid, Jerome Bowen Construction, in an amount of \$161,789.54; and, authorization for the Mayor and City Clerk to sign contract documents.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to accept the low bid from Jerome Bowen Construction in the amount of \$161,789.54 to complete the Water Main Replacements 2010, Phase I Project and, further, give authorization for the Mayor and City Clerk to execute the necessary contract documents. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Taylor
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

City of Idaho Falls
April 15, 2010

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: CHANGE ORDER NO. 1 – 17TH STREET AND HOLMES AVENUE INTERSECTION IMPROVEMENTS

Attached is Change Order No. 1 to the 17th Street and Holmes Avenue Intersection Improvement Project. This work involves traffic signal control work at two (2) additional locations at a cost of \$47,335.00.

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Public Works recommends approval to the proposed Change Order; and, authorization for the Mayor and City Clerk to sign the contract documents.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to approve Change Order No. 1 to H-K Contractors, Inc. in the amount of \$47,335.00 for the 17th Street and Holmes Avenue Intersection Improvements. Roll call as follows:

Aye: Councilmember Parry
 Councilmember Cornwell
 Councilmember Hally
 Councilmember Taylor
 Councilmember Hardcastle
 Councilmember Lehto

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Lehto, seconded by Councilmember Cornwell, that the meeting adjourn at 8:05 p.m.

CITY CLERK

MAYOR
