

FEBRUARY 24, 1983

The City Council of the City of Idaho Falls met in Regular Meeting, Thursday, February 24, 1983, in the Council Chamber in Idaho Falls, Idaho. Prior to calling the meeting to order, Scout Chris Rash, led 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 Art Chandler, Mel Erickson, Wes Deist, Paul Hovey, and Sam Sakaguchi; Absent was Councilman Ralph Wood. Also present: Velma Chandler, City Clerk; Dale Storer, City Attorney; and all other available Division Directors.

Minutes of the last Regular Council Meeting held February 10, 1983 were read and approved.

Mayor Campbell displayed several outstanding service awards which had been awarded to the City from the United Way, and presented them to the City Employees who were primarily responsible for the City obtaining these awards. Mayor Campbell stated that the Mayor and City Council are very proud of all City employees and their participation in service projects.

Mayor Campbell then displayed a plaque honoring the past Presidents of the Municipal Employees Association and presented this award to the current President Elaine Elswood. He said that this Association and the City Council have a "hand in hand" relationship and work together for the benefit of the non-union City employees. Mayor Campbell instructed General Services Director Stanger to display this plaque on the wall of the Electric Building which presently displays the pictures of the Mayors and Councilmen.

Mayor Campbell then honored Eagle Scouts, Brett Jensen and Jeff Hill. He said that these fine young men are members of an elite group in the community and commended them for this achievement. The Mayor then presented a certificate and pen to each of these scouts, after which they received a congratulatory handshake from all City Officials around the Council Table and a round of applause from all those present in the Council Chamber.

The Mayor announced that this was the time and the place, as legally advertised, to conduct a public hearing to consider a request for the extension of variances for mobile homes at Riverview Hospital, and called upon Councilman Deist to conduct the hearing. At the request of Councilman Deist, the City Clerk read this explanatory memo from the City Planner:

City of Idaho Falls
February 9, 1983

MEMORANDUM

TO: Mayor and Council
FROM: Rod Gilchrist
SUBJECT: REQUEST FOR EXTENSION OF VARIANCE - MOBILE HOMES AT RIVERVIEW HOSPITAL

Attached is a copy of a request for an extension of a variance for two mobile homes now located on the Riverview Hospital property. Copies of additional correspondence from Idaho Falls Consolidated Hospitals, Inc. are also attached. This variance was last extended by the City Council in January of 1981, for a period not to exceed 18 months. At that time there were three mobile homes on the property, and conditions for approval of the variance

were, removal of one unit and installation of automatic fire protection system in the remaining two.

The present request is as follows:

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Trailer No. 1 - Microbiology Laboratory Trailer. Installed in 1976; requesting an extension until completion of new hospital facility.

Trailer No. 2 - Emergency Room Trailer. Installed in 1975; requesting an extension until completion of new hospital facility.

Members of the hospital administration have been informed that recent amendments to the zoning ordinance prohibit the granting of variances for a period exceeding one year.

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

s/ Rod Gilchrist

Councilman Deist then reviewed previous action of the Council concerning the placement of these mobile units and the period of time they have been allowed at this location. He said that the public had felt that the Council has not been consistent with their dealings with variance requests, therefore the Committee had requested that the City Planner and the Fire Chief meet with the hospital staff to discuss the need for the extension of these variances.

Councilman Deist then invited anyone present who wished to speak in favor of this request to be heard at this time.

Dr. Fantelli appeared to say that he and three other physicians have the responsibility of the medical direction of the laboratory unit which is designated in the previous memo as trailer #1. He appraised the Council on the problems and effects of moving the laboratory to Parkview Hospital as, in his opinion, there is no space within Riverview Hospital for this operation. Dr. Fantelli then read the following letter from Dr. DeVon C. Hale:

February 10, 1983

Idaho Falls City Council
Box 220
Idaho Falls, ID 83402

Gentlemen:

I am unable to attend the City Council Meeting tonight and, therefore, am asking you to accept my letter in support in keeping the microbiology trailer at the Riverview Hospital.

I have a contract with the hospital as a consultant to ensure that the quality of work done in the microbiology laboratory is maintained.

I am concerned about the increased costs that would result from moving the microbiology trailer. This increased cost would result because of remodeling an area in Parkview Hospital to house the microbiology equipment and personnel. It would completely negate the \$10,000 fire prevention equipment that was put into the trailer several years ago at the City's request. It could result in one added FTE for the microbiology laboratory to man a station at Riverview. This

will in effect do away with the advantages that have occurred from consolidating the microbiology laboratory into one facility.

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The area of greater concern to me as a physician, however, is the maintenance of quality microbiology. The concern I have in this area related to the volume of work that would have to be transported from Riverview to Parkview. Approximately two-thirds of the cultures that we now process come from the Riverview facility. In dealing with bacteria, there is a limitation to the time between when the specimen is collected and the time it should be plated on media in order to obtain growth of potential pathogens. This would necessitate an improved transport system between facilities and a separate station at Riverview where the cultures could be plated out.

The second concern I have in this area is the kind of patients that are housed in Riverview. Most of our emergency work is from Riverview Hospital and comes from the emergency room, the newborn nursery, the pediatric unit, and the surgery service. Although there are some comparable services at Parkview, the surgery service is more likely to be ophthalmology, neuro-surgery, and some orthopedics which is less likely to result in culture requests and specifically emergency culture request. For this reason, I feel that moving the clinical microbiology laboratory to Parkview would result in a decrease in the quality of laboratory work that we can provide and increase in cost for that decreased service.

I would hope that the City Council would allow the hospital to continue to use the trailer at Riverview for microbiology until a facility can be built.

Best personal regards.

s/ DeVon C. Hale M.D.

Mayor Campbell asked Dr. Fantelli if the removal of the laboratory unit would, in his opinion, endanger someone's life? Dr. Fantelli answered that there was only a remote change of problems such as, if a specimen was destroyed in transit and they could not obtain another one, but this was not very likely to happen.

Dr. Farrell Hansen appeared regarding the emergency room trailer. He explained the importance and value of having this emergency unit. He said that this unit enhances the paramedic program and that, in many cases seconds could make the difference of life or death of the patient. He explained the importance of this unit being located near the emergency section of the hospital.

Dr. Tom Thompson appeared briefly to emphasize the need for the emergency unit. He said this unit provided a place for the families of patients during traumatic times.

Councilman Erickson commended the doctors for their presentations. He registered concern in allowing variance extensions to the hospital when similar variance requests from other residents are being denied.

Dr. Richard Cagen, one of the administrators of Riverview Hospital, appeared and apologized for this request. He said that they have made each request in good faith and they have been trying to find other accommodations for their operation, but until new facilities are constructed, there is no space available. Councilman Erickson said that he understands the position of the hospital, but the Council has a responsibility to conform with the ordinances and, it is very difficult to deal with these requests constantly.

There was no one who appeared in opposition to this request.

Councilman Deist said that the Council Committee had asked the City Planner and the Fire Chief to meet with the hospital staff to discuss these variances. It was the committee's opinion that the Council had not been consistent in their dealings with the public's requests and those of the hospital. One variance was granted in 1975 and the other

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in 1976. Temporary has stretched into eight years. From these meetings it was determined that there was a real need for trailer #2, the emergency trailer. Any attempt to relocate in the immediate area is impossible without extensive remodeling. To relocate at any distance away from the emergency room would involve time, and time is very important in emergencies. The Committee feels that the Council does not want to be put in the position of jeopardizing emergency health care. Therefore, it was moved by Councilman Deist, seconded by Councilman Chandler, that the variance for trailer #2 (the emergency room trailer) be extended for one more year. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey and Sakaguchi; No, none; carried.

Councilman Deist said that, also, from these meetings with the hospital staff it was determined that trailer #1, the microbiology laboratory could be moved. This move would create an inconvenience but not a real hardship. The Building and Zoning Department reports that this structure violates the zoning ordinance and also is in violation of the building code. The Fire Department reports that the structure is in violation of the fire code. Councilman Deist said that, based on these statements from the hospital and the City Departments, he would move that the variance for trailer #1 be denied and that the hospital staff meet with the Building and Zoning Department at their earliest convenience to determine a reasonable time for its removal. This motion was seconded by Councilman Chandler. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

The City Clerk asked for Council ratification of the publishing of a legal notice calling for the hearing held this night. It was moved by Councilman Deist, seconded by Chandler, that this action of the City Clerk be duly ratified. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, and Chandler; No, none; carried.

The City Clerk requested Council ratification of the forwarding of a summons in favor of Norbert Kleiber and a damage claim in the name of Don Fontes to the City's Liability Insurance Carrier and the City Attorney:

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

NORBERT KLEIBER)	
)	
Plaintiff,)	Case No. 30627
)	
-vs.-)	S U M M O N S
)	
CITY OF IDAHO FALLS,)	
STATE OF IDAHO, a)	
Municipal Corporation)	
)	
Defendant.)	

The State of Idaho sends greetings to the above named defendant: CITY OF IDAHO FALLS, STATE OF IDAHO, a Municipal Corporation

You are hereby notified that a complaint has been filed against you in the District Court of the Seventh Judicial District of the State of Idaho in and for

the County of Bonneville (in the magistrates division thereof) by the above-named plaintiff and you are hereby directed to file a written answer or written motion in defense to the said complaint within twenty days of the service of

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this summons; and you are further notified that unless you do so within the time herein specified, the plaintiff will take judgment against you as prayed in said complaint.

The nature of the claim against you is an action for damages

Witness my hand and the seal of the district court, this 15th day of February, 1983.

s/ Ronald Longmore
Clerk

s/ JoDee Cook
Deputy

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

NORBERT KLEIBER)	
)	
Plaintiff,)	Case No. 30627
)	
-vs.-)	C O M P L A I N T
)	
CITY OF IDAHO FALLS,)	
STATE OF IDAHO, a)	
Municipal Corporation)	
)	
Defendant.)	

COUNT ONE

1. Plaintiff is and at all times herein mentioned was a resident of Idaho Falls, Bonneville County, Idaho.

2. Defendant, City of Idaho Falls, State of Idaho is a Municipal Corporation organized and existing under the Laws of the State of Idaho.

3. On or about June 23, 1982, Plaintiff was issued a license to operate a mobile concession unit at various locations throughout the City of Idaho Falls, Idaho.

4. Plaintiff began operation of his hot dog business under said license and operated the same within the bounds of the law.

5. On or about July 3rd, 1982, at the direction of the Defendant, the Plaintiff was issued various misdemeanor citations, which effectively constituted a revocation of his operating license without due process.

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6. By reason of the actions of the Defendant as aforesaid, Plaintiff has been damaged in the amount of TWENTY THOUSAND DOLLARS (\$20,000.00).

7. The actions of the Defendant, entitled Plaintiff to punitive damages in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

8. The sum of FIVE THOUSAND DOLLARS (\$5,000.00) is a fair and reasonable amount that Defendant should pay as Plaintiff's attorneys' fees herein.

COUNT TWO

1. Plaintiff realleges paragraphs 1-5, inclusive of Count One and makes them a part of Count Two as though fully set out herein.

2. On July 8, 1982, Plaintiff appeared before the City Council of Idaho Falls, Idaho, at which time, the City Council, constituting the elected officials of the defendant municipal corporation, revoked Plaintiff's mobile concession license.

3. The revocation of Plaintiff's license as aforesaid was arbitrary, capricious and an abuse of discretion.

4. By reason of the actions of the Defendant, through its elected officials, Plaintiff has been damaged in the amount of TWENTY THOUSAND DOLLARS (\$20,000.00).

5. The sum of FIVE THOUSAND DOLLARS (\$5,000.00) is a fair and reasonable amount that Defendant should pay as Plaintiff's attorney' fees herein.

COUNT THREE

1. Plaintiff realleges paragraphs 1-5, inclusive, of Count One, Paragraphs 1-3, inclusive, of Count Two and makes the same a part of Count Three as fully set out herein.

2. The actions of the Idaho Falls City Council were based upon the authority set forth in City Code Ordinance Section 9-9-1.

3. Said Ordinance is so vague as written and imprecise and capricious as applied that the Council was and is in violation of the Constitutions of the State of Idaho and of the United States and the Councils interpretation or application of said Ordinance or both deny to Plaintiff due process of law and the equal protection of the laws all in violation of the Constitution of the State of Idaho, United States Constitution and 42 U. S. C. Section 1983.

4. By reason of the actions of the Defendant, Plaintiff has been damaged in the amount of TWENTY THOUSAND DOLLARS (\$20,000.00).

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5. The sum of FIVE THOUSAND DOLLARS (\$5,000.00) is a fair and reasonable amount that Defendant should pay as Plaintiff's attorneys' Fees herein.

COUNT FOUR

1. Plaintiff realleges paragraphs 1-5 inclusive of Count One, 1-3, inclusive of Count Two and 1-3, inclusive of Count Three of this Complaint and makes the same of Count Four as though fully set out herein.

2. Plaintiff has no adequate remedy at law and asks the Court to grant a preliminary and permanent injunction, ordering the Defendant to reinstate Plaintiff's mobile concession license, and restraining Defendant, its agents or employees from issuing misdemeanor citations during the pendency of this action and permanently for the reasons set forth in Counts One, Two and Three of this Complaint.

WHEREFORE, Plaintiff prays for a judgment against Defendants upon Counts One, Two, and Three for damages in the amount of TWENTY THOUSAND DOLLARS (\$20,000.00), punitive damages upon Count One in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and his Attorneys' Fees and costs and upon Count Four for a preliminary and permanent injunction ordering the Defendant to reissue Plaintiff's Mobile Concession License and enjoining and restraining the Defendant, its agents and employees from issuing to Plaintiff misdemeanor criminal citations based upon Ordinance Section 9-9-1 and from interfering with Plaintiffs business rights and for such other and further relief as to this Court shall seem just and equitable.

s/ Marc J. Weinpel

STATE OF IDAHO)
) ss.
County of Bonneville)

NORBERT KLEIBER being first duly sworn, deposes and says:

That I am the Plaintiff in the foregoing action, that I have read the within Complaint, know the contents thereof, and that the same is true and correct as I verily believe.

s/ Norbert Kleiber

TO WHOM IT MAY CONCERN:

I would like to seek payment on damages incurred on February 14, 1983, to my private vehicle of approximately \$127.00. Damages received from a large chuckhole on Lindsay Boulevard.

Approximately 1:30 p.m. on February 14, 1983, driving east down Lindsay approaching a water puddle on the inside corner of a turn located behind the Westbank Motel, using extreme caution in fear of hitting a chuckhole and not to spray water, I slowed my vehicle down to what should have been a safe

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speed. I entered the water puddle and found this hole, causing permanent damage to my right front and right rear tires. So I pulled to the side of the road with my wife and two babies. I walked to a local merchant to call Fred and Wayne's Tire Care Center. While waiting for the truck I changed my front tire with my spare.

While waiting I did notice two or three City trucks driving down Lindsay (probably up the road having coffee discussing the coming up weekend). Then a City Police Officer drove by and stopped to see what the problem was. I told him about the chuckholes and he got right on it and low and behold a City truck came into view. He stopped at the puddle and posted the area where the hole was. The good thing about it was the City had it posted and they didn't even have to look for it. The Public does that! Anyway damages received are as follows:

\$117.00	Fred & Wayne's Tire Care Center
\$ 10.00	Gas to Work
\$127.00	TOTAL

s/ Don Fontes

P. S. I believe along with others the City should be held liable and not just say that it was an act of God. There are too many around town for the persons responsible not to know that they are there.

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

License applications for GROCERY STORE, Discount Foods (mobile), Wealth of Health Nutrition Center; BEVERAGE & BOTTLING COMPANY, Old Faithful Beverage Company; CANDY FACTORY, Farr Candy Company, Inc.; RESTAURANT, Bowl-ero Restaurant & Lanes, Burger King, Dairy Queen, Dean's Prairie Dogs #1 & #2, Mr. E's Sweet Treat Cookery, The Gang Plank, Hot Diggity Dog #1 & #2, J. B.'s Big Boy Restaurant, Kentucky Fried Chicken #1 & #2, North Highway Cafe, Orange Julius, Red Steer Family Restaurant, Sweet Treat Cookery, Taco Bell, Taco Time Restaurant, Wrangler Roast Beef, Y-Not Drive-In; CONCESSION, Mann Paramount Theatre, Mann Yellowstone Triplex Theatre, United Artists Cinemas-4; SNACK BAR, Motel West; CATERING, Leonard's Catering; ICE CREAM STORE, Baskin Robbins; MOTEL, Motel West; BOWLING ALLEY, Bowl-ero Lanes; MOTION PICTURE THEATRE, Mann Paramount Theatre, Mann Yellowstone Triplex, United Artists Cinemas-4; PHOTOGRAPHER, Franz Gisin, King's Image, Stoddard Photography; SECONDHAND STORE, Dean's Antiques; JUNK DEALER, Pacific Recycling; COMMERCIAL KENNEL, Northgate Veterinary Hospital; NON-COMMERCIAL KENNEL. Derla & Benson, Harriet Marty, Bill & Beppy Motes, William Simpson; DELIVERY SERVICE, United Parcel Service; DRAY SERVICE, Enloe Moving & Storage, IML Freight, Pacific Intermountain Express; ELECTRICAL CONTRACTOR, Schriener Electric, J. D. Hall Electric, Budget Electric, Mark Barnard Electric; JOURNEYMAN ELECTRICIAN, Jim Schriener, Arden Ricks, John Douglas Hall, Mark Barnard; JOURNEYMAN PLUMBER, WA, GF, REF, Jim Schriener; CLASS C JOURNEYMAN, WH, GF, Dallas Pope; CLASS D JOURNEYMAN, WA, Steven Thompson; BEER (NTBCOP), Morgan's Westgate Amoco; PRIVATE PATROL SERVICE, Hammon Services

Corp.; BARTENDER, Sandy Bates; TAXI OPERATOR, Jay Hendrickson, were presented. It was moved by Councilman Erickson, seconded by Chandler, that these licenses be issued,

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subject to approval of the appropriate Division Director, where required. Roll call as follows: Ayes, Councilmen Hovey, Sakaguchi, Chandler, Erickson, and Deist; No, none; carried.

From the City Controller came this memo:

February 23, 1983
City of Idaho Falls

MEMORANDUM

TO: Mayor Tom Campbell and City Council
FROM: John D. Evans, Controller
SUBJECT: APPROVAL OF LEASE PURCHASE AGREEMENT - FIRE ENGINE

I hereby request the City Council to approve and authorize the Mayor and City Clerk to sign the attached Lease Purchase Agreement with the Idaho First National Bank, Idaho Falls Office for a fire engine.

The Agreement calls for a down payment of \$32,150.00 and four annual installments of \$32,645.05 beginning March, 1984 with an annual interest rate of 8.95 percent.

The equipment is furnished by L. N. Curtis and Sons, with an FMC Model VOL QSMF/500 body, a Spartan Chassis Model CFL-2000 (Serial No. 129RT6F04DC423453) and a Hale Pump. The truck is powered by a Detroit Engine for a total equipment cost of \$138,027.00.

Your favorable consideration is requested.

s/ John Evans

It was moved by Councilman Chandler, seconded by Erickson, that the Mayor and City Clerk be authorized to sign the Lease Purchase Agreement with Idaho First National Bank. Roll call as follows: Ayes, Councilmen Deist, Hovey, Sakaguchi, Chandler, and Erickson; No, none; carried.

From the Public Works Director came this memo:

City of Idaho Falls
February 18, 1983

MEMORANDUM

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

The specifications are nearly complete for the purchase of equipment as per Office of Highway Safety Grant requirements. This project has been reviewed

by the Public Works Committee and we are requesting authorization to advertise the following equipment for competitive bids:

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1. Video Camera
2. Mini-Computer

s/ Donald F. Lloyd

It was moved by Councilman Sakaguchi, seconded by Deist, that the Council authorize the advertisement for bids as requested. Roll call as follows: Ayes, Councilmen Sakaguchi, Chandler, Erickson, Deist, and Hovey; No, none; carried.

This memo from the Electrical Engineer was then presented and read:

City of Idaho Falls
February 23, 1983

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Steve Harrison, Manager
SUBJECT: BPA TRANSFORMER AGREEMENT

Attached is a copy of a proposed BPA transformer purchase agreement.

BPA proposes to purchase the 161 KV-46KV Westside transformer from the City of Idaho Falls. Previously the City has agreed to purchase the transformer because BPA did not have the money budgeted.

Purchase price is \$335,212 and represents the City's actual cost.

Approval of the purchase agreement is recommended.

s/ G. S. Harrison

It was moved by Councilman Hovey, seconded by Chandler, that the Mayor and City Clerk be authorized to sign the transformer agreement with Bonneville Power Administration for the purchase price of \$335,212.00. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

From the General Services Director came this memo:

City of Idaho Falls
February 24, 1983

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger
SUBJECT: BID #IF-83-9, MOTOR GRADER

Attached is a tabulation of bids for Bid #IF-83-9, Motor Grader. After review of the bids received, it has been determined that the bid specifications require revision. For this reason, the General Services Division recommends that all bids be rejected.

s/Chad Stanger

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It was moved by Councilman Chandler, seconded by Hovey, that the recommendation of the General Services Division be upheld and all bids for a motor grader be rejected. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

From the Airport came this memo:

City of Idaho Falls
February 24, 1983

MEMORANDUM

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

Falls Cab Company has submitted an extension to its Lease and Concession Agreement. This agreement permits them to operate a commercial taxicab operation from Fanning Field.

The term of the agreement extension is for six months, during which time a new agreement will be negotiated.

The Airport Committee recommends that the Mayor and Clerk be authorized to execute this Extension Agreement.

s/ James H. Thorsen

It was moved by Councilman Hovey, seconded by Sakaguchi, that the Mayor and City Clerk be authorized to execute the extension to the lease and concession agreement with Falls Cab Company. Roll call as follows: Ayes, Councilmen Chandler, Erickson, Deist, Hovey, and Sakaguchi; No, none; carried.

Mayor Campbell stated that the appointment of Frank Just and Marian Orme to the Planning Commission had expired in January, therefore, he had re-appointed both of these gentlemen to new terms to that Board. It was moved by Councilman Deist, seconded by Chandler, that these re-appointments be confirmed. Roll call as follows: Ayes, Councilmen Erickson, Deist, Hovey, Sakaguchi, and Chandler; No, none; carried.

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

s/ Velma Chandler
City Clerk

s/ Thomas Campbell
Mayor
