

FEBRUARY 9, 1984

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, February 9, 1984, in the Council Chamber in Idaho Falls, Idaho.

Prior to calling the meeting to order, Mayor Tom Campbell called upon Scout Tyler Sharp from Troop 330 to come forward and lead all those present in the Pledge of Allegiance to the flag. The Mayor then called the meeting to order, and upon roll call, the following were found to be present: Mayor Tom Campbell; Councilmen Ralph Wood, Art Chandler, Mel Erickson, Wes Deist, Paul Hovey, and Sam Sakaguchi. Also present: Velma Chandler, City Clerk; Dale Storer, City Attorney, and all other available Division Directors.

Minutes of the last Regular Council Meeting held January 19, 1984 were read and approved.

The Mayor announced that this was the time and the place, as legally advertised, to consider a request for rezoning and called upon Councilman Wood to conduct the hearing. At the request of Councilman Wood, the City Clerk read this explanatory memo from the City Planner:

February 7, 1984

MEMORANDUM

TO: Mayor and Council
FROM: Rod Gilchrist, Planning and Building Director
SUBJECT: PROPOSED REZONING - LOT 23, BLOCK 2, PARKWOOD
ADDITION, DIVISION NO. 3 - R-1 TO P-B

Attached is a copy of a rezoning petition submitted by Mr. Bruce Tolman requesting the above described property be rezoned to P-B to permit construction of a new office. This property is located at the northwest corner of the intersection of Woodruff Avenue and Parkwood Drive.

The Planning Commission recently held a hearing on this matter and at that time, no objections were presented by adjacent property owners in the area. The Commission unanimously recommended approval of this request for a zone change from R-1 to P-B. This Department concurs with that recommendation.

The matter is now being submitted to the Mayor and Council for your consideration.

s/ Rod Gilchrist

Councilman Wood then asked the City Planner to locate the subject property on a map on the wall and explain the request.

There being no one who wished to speak, either for or against this rezoning request, it was moved by Councilman Wood, seconded by Deist, that the Council approve the rezoning from R-1 to P-B as requested, and the Building Official be instructed to reflect said zoning change on the official zoning map located in his office. Roll call as follows: Ayes, Councilmen Deist, Hovey, Sakaguchi, Wood, Chandler, and Erickson; No, none; carried.

Mayor Campbell then asked Councilman Wood to conduct the annexation proceedings for Caduceus Addition. At the request of Councilman Wood, the City Clerk read this explanatory memo from the City Planner:

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February 7, 1984

MEMORANDUM

TO: Mayor and Council
FROM: Rod Gilchrist, Planning and Building Director
SUBJECT: ANNEXATION, FINAL PLAT, AND INITIAL ZONING -
CADUCEUS ADDITION

Attached is a copy of the final plat, annexation agreement and annexation ordinance of the above mentioned subdivision. This subdivision is located on the east side of Woodruff Avenue, just south of 17th Street. The developers are requesting annexation to the City and initial zoning of R-3A to permit construction of a medical complex.

This proposal was the subject of a public hearing held in December by the City Planning Commission. At that time, the Commission unanimously recommended approval of the plat, annexation to the City and initial zoning of R-3A. This Department concurs with that recommendation.

The matter is now being submitted to the Mayor and Council for your consideration.

s/ Rod Gilchrist

At the request of Councilman Wood, the City Planner located the subject property on a map on the wall and explained the request. There was no one present who wished to speak concerning this annexation. Therefore, it was moved by Councilman Wood, seconded by Deist, that the final plat of Caduceus Addition be approved and the Mayor and City Clerk be authorized to sign the final plat. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, Wood, and Chandler; No, none; carried.

It was then moved by Councilman Wood, seconded by Deist, that the annexation agreement for Caduceus Addition be accepted and the Mayor and City Clerk be authorized to sign said agreement. Roll call as follows: Ayes, Councilmen Hovey, Sakaguchi, Wood, Chandler, Erickson, and Deist; No, none; carried.

ORDINANCE NO. 1745

AN ORDINANCE ANNEXING CERTAIN LANDS TO
THE CITY OF IDAHO FALLS: DESCRIBING SAID
LAND AND DECLARING SAME A PART OF THE CITY
OF IDAHO FALLS, IDAHO. (CADUCEUS ADDITION,
DIVISION NO. 1)

The foregoing ordinance was presented in title. It was moved by Councilman Wood, seconded by Deist, that the provisions of Section 50-902 of the Idaho Code requiring all ordinances to be fully and distinctly read on three several days be dispensed with. The question being, "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried. The majority of all the members of Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the

ordinance placed before the Council for final consideration, the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried.

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The Mayor then declared open a public hearing to consider the initial zoning of Caduceus Addition. It was moved by Councilman Wood, seconded by Deist, that the initial zoning of the newly annexed Caduceus Addition be established as R-3A and the Building Official be instructed to reflect said zoning on the official zoning map located in his office. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

Annexation proceedings for a portion of Airport Clear Zone, adjacent to and south of Airway Road, were then conducted. The City Clerk read this explanatory memo from the City Planner:

February 7, 1984

MEMORANDUM

TO: Mayor and City Council
FROM: Rod Gilchrist, Planning and Building Director
SUBJECT: ANNEXATION AND INITIAL ZONING OF A PORTION OF
AIRPORT CLEAR ZONE ADJACENT TO AND SOUTH OF
AIRWAY ROAD

Attached is a copy of an annexation ordinance covering a parcel of ground which is City-owned property and a portion of the airport clear zone. This matter was recently considered by the Planning Commission and at that time, it was recommended for annexation to the City with initial zoning of M-1.

This Department concurs with that recommendation. This matter is now being submitted to the Mayor and Council for your consideration.

s/ Rod Gilchrist

The City Planner located the subject property on a map on the wall and explained the request.

There was no one present to speak either for or against this annexation.

ORDINANCE NO. 1746

AN ORDINANCE ANNEXING CERTAIN LANDS TO
THE CITY OF IDAHO FALLS; DESCRIBING SAID
LANDS AND DECLARING SAME A PART OF THE
CITY OF IDAHO FALLS, IDAHO. (Portion of Airport
Clear Zone)

The foregoing ordinance was presented in title. It was moved by Councilman Wood, seconded by Deist, that the provisions of Section 50-902 of the Idaho Code requiring all ordinances to be fully and distinctly read on three several days be dispensed with, the question being "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, Councilmen Deist, Hovey, Sakaguchi, Wood, Chandler, and Erickson; No, none; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the Ordinance placed before the Council for final consideration, the question being, "SHALL THE

ORDINANCE PASS?" Roll call as follows: Ayes, Councilmen Deist, Hovey, Sakaguchi, Wood, Chandler, and Erickson; No, none; carried.

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Mayor Campbell declared open a public hearing to consider the initial zoning of the newly annexed area, and called upon Councilman Wood to conduct the hearing. There being no one present to speak concerning this zoning, it was moved by Councilman Wood, seconded by Deist, that the Council approve the initial zoning of M-1 as recommended and the Building Official be instructed to reflect said zoning on the official zoning map located in his office. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, Wood, and Chandler; No, none; carried.

Mayor Campbell then asked Councilman Wood to conduct annexation proceedings for portions of right-of-way for Hitt Road and 17th Street, and property located at that intersection, which is owned by the Vo-Tech School. At the request of Councilman Wood, the City Clerk read this memo from the City Planner:

February 7, 1984

MEMORANDUM

TO: Mayor and Council
FROM: Rod Gilchrist, Planning and Building Director
SUBJECT: ANNEXATION AND INITIAL ZONING - RIGHT-OF-WAY AT
17TH STREET AND HITT ROAD

Attached is a copy of an annexation ordinance covering portions of right-of-way for Hitt Road and 17th Street, and property located at that intersection which is owned by the Vo-Tech School.

The Planning Commission recently held a hearing on this matter and at that time, unanimously recommended annexation of this property to the City and initial zoning of R-1. This Department concurs with that recommendation.

The matter is now being submitted to the Mayor and Council for your consideration.

s/ Rod Gilchrist

There was no one present who wished to speak concerning this annexation.

ORDINANCE NO. 1747

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS; DESCRIBING SAID LANDS AND DECLARING SAME A PART OF THE CITY OF IDAHO FALLS, IDAHO. (17TH STREET RIGHT-OF-WAY, HITT ROAD RIGHT-OF-WAY, AND VO-TECH SCHOOL PROPERTY)

The foregoing ordinance was presented in title. It was moved by Councilman Wood, seconded by Deist, that the provisions of Section 50-902 of the Idaho Code requiring all ordinances to be fully and distinctly read on three several days be dispensed with, the question being "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist,

and Hovey; No, none; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the

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Ordinance placed before the Council for final consideration, the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried.

The Mayor then declared open a public hearing to consider the initial zoning of the newly annexed property. It was moved by Councilman Wood, seconded by Deist, that the zoning of this area be established as R-1. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

Bills for the month of January, having been properly audited by the Fiscal Committee, were presented.

	<u>GENERAL</u>	<u>STREET</u>	<u>AIRPORT</u>	<u>WATER/SEWER</u>
SERV/MAT: \$	722,347.66	\$ 108,361.68	\$ 102,814.18	\$ 218,255.90
SALARY:	<u>471,615.04</u>	<u>30,272.77</u>	<u>11,666.13</u>	<u>66,456.43</u>
TOTAL:	\$1,913,962.70	\$ 138,634.45	\$ 114,480.31	\$ 284,712.33

	<u>ELECTRIC</u>	<u>SANITATION</u>	<u>RECREATION</u>	<u>SANI/SEWER</u>
SERV/MAT: \$	2,575,927.94	\$ 27,500.19	\$ 4,561.60	\$ 7,524.65
SALARY:	<u>91,776.92</u>	<u>33,288.39</u>	<u>6,884.60</u>	<u>.00</u>
TOTAL:	\$2,667,704.86	\$ 60,788.58	\$ 11,446.20	\$ 7,524.65

	<u>MUN CAP FD</u>	<u>LIBRARY</u>	<u>CITY TOTAL</u>
SERV/MAT: \$	30,762.00	\$ 6,157.62	\$ 3,804,213.42
SALARY:	<u>.00</u>	<u>22,139.12</u>	<u>734,099.40</u>
TOTAL:	\$ 30,762.00	\$ 28,296.74	\$ 4,538,312.82

Councilman Chandler reviewed all major expenditures. It was moved by Councilman Chandler, seconded by Sakaguchi, that the Controller be authorized to pay all bills as listed on the computerized printout. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, Sakaguchi, and Wood; No, none; carried.

Monthly reports from Division and Department Heads were presented, accepted by the Mayor and ordered placed on file in the office of the City Clerk.

License applications for GROCERY STORE, Albertsons #133, KOA Campground, Quality Meats, Wealth of Health Nutrition Center; MEAT MARKET, Albertsons #133, Quality Meats, Thieman's Meat Market; BAKERY, Albertsons #133, Carsten's Bakery; RESTAURANT, Anne's Arctic Circle, Brady's Restaurant, The Corn Dog Factory, Fathers Guido's Original Take a Bake Pizzeria, Gangplank, Hickory Hut, J.B. Big Boy Restaurant #42, Lamplighter Restaurant, Motel West, The Paris Cafe, Red Steer Drive Inn, Scotty's Drive In, Sizzler Steak House, Taco Bandido, Taco Bell, Taco John's, Taco Time (Skyline), Taco Time (Yellowstone), Tam's Family Drive-Inn, Wendy's Old Fashioned Hamburgers, Y-Not Drive Inn; DELICATESSEN, Albertsons #133; CAFETERIA, Parkview Cafeteria, Riverview Cafeteria; CATERING SERVICE, Party Shop & Reception Center, Inc.; FOUNTAIN, Skyline Drug; CONCESSION, Mann Paramount Theatre, Mann Triplex Theatre, Ruth's Circle; DAIRY, Vaughn Asper Dairy; MOTEL, Motel West; BOWLING ALLEY, Skyline Lanes; POOL HALL, Buckhorn Gardens; MOTION PICTURE THEATRE, Mann Paramount Theatre, Mann Triplex Theatre; PHOTOGRAPHER, Franz Gisin, Paul Peck Photography, Photographics, Ltd.; SECONDHAND STORE, Ike's Gun Shop; AUCTIONEER, Sherman Coffey, David A. Nygard;

ITINERANT MERCHANT, Warehouse Tool; COMMERCIAL KENNEL, Eastside Veterinary Clinic; NON-COMMERCIAL KENNEL, Leon W. Ball, Marvin Beatty, Beppy Motes, Benson &

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Derka, Marlene Johnson, Chris McIntosh, Isaac W. Underwood, Ambronetta Walter; ELECTRICAL CONTRACTOR, Electri-Con Inc., Morgan Electric, Oakey Electric, Priest Electric, Romaine's H. & L. Electric, Sign/Arts, Smith Electric; JOURNEYMAN ELECTRICIAN, Rod Bowman, Roger W. Dye, Jim Emery, Leroy Fleischmann, Don O. Heaton, Frank C. Hulse, John C. Morgan, Gary Oakey, Jerald Oakey, Mardell Oakey, J. Vernon Priest, Willard C. Smith; APPRENTICE ELECTRICIAN, Jim Bauchanan with Romaine's H. & L. Electric, Reece W. Burke with Davis Electric, Dale Fleischmann with Electri/Con Inc., Carey Heaton with Romaine's H. & L. Electric, Stephen Olsen with Bonneville Electric; MASTER PLUMBER, American Plumbing & Heating Co., Ammon Plumbing Service, City Plumbing, Home Plumbing & Heating Co., Olson Plumbing & Heating; JOURNEYMAN PLUMBER, Lewis H. Davis, Marvin Eugene Hill, Vern C. Hutchens, Darrell W. Olson, Donnie A. Olson, Dallas D. Pope, Roger Sanderson, Ron Summers, Brandon Olson; CLASS B CONTRACTOR, WARM AIR, WET HEAT, GAS FITTER, American Plumbing & Heating; CLASS B JOURNEYMAN, WARM AIR, WET HEAT, GAS FITTER, Roger Sanderson; CLASS C JOURNEYMAN, WARM AIR, GAS FITTER, Vern Hutchins; CLASS C JOURNEYMAN, WET HEAT, GAS FITTER, Dallas D. Pope; SIGN COMPANY, Sign/Arts Co.; PRIVATE PATROL SERVICE, Interstate Security Agency, Hammon's Service Corp.; PRIVATE PATROL PERSON, Randolph A. Austin, Charlotte Dean Quimby, J. Vernon Tidwell; BARTENDER, Robert Dale Brown, Ann Bruce, Julie Ann Butikofer, Steve J. Chenoweth, Willa Jane Delaney, David Paul DeRoco, Rodney Emanuel Frey, Darlene E. Hardwick, Joel Marcos Herrera, Carol Mann, Michael William Melville, Jeanie Mitchell, Bonnie Alice Newman, Ray J. Nessen, Carole Anne Pruet, Reid B. Waters, Cheryl M. Williams, Cherol A. Severson; PUBLIC RIGHT-OF-WAY, O. & F. Construction Inc., W. L. McKean Excavating, K.V. Inc., Biggers Construction Company Inc., were presented. It was moved by Councilman Erickson, seconded by Deist, that these licenses be issued, subject to the approval of the appropriate Division Director, where required. Roll call as follows: Ayes, Councilmen Hovey, Sakaguchi, Wood, Chandler, Erickson, and Deist; No, none; carried.

BEER (NOT TO BE CONSUMED ON THE PREMISES) license applications for KOA Campground and B. & M. Morgan's. Inc., were presented. It was moved by Councilman Erickson, seconded by Deist, that these licenses be issued subject to the investigation and approval of the Chief of Police, provided that upon failure to obtain such approval, the application be referred back to the City Council. Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried.

The City Clerk asked for Council ratification of issuing as AUCTIONEER License to Darrel Jensen; BEER (TO BE CONSUMED ON THE PREMISES) to Buckhorn Gardens and a LIQUOR license to PaPa Tom's Pizza, with the approval of the appropriate Division Directors, but without formal Council authorization. It was moved by Councilman Erickson, seconded by Deist, that the Council ratify this previous action. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

The City Clerk then presented this memo from the Police Chief:

January 20, 1984

TO: Honorable Mayor and City Council
FROM: Pollock
SUBJECT: RECOMMENDATION FOR DENIAL OF BEER LICENSE

YANG JA KIM has submitted an application for a Beer license for RAY'S MINIT MARKET, 1463 West Broadway.

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In review, find that said applicant is not eligible for a license under IDAHO CODE 23-1010 (d) in that she is not a citizen of the United States.

I met with her husband and explained the circumstances to him. Mr. Kim mentioned that he had an Attorney, so I suggested that he inform his attorney as to why I could not approve the license.

s/ R. D. Pollock

Councilman Erickson explained that the proper procedure, when a recommendation for denial of a BEER license application, is to conduct a hearing to allow for the applicant or his representative to be heard. There was no one present who wished to speak either for or against the license. Councilman Erickson asked Chief Pollock to testify as to the basis for his recommendation for denial.

Chief Pollock stated that he had reviewed the application submitted by Yang Ja Kim for a beer license for Ray's Minit Market and found that Mrs. Kim is not a citizen of the United States. He said that he had met with Mr. Kim and an interpreter and pointed out to them the Section of the Idaho Code (23-1010-d) which requires that a beer license holder must be a citizen of the United States. Pollock said that Mr. Kim said he would talk with his attorney, but, to date, he had heard nothing further from him.

Councilman Erickson said that, based upon the testimony and recommendation of Police Chief Pollock, he would move that the beer license application be denied for the reason that the applicant is not a United States Citizen, and that Chief Pollock be instructed to prepare a written findings and a decision consistent with said motion. This motion was seconded by Councilman Deist. Roll call as follows: Ayes, Councilmen Hovey, Sakaguchi, Wood, Chandler, Erickson, and Deist; No, none; carried.

This memo from Chief Pollock was, also read:

January 20, 1984

TO: Honorable Mayor and City Council
FROM: Pollock
SUBJECT: RECOMMENDATION FOR DENIAL OF RETAIL WINE LICENSE

YANG JA KIM has submitted an application for a Retail Wine license for RAY'S MINIT MARKET, 1463 West Broadway.

In review find that said applicant does not meet the qualifications for a Retail Wine License under City Ordinance 5-14-5 as per IDAHO CODE 23-1307 (a) applicant is not a citizen of the United States.

s/ R. D. Pollock

Councilman Erickson then stated that he would conduct a hearing relative to this application, and invited anyone to be heard if they wished to speak for or against this WINE license application. There was no one to appear. Erickson asked Chief Pollock if his testimony would be, basically, the same for the wine license application as it was for a beer license application. Chief Pollock answered that the State Code requires that the applicant be a citizen of the United States for the license to be approved. There being no questions nor comment, it was moved by Councilman Erickson, seconded by Deist, that the license application be denied for the reason that the applicant is not a United States citizen, and the

Council authorize Chief Pollock to prepare a written findings on the decision consistent with said motion. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

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The City Clerk asked for Council ratification of the forwarding of the following three damage claims and one summons to the City's Liability Insurance Carrier and the City Attorney, without formal Council authorization:

City Clerk
City of Idaho Falls
Idaho Falls, Idaho

SUBJECT: CLAIM FOR LOCK BROKEN BY IDAHO FALLS POLICEMAN

Attached is a bill in the amount of \$27.16 for the repair of the left door lock of my 1981 Ford Escort 2 Dr., which was broken by an Idaho Falls patrolman when he broke into my car parked on the entrance road to the Idaho Falls Airport on January 20, 1984.

At about 6:30 a.m. on the 20th of January, I used my car to deliver freight to the Idaho Falls Airport, for my employer, Regional Express. Due to the -20 degree weather, my car stopped and would not start. I pulled it to the side of the airport entry road, and proceeded to walk into town for assistance.

When I returned at approximately 8:50 a.m., I found a patrol car parked by my car and the officer had broken into my car, which I had locked earlier to protect my stereo and personal belongings.

Why he needed to gain entry to my car is not known to me, since my license plate was correct and visibly displayed.

On departure, the officer did not explain reasons for his breaking into my car. I was not cited and I found my lock had been broken because the officer had forced entry. This incident has been reported to Chief Pollock, and my cost of repair is attached.

Please reimburse me for this cost, since it was incurred as a result of the officer's forced entry.

s/ Terrell Detrick

January 30, 1984

Mayor Tom Campbell
City of Idaho Falls
308 C Street
Idaho Falls, Id 83401

Dear Mr. Mayor:

I'm submitting a claim to the City of Idaho Falls for damages done to my car on 1-26-84 when I was a victim of a pot hole on 1st Street. The Police Department Case # 84-1476.

Both the front and rear tires, wheels, and wire wheel covers were damaged, along with the alignment.

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Attached are copies of the bills for the replacement of the tires at \$117.72, the alignment at \$18.95 and the towing bill at \$35.00.

This work was done to get the car back on the road.

The rims are bent and the cost of replacing them is \$35.00 each.

The wheel covers were also bent and replacement cost of these in going to be \$98.25 each.

For a total of \$438.17.

Thank you for your cooperation in the matter, if you have any questions please feel free to call me at 522-4825 or my wife at work at 526-3988.

s/ Ronald J. Larsen

January 19, 1984

Mrs. Velma Chandler
Clerk, City of Idaho Falls
P. O. Box 220
Idaho Falls, Idaho 83402

RE: Ms. Donna Henriques

Dear Mrs. Chandler:

This letter will serve as the required statutory notice of a claim by Ms. Donna Henriques against the City of Idaho Falls. The nature of the claim is summarized below.

Ms. Henriques, on approximately July 1, 1983, purchased the home and lot located at 270 West 17th Street (Lot 16, Block 5, South Lawn Addition) in Idaho Falls, where she has since resided. She purchased the property from Fred and Vicki Manz. On the 15th of June, 1982, the City of Idaho Falls apparently pursuant to its plan to widen 17th Street at that location, purchased a temporary construction easement and right-of-way across that property. The Right-of-Way Agreement was signed by Mr. and Mrs. Manz, as well as by Derald Jorgensen, Donald F. Lloyd, Mayor Campbell and yourself, all on behalf of the City. That agreement reflects that the City paid Mr. and Mrs. Manz \$1,555.00 for that interest in their property.

At the time Ms. Henriques purchased the property from Mr. & Mrs. Manz, a preliminary title report (dated May 4, 1983--almost a year after the Right-of-Way Agreement was signed) indicated that, aside from certain encumbrances, title to the property was clear; there was no indication in the County records that the City held an interest in the property. Although I have not personally inspected the County records to learn when, or if, that Agreement was actually recorded, the real estate agent involved had told me that he was told by the responsible City employee, probably Derald Jorgensen, that the City as a

practice does not record such easements and rights of way until they are actually needed.

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The simple trust of Ms. Henriques' claim against the City is that, because of the City's failure to record the Right-of-Way Agreement, Ms. Henriques' legal position, which is: 1) because of its failure to file the Right-of-Way Agreement, the City's interest in Ms. Henriques' property is void and unenforceable; 2) Ms. Henriques intends to demand current market value compensation for any and all property encroached upon, condemned, or otherwise taken or injured by the City; 3) Ms. Henriques demands that the City compensate her for her attorney's fees incurred in bringing and resolving this claim; and 4) Ms. Henriques fully intends to pursue all available legal and equitable remedies.

As you know, the City has statutory authority to settle this claim. I would therefore appreciate a speedy written reply to this letter.

s/ Kevin B. Homer

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY**

DELORES BREWER,)	
)	CASE NO. 31650
Plaintiff,)	
)	
-vs.-)	
)	COMPLAINT
)	Fee Category: A
CITY OF IDAHO FALLS a)	Fee: \$44.00
Municipal Corporation, and)	
ROBERT POLLOCK, individually)	
and is his capacity as)	
Chief of Police for)	
Idaho Falls, Idaho,)	
)	
Defendant.)	
_____))	

COMES NOW the Plaintiff, DOLORES BREWER, by and through our attorney of record JERRY K. WOOLF, and respectfully pleads:

COUNT ONE

1. At all times herein mentioned, Plaintiff was a resident of the City of Idaho Falls, County of Bonneville, State of Idaho, and Defendant City of Idaho Falls was and is a municipal corporation operating and established under the laws of the State of Idaho, and Chief Robert Pollock was duly appointed Chief of Police for said City.

2. On the 25th of August, 1980, Plaintiff and Defendant entered into a contract for employment wherein Plaintiff was to be employed in the capacity of Meter Maid in consideration for which the Defendant was to compensate Plaintiff in the amount of \$4.92 per hour.

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This contract contained an implied covenant to act in good faith as well as an expressed covenant not to discharge City employees unless said employee violated Defendant's code of conduct.

3. Plaintiff at all times diligently and conscientiously performed in an efficient manner the responsibilities and duties required of her and obeyed all lawful directions and advanced within the Defendant's personnel system with no reprimands being placed within her personal file.

4. On September 28, 1982, the Defendant through its authorized agents and employees terminated the Plaintiff's employment without just or sufficient cause, in bad faith and in violation of the personnel policy established by the City of Idaho Falls for its employees by subjecting the Plaintiff to interrogation regarding activities which occurred during a time for which she was off duty from her employment with the City of Idaho Falls. Said off duty activities in no way affected plaintiff's ability to perform her job with defendants.

5. Plaintiff's conduct as an employee was in the best interests of the Defendant at the time of her termination and ever since, Plaintiff has remained ready, willing and able to perform the duties of her employment.

6. Plaintiff has made demand upon said City for reinstatement based upon a decision of an appeals officer for the Department of Employment in which it was determined that Plaintiff's employment was wrongfully terminated. The Defendant has refused and continues to refuse any reinstatement of the Plaintiff's position.

7. By reason of such breach of contract and bad faith, Plaintiff's ability to obtain comparable employment has been and will continue to be substantially impaired. Plaintiff has suffered losses and damages, including but not limited to, loss of salary and other job benefits, impaired earning capacity, loss of morale, confidence and self esteem, severe emotional distress and mental anguish, grave embarrassment and humiliation, nervousness, and damage to her business reputation all in the sum of \$100,000.

8. The sum of \$10,000.00 is a reasonable minimum sum for the Defendant to be required to pay for the Plaintiff's attorney's fees herein.

COUNT TWO

1. This is a civil action seeking damages against the Defendants for committing acts, under color of law, which deprive the Plaintiff of right reserved under the Constitution and the laws of the United States; for actions in impeding and hindering the due course of justice with intent to deny the Plaintiff protection of free speech, right to privacy, and procedural due process; and for refusing or neglecting to prevent such deprivations and denials to the Plaintiff. The Court has jurisdiction under 43 U. S. C. Section 1983, and 28 U. S. C. Section 1343.

2. This Court also has jurisdiction under 28 U. S. C. section 1331. The amount in controversy, exclusive of costs and interests, exceeds \$10,000.

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3. Plaintiff, Dolores Brewer, is a citizen and resident of Idaho Falls, Idaho and the United States of America. During the period from August 25, 1980, up to her wrongful discharge by the defendant, City of Idaho Falls, on September 28, 1982, Plaintiff was employed as a meter maid for the Defendant, City of Idaho Falls.

4. Defendant, City of Idaho Falls, is a municipal corporation organized and existing under the laws of the State of Idaho.

5. Defendant, Robert Pollock, is the Chief of Police of the City of Idaho Falls. Plaintiff sues the Defendant Pollock in both his individual and official capacity.

6. At all times material to this Complaint, Defendants acted under the color of the statutes, customs, ordinances and usage of the City of Idaho Falls.

7. On September 28, 1982, the Defendant, Chief Pollock, terminated the Plaintiff's employment without just or sufficient cause and in violation of the personnel policy established by the City of Idaho Falls after subjecting the Plaintiff to interrogations regarding statements allegedly made during the time for which she was off duty from her employment with the City of Idaho Falls. At no time prior to or during the interrogation did the Defendant, Chief Pollock, make known to the Plaintiff the purpose of the interrogation, the consequences of failing to respond, or the right to have counsel present.

8. The Plaintiff was not allowed to cross examine any complaining witnesses nor was the Plaintiff allowed a meaningful hearing to determine if cause for employment existed before such termination.

9. After the "hearing" the Defendants discharged the Plaintiff from her employment with the City of Idaho Falls, Idaho.

10. The Defendants' actions in discharging the Plaintiff for failing to respond to interrogations concerning off duty hours was a violation of Plaintiff's right to freedom of speech, association, and privacy, as guaranteed by the first Amendment of the Constitution of the United States.

11. The Defendant's actions in discharging the Plaintiff without a meaningful hearing to determine if cause for employment existed and without notifying the Plaintiff of her right to counsel therein, violated the 14th Amendment to the constitution of the United States in that the Plaintiff was denied a proper hearing prior to discharge, which included adequate prior notice of charges, and an opportunity to prepare for a hearing in a proceeding at which she was allowed to effectively cross-examine witnesses testifying against her and that she was discharged arbitrarily without reasonable basis.

WHEREFORE, Plaintiff requests judgment against the Defendants as follows:

1. For reinstatement to her position with the said City.

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2. For pay increases equal to that which she would have received had her employment not been terminated.

3. For all back pay and benefits which she lost as a result of her said termination.

4. For Plaintiff's attorney's fees which she had incurred as a result of this action.

5. Upon Count 2 for Plaintiff's attorney fee pursuant to Civil rights Attorney's Fees Award Act of 1976.

6. The sum of \$100,000 for incidental and consequential damages suffered by Plaintiff as a result of Defendant's breach.

7. For punitive damages in the amount of \$100,000.

8. All references to plaintiff's discharge be expunged from the records of defendant's personnel files and that defendant's personnel files be cleared of all such reference.

9. For such other and further relief as this Court deems just and proper in the premises.

DATED this 18th day of January, 1984.

s/ Jerry K. Woolf

It was moved by Councilman Chandler, seconded by Sakaguchi, that this action be duly ratified. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, Sakaguchi, and Wood; No, none; carried.

This memo from the Electrical Engineer was then read:

January 27, 1984

ATTENTION: Mayor and Council
FROM: Steve Harrison, Manager
SUBJECT: AMENDMENT TO WEATHERIZATION AGREEMENT

Attached is a copy of a proposed amendment to the Residential Weatherization Agreement.

The amendment was developed to allow the use of some types of residential air to air heat exchangers that may transfer moisture from one air stream to the other except no such transfer is permitted in those structures insulated with urea formaldehyde.

The Electric Division recommends favorable consideration of this amendment.

s/ G. S. Harrison

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It was moved by Councilman Hovey, seconded by Wood, that the Council act favorably on the amendment and that the Mayor and City Clerk be authorized to sign the documents. Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried.

From the Police Chief came this memo:

February 8, 1984

TO: Honorable Mayor and City Council
FROM: Office of the Chief of Police
SUBJECT: REQUESTS FOR PARKING CHANGES

The following listed requests for changes in parking have been reviewed by our department and are recommended for your consideration:

1. A. Request from a representative of the L.D.S. Temple to mark off an area for bus parking on North Temple Drive to the west of the Handicap parking.

B. Also, to move the visitors parking on Memorial Drive to the next six spaces to the North, leaving the present visitors parking as NO PARKING so there is a clear view in front of the Temple.
2. Mrs. Potter of Little Peoples Academy, 543 N. Ridge Avenue, requests a Loading/Unloading zone be established in front of the Academy, as well as in front of her adjacent property, 527 N. Ridge, immediately to the south. This zone would be posted for loading/unloading only from 8:00 a.m. to 6:00 p.m.

(Mrs. Houghton, the immediate neighbor on the north, at 557 N. Ridge, has no objections.)

s/ Robert D. Pollock

Councilman Erickson stated that these requests had been reviewed by the Council Committee and also the Traffic Safety Committee.

Request #1-A which is a request to mark off an area for bus parking on North Temple Drive to the west of the Handicapped parking area was reviewed. It was moved by Councilman Erickson, seconded by Deist, that this request be approved. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

Request #1-B, asking to move the visitors parking on Memorial Drive to the next six spaces to the north, leaving the present visitors parking as NO PARKING, so there is a clear view in front of the Temple, was reviewed. It was moved by Councilman Erickson, seconded by Deist, that this request, also, be approved. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, Sakaguchi, and Wood; No, none; carried.

Request #2 from Mrs. Potter of Little Peoples Academy, 543 N. Ridge Avenue, requesting a loading/unloading zone be established in front of the Academy, as well as in front of her adjacent property, 527 North Ridge, immediately to the south. This zone would be posted for loading/unloading only from 8:00 a.m. to 6:00 p.m. Councilman Erickson stated that the Police Department has been concerned with traffic hazards of this area for

many years and they feel that this change will make the unloading and loading of children at this academy a much safer situation. Therefore, it was moved by Councilman Erickson,

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seconded by Deist, that this request be granted. Roll call as follows: Ayes, Councilmen Deist, Hovey, Sakaguchi, Wood, Chandler and Erickson; No, none; carried.

From the Public Works Director came this memo:

February 8, 1984

ATTENTION: Mayor and City Council
FROM: Donald F. Lloyd, P. E.
SUBJECT: AUTHORIZATION TO ADVERTISE

The plans and specifications are nearly completed for the replacement of the Mound Avenue Sewer Lift Station. Monies for improvements have been budgeted and the Council's Public Works Committee has approved the project. We are requesting authorization to advertise for competitive bids.

s/ Donald F. Lloyd, P. E.

It was moved by Councilman Sakaguchi, seconded by Deist, that the City Clerk be authorized to advertise for competitive bids for the Mound Avenue Sewer Lift Station. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, Wood, and Chandler; No, none; carried.

Also, from the Public Works Director, came this memo:

February 8, 1984

ATTENTION: Mayor and City Council
FROM: Donald F. Lloyd, P. E.
SUBJECT: AUTHORIZATION TO ADVERTISE

Bonneville County and the City have arranged to jointly remove and stock-pile the overburden from our gravel source. Once this is completed we may receive attractive bids for crushing gravel. We are requesting authorization to advertise for competitive bids for crushing about 40,000 tons of gravel from our Hatch Pit site.

s/ Donald F. Lloyd

Councilman Sakaguchi reminded the Council that they had, just recently, rejected all bids received for this project. He said that the Committee feels that joining with the County for bids might result in better prices. It was moved by Councilman Sakaguchi, seconded by Deist, that the City Clerk be authorized to advertise for bids for crushing about 40,000 tons of gravel from the Hatch Pit site. Mayor Campbell asked if the City's bid would be independent from the County so that they could reject the bid for the City if they so desired. Sakaguchi answered in the affirmative. Roll call as follows: Ayes, Councilmen Hovey, Sakaguchi, Wood, Chandler, Erickson, and Deist; No, none; carried.

Finally, from the Public Works Director, came this memo:

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MEMORANDUM

ATTENTION: Mayor and City Council
FROM: Donald F. Lloyd, P. E.
SUBJECT: LEASE OF RAILROAD PROPERTY FOR STREET PURPOSES

We are attaching herewith two (2) copies of a highway lease between the City of and the Union Pacific Railroad. The lease calls for a \$300 payment for the twenty five year term and involves as existing gravel roadway joining the southern end of N. Emerson Street. The agreement also states that the Railroad will participate in the cost of a surface treatment for the existing roadway up to \$1,500. The Public Works Committee and the City Attorney have reviewed these arrangements and are recommending that the Mayor and City Clerk be authorized to sign the City's approval.

s/ Donald F. Lloyd

At the request of Councilman Sakaguchi, the Public Works Director located the subject property on a map on the wall and explained the need for the lease. It was moved by Councilman Sakaguchi, seconded by Deist, that the Mayor and City Clerk be authorized to sign the City's approval for this lease. Roll call as follows: Ayes, Councilmen Sakaguchi, Wood, Chandler, Erickson, Deist, and Hovey; No, none; carried.

This memo from the Airport Manager was then read:

February 9, 1984

TO: Honorable Mayor and City Council
FROM: Airport Committee
SUBJECT: EXTENSION TO LEASE AND CONCESSION AGREEMENT -
TETON STAGE LINES

Teton Stage Lines, Inc., has submitted a signed extension to their Lease and Concession Agreement. This permits them to conduct inter-community bus service from the Airport for the year 1984.

The extension has been reviewed by the City Attorney.

The Airport Committee recommends that the Mayor and Clerk be authorized to execute the extension agreement.

s/ James H. Thorsen

It was moved by Councilman Hovey, seconded by Chandler, that the Mayor and City Clerk be authorized to sign this lease. Roll call as follows: Ayes, Councilmen Wood, Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

Also, from the Airport Manager, came this memo:

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MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Airport Committee
SUBJECT: RESTAURANT AND LOUNGE LEASE AGREEMENT

Brad and Sandra Bloxham have proposed to lease the Restaurant and Lounge in the Terminal Building.

A Lease and Concession Agreement has been negotiated and prepared by the City Attorney.

The Airport Committee recommends that the Council accept the agreement and the Mayor and Clerk be authorized to execute the same.

s/ James Thorsen

Councilman Hovey stated that this agreement was the result of advertising for a new lessee at the Airport Restaurant and Lounge. He said it had been approved by the Bloxhams and the City Attorney. It was moved by Councilman Hovey, seconded by Chandler, that the Mayor and City Clerk be authorized to execute the lease. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, Sakaguchi, and Wood; No, none; carried.

Mayor Campbell introduced Councilman Erickson for a matter of business. Councilman Erickson asked the City Clerk to read the following recommendations from the Idaho Falls Golf Advisory Board:

**GOLF ADVISORY BOARD
JANUARY 31, 1984**

To the Mayor and City Council Members of Idaho Falls:

The Idaho Falls Golf Advisory Board recommends the following fee schedule be adopted:

SEASON TICKETS Play Both Courses (PRICES INCLUDE SALES TAX)

First Ticket	\$200.00
Second Ticket (Same Family)	160.00
College & Vo-Tech Students with Activity Card	100.00
Junior Full Time Ticket (High School or 17 & Under)	100.00
Junior Part Time Ticket (Daily until 4:00 p.m., after 3:00 p.m., Weekends & Holiday)	52.50

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Senior Citizens (Retired Age 62 & Older)	
First Ticket	100.00
Husband & Wife	190.00
Monthly	40.00

DAILY GREEN FEES

18 Holes (Each Course)	
Weekdays	6.00
Weekends & Holidays	7.00

9 Holes

Sandcreek	
Weekdays	4.50
Weekends	4.50

Pinecrest	
Weekdays before 7:00 a.m.	4.50
Weekdays after 6:00 p.m.	4.50
Weekends & Holidays after 3:00 p.m.	4.50

Junior Green Fees

(Each Course, until 4:00 p.m. daily after 3:00
Weekend & Holiday play)

9 or 18 Holes	4.50
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Senior Green Fees

9 or 18 Holes Anytime	4.50
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LOCKERS Men and Women

Large	10.00
Small	7.50

s/ Ben Allen, Chairman
s/ Julie Southwick, Sec.

Councilman Erickson explained the competency of the members of the Golf Advisory Board. He said that the fees for the Golf Course have not been increased for two years. He said that it is the philosophy of the Board that the fees be a good buy for the residents. He said that City Golf Course fees are below surrounding golf course fees. Erickson said these increases, basically, are occasioned to cover the sales tax which is now required by State Law. He said that the golfer pays for his recreation at the City Golf Courses. Erickson paid tribute to Chuck Deming for the manner in which he maintains and operates the golf course and his managerial ability which makes it possible to hold the fees at a reasonable rate and the courses in such good condition. It was moved by Councilman Erickson, seconded by Deist, that the Council accept the recommendations of the Golf Advisory Board for the green fees

for 1984. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, Wood, and Chandler; No, none; carried.

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Mayor Campbell announced that he had re-appointed Glen Nelson, Don Ellsworth, Jake Cordova and Keith Bentzon to the Board of Adjustments. Messrs. Nelson and Ellsworth's terms will expire at the end of 1985 and Messrs. Cordova & Bentzon's terms will expire at the end of 1986. It was moved by Councilman Chandler, seconded by Hovey, that these re-appointments be confirmed. Roll call as follows: Ayes, Councilman Hovey, Sakaguchi, Wood, Chandler, Erickson, and Deist; No, none; carried.

There being no further business, it was moved by Councilman Erickson, seconded by Hovey, that the meeting adjourn at 8:20 P.M., carried.

s/ Velma Chandler
City Clerk

s/ Thomas Campbell
Mayor
