

JULY 9, 2009

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, July 9, 2009, in the Council Chambers at the City Hall Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Mayor Jared D. Fuhriman
Councilmember Thomas Hally
Councilmember Sharon D. Parry
Councilmember Karen Cornwell
Councilmember Ida Hardcastle

Absent was:

Councilmember Michael Lehto
Councilmember Ken Taylor

Also present:

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

Mayor Fuhriman requested Jordan Hinckley to lead those present in the Pledge of Allegiance.

Mayor Fuhriman requested the representatives from the Mayor's Youth Advisory Council to come forward and report to the Mayor and City Council.

Jordan Hinckley, Whitney Wood, and Sydney Jensen, from the Mayor's Youth Advisory Council appeared to give a brief report regarding their attendance at the Association of Idaho Cities Conference in Boise, Idaho on June 16-19, 2009. They reviewed their daily activities and presented a PowerPoint Presentation.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes for the June 23, 2009 Council Work Session and the June 25, 2009 Regular Council Meeting.

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

The City Clerk presented the following Expenditure Summary dated June 1, 2009 through June 30, 2009, after having been audited by the Fiscal Committee and paid by the Controller:

FUND	TOTAL EXPENDITURE
General Fund	\$ 866,509.04
Street Fund	50,528.16
Recreation Fund	21,176.52
Library Fund	71,692.73
Municipal Equipment Replacement Fund	53,358.28
Electric Light Public Purpose Fund	32,697.97
Golf Fund	41,159.36
Water Capital Improvement Fund	48,987.27

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FUND	TOTAL EXPENDITURE
Traffic Light Capital Improvement Fund	3,456.00
Airport Fund	370,675.63
Water and Sewer Fund	349,452.79
Sanitation Fund	2,883.29
Ambulance Fund	11,822.46
Electric Light Fund	3,256,407.16
Payroll Liability Fund	2,218,597.00
TOTALS	\$ 7,399,403.76

The City Clerk presented several license applications, including BEER LICENSES to Wingers (Transfer Only) and Aldo's Spaghetti, all carrying the required approvals, and requested authorization to issue those licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on July 9, 2009.

The Fire Chief submitted the following memo:

City of Idaho Falls
July 8, 2009

MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Dean Ellis, Fire Chief
SUBJECT: ZOLL DATA SOFTWARE PURCHASE

The Fire Chief respectfully requests the Mayor and Council approval to purchase Zoll Data Software as a sole source purchase. Zoll Software is the only fully integrated ePCR to Billing solution which will include the ability to download the information captured on our heart defibrillators, making this a part of the official PCR. The PCR to Billing integration also automatically adds the ICD9 codes and the HCPC codes which are required for proper billing to Medicare/Medicaid. This software allows the department to go paperless from start of report to billing due to the integrated system.

s/ Dean Ellis

The Municipal Services Director submitted the following memo:

City of Idaho Falls
July 1, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-09-21, ONE (1) NEW 2009 OR NEWER LOW PROFILE GENERAL PURPOSE WHEEL TRACTOR WITH LOADER

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

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It is the recommendation of Municipal Services to accept the low bid of Pioneer Equipment to furnish a 2009 Case Tractor for an amount of \$38,207.00 with trade-in Unit No. 290.

s/ S. Craig Lords

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
July 9, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: PROFESSIONAL SERVICES AGREEMENT – PIERSON LAND WORKS, INC.

Attached for your consideration is a Professional Service Agreement with Pierson Land Works, Inc. for the purpose of developing plans and providing professional services for the construction of an urban fishery to be located at Ryder Park. The projected cost for services is \$25,000.00. The City Attorney has reviewed and approved said agreement.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said contract agreement.

s/ David J. Christiansen

The Planning and Building Director submitted the following memo:

City of Idaho Falls
July 2, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: ANTI-DISCRIMINATION POLICY AND COMPLAINT PROCEDURE FOR PROJECTS FUNDED BY THE IDAHO DEPARTMENT OF TRANSPORTATION OR FEDERAL HIGHWAY ADMINISTRATION

Attached are a policy statement and complaint procedure for projects funded by the Idaho Department of Transportation or the Federal Highway Administration. These documents have been requested by the Idaho Department of Transportation and reviewed by the City Attorney. Jan Blickenstaff will serve as the Title VI Coordinator. This Department respectfully requests adoption of this policy and authorization to sign the accompanying documents.

s/ Renee R. Magee

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

Aye: Councilmember Parry
Councilmember Cornwell
Councilmember Hally
Councilmember Hardcastle

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

The Police Chief submitted a recommendation to deny a Taxi Operator License to Tim Stevens.

Tim Stevens made the following Request for Appeal – License Denial:

Name: Tim Stevens
Address: P. O. Box 54143/2093 Evans
Idaho Falls, Idaho 83405
Telephone No.: (208) 523-3167/(208) 520-5829
License Applied For: Taxi Operator License
Reason for Denial: Criminal History
Reason to Appeal Decision to the Mayor and City Council: Have been cleared by Homeland Security and INL Site. 2005 Unlawful Possession of a Firearm (Black Powder Rifle). Domestic issues.

s/ Tim Stevens

Date: June 22, 2009

Councilmember Hardcastle requested the Police Chief to come forward to address this issue.

The Police Chief appeared to state that the Mayor and City Council were provided with the public information portion of Mr. Stevens' criminal history. He stated, further, that Mr. Stevens has been convicted of a felony. Per the City Code, that is reason to deny this Taxi Operator License.

Tim Stevens, 2094 Evans Avenue, appeared to state that he wanted to explain the felony conviction on his record. He stated that he has been cleared for Homeland Security by the FBI to haul hazardous material. He stated, further, that he has been cleared by the INL to work at the Site. He did not believe that there would be a problem in applying for a Taxi Operator License. Mr. Stevens explained that the felony conviction was due to having possession of a firearm (black powder rifle) that he had in his home. This firearm was not used in the commission of a crime, nor was he trafficking in firearms. He requested consideration of these facts in appealing this decision so that he might drive a taxi.

The Police Chief stated that the City Code provides that if person has been convicted of a felony, he will not qualify for this type of a license. The felony that Mr. Stevens was convicted of was "possession of a controlled substance", which occurred in 2005.

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Councilmember Parry stated that it is imperative to abide by the City Code. Mr. Stevens has been convicted of a felony. The City Code states that if a person has committed a felony, he will not be approved for this type of a license.

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to uphold the denial of the Taxi Operator License to Tim Stevens as presented. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Hardcastle
Councilmember Hally

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Parry to conduct a public hearing for consideration of a rezone from I & M-1 (Industrial and Manufacturing) and HC-1 (Limited Retail and Service Business) to C-1 (Limited Retail Business) on property located generally south of Short Street, north and adjacent to 15th Street, east and adjacent to Chamberlain Avenue, west of Yellowstone Highway, and legally described as a Metes and Bounds Legal Description of 0.77 Acres in Lot 5, Southeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian. At the request of Councilmember Parry, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
June 17, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE 0.77 ACRES FROM I & M-1 AND HC-1 TO C-1 – SECTION 24, TOWNSHIP 2 NORTH, RANGE 37, EAST OF THE BOISE MERIDIAN (827 CHAMBERLAIN AVENUE)

Attached is an application to rezone an existing building at 827 Chamberlain from I & M-1 and HC-1 to C-1. This parcel is located on the northeast corner of Chamberlain Avenue and 15th Street. The Planning Commission considered this request at its June 2, 2009 Meeting and recommended approval. This request is now being presented to the Mayor and Council for consideration.

s/ Renee R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this rezoning request:

Slide 1 Vicinity Map showing surrounding zoning
Slide 2 Aerial Photo
Slide 3 Aerial Photo – Close Up
Slide 4 Comprehensive Plan shows area to be commercial

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Slide 5 Site Photo showing view of the south side of building under consideration
Slide 6 Site Photo showing upper level of south side of building
Slide 7 Site Photo showing Chamberlain Avenue looking north
Slide 8 Site Photo looking southwest of property at Candlewood Suites and Snake River Landing
Slide 9 Site Photo looking northwest from the intersection of Trask and Chamberlain
Exhibit 1 Vicinity Map
Exhibit 2 Aerial Photo
Exhibit 3 Planning Commission Minutes dated June 2, 2009
Exhibit 4 Staff Report dated June 2, 2009

The Planning and Building Director stated that the Planning Commission made the recommendation to zone this parcel of land to C-1. One of the considerations for this was the changes in land uses in the surrounding area.

There being no further discussion either in favor of or in opposition to this rezoning request, Mayor Fuhriman closed the public hearing.

It was moved by Councilmember Parry, seconded by Councilmember Hally, to approve the rezone from I & M-1 (Industrial and Manufacturing) and HC-1 (Limited Retail and Service Business) to C-1 (Limited Retail Business) on property located generally south of Short Street, north and adjacent to 15th Street, east and adjacent to Chamberlain Avenue, west of Yellowstone Highway, and legally described as a Metes and Bounds Legal Description of 0.77 Acres in Lot 5, Southeast Quarter of Section 24, Township 2 North, Range 37, East of the Boise Meridian (827 Chamberlain Avenue) and that the City Planner be instructed to reflect said zoning change on the official Zoning Map located in the Planning Office. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Cornwell
Councilmember Hally
Councilmember Parry

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Parry to conduct a public hearing for consideration of Amendments to the City of Idaho Falls Sign Code to establish maximum day and nighttime brightness standards on L.E.D. Signs; to allow graphics on L.E.D. Displays; to establish size restrictions; to require minimum display and maximum transition times for each display; to require specific documentation for permitting; to expand the area L.E.D. Signs are allowed within the R-3A Zone; to prohibit animation; and to clarify and update miscellaneous provisions of the Ordinance, including definitions. At the request of Councilmember Parry, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
July 2, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: AMENDMENT TO SIGN ORDINANCE

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Attached is an Ordinance amending the code for electronic message centers in the Sign Ordinance. These amendments reflect the comments of citizens and the recommendation of the Planning Commission. The Ordinance has been reviewed by the City Attorney. This Department respectfully requests consideration and passage of these amendments.

s/ Renee R. Magee

The Assistant Planning and Building Director further explained this amendment to the Sign Ordinance. Following is a list of exhibits used in connection with this request:

- Slide 1 Sign Code Amendments – Process and Results
- Slide 2 Summary of Comments from the General Public – Signs that were simple, brightness turned down, readable and clear, aesthetically pleasing.
- Slide 3 Signs Designated as Favorites
- Slide 4 Summary of Comments made on the Murals – Positive and Negative
- Slide 5 Summary of Survey to Business Owners – Comments mirrored comments received from general public.
- Slide 6 Comprehensive Plan – Control the type and number of locations of signs. Sign Code review should assure that needed signs are provided without compromising the attractiveness of the City.
- Slide 7 Purpose of the Sign Code – To protect the health, safety, property and welfare of the public; to eliminate signs that demand rather than invite public attention.
- Slide 8 Summary of Sign Code – Graphics would be allowed; the only transitions between messages would be fading, dissolving and instantaneous; no longer traveling messages; the allowable size of an LED could be 75% of the allowable pole signage; 4 second minimum dwell time for each message with transitions being accomplished in .5 seconds; automatic photocell dimmers required; maximum brightness standards; proof of factory presets to restrict maximum brightness; signed agreement from the sign owner and sign user that he/she has read the requirements and agrees to abide by them.
- Slide 9 LED signs would be allowed in the R-3A Zone on Channing Way from 25th Street to Sunnyside Road with the following conditions: Would not be visible from adjacent residences that are 100 feet from the nearby single-family residential zones; the red and amber characters on black backgrounds; the 5-minute minimum dwell time; the LED be limited to 30% of the total allowable signage the design of LED signs be integrated into the architecture of the building that they are advertising; animated signs are not allowed as they do not meet any of the purposes expressed by the community.
- Exhibit 1 Draft of Ordinance

The Assistant Planning and Building Director explained, further, that there has been some concern expressed for the 4-second dwell time. He shared three quotes regarding traffic issues related to LED signs:

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From the Journal from the Institute of Transportation Engineers: "When a driver looks away from the roadway for more than two seconds, regardless of whether they are looking at another driver, a sign, or a business, there is an increased risk of crash or near crash."

From the Colorado Department of Transportation: "When variable message signs are used and display a series of message panels, that those messages need to change at least every 2-4 seconds."

From Signs of Success: "Message transitions and frame effects are one of the most important parts of the Code for the reason being that it is at that point when the message transitions or when something is going on that screen, whether it is animation or words or pictures are moving, that is the point that catches your eye."

The second concern expressed was regarding the 75% allowable signage. He stated that any building could put up 100 square feet of pole signage. He gave several examples of signs in Idaho Falls and how large they could be. One of the options that he would like to propose, is that an LED board be limited to 250 square feet unless it is one that is located near I-15.

It was determined that all existing signs on Channing Way would be grandfathered.

Councilmember Hardcastle stated that she was comfortable with the 75% requirement for allowable signage.

Cory Nelson, Sign Pro, 570 Sycamore Circle, appeared to question what was going to be accomplished with the red on black board or the amber on black board and what was the difference between having a full-color board with a static display and an acrylic face with the same full-color message on it (the difference between a billboard and a LED message board). They are the same display. He objected to the 4-second rule, as it would not give a business the ability to get their message across to the general public.

David Whitehead, Owner of Sign Pro, 6103 Bay Hill Drive, appeared to state that he works with businesses that have signs every day. Businesses love the message boards. He stated that he agreed with the points that Cory Nelson made. He noted that the No. 4 most-liked sign had a message center which was green in color. He believed that the red and amber and black sign restriction in the R-3A Zone was excessive. They should be allowed to use a full-color presentation. With the sign size restriction, the City Council will be causing the sign to scroll and people will not have enough time to read the message. There should be a 50% size limitation, rather than a 30% size limitation in the R-3A Zone.

Councilmember Hardcastle questioned whether the color would limit his business.

Mr. Whitehead stated that he did not know whether that would be a limitation. He stated that he does a lot of work for schools and they want the full-color board.

There being no further discussion either in favor of or in opposition to this Ordinance Amendment, Mayor Fuhrman closed the public hearing.

Councilmember Hally stated that Channing Way is a unique R-3A Zone. He commented that maybe the City Council may want to consider the full-color boards with a 3-second limitation rule.

The Planning and Building Director appeared to state that the first LED sign proposed was red with black at Sunnyside Elementary School. That sign was turned down due to the brightness of color. Another sign company proposed amber and black. That sign was approved as it was not as bright. The R-3A Zone is a residential zone. Channing Way is unique, but it is an R-3A Zone. The red color was a compromise already for Channing Way. This is an area that is immediately adjacent to a hospital, medical services and professional businesses at this location and it serves as an entranceway into the community. In the Planning Commission Meeting, there was a fair amount of discussion as

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to whether LED signs should be allowed on Channing Way or in other R-3A Zones across the City.

Councilmember Hally stated that this issue has been well thought out. There is a general overall concern about signage in the City of Idaho Falls. The LED signs are new technology. He expressed that he was in favor of the Ordinance Amendment as it is written.

Councilmember Parry expressed her appreciation for the Planning Staff and the Planning Commission for their work on this Ordinance Amendment. She stated, further, that she supported this Ordinance Amendment. Councilmember Parry expressed her concern for people finding their way to the Emergency Room at the Eastern Idaho Regional Medical Center.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO; AMENDING SECTIONS 7-9-12, 7-9-42, AND 7-9-49; REPEALING SECTION 7-9-48 OF THE CITY CODE; AND AMENDING TABLE 1, APPENDIX, BEING A PORTION OF THE SIGN CODE OF THE CITY; DECLARING ORDINANCE METHODOLOGY; PROVIDING FOR PRESERVATION OF PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Parry moved, and Councilmember Hally seconded, to pass this Ordinance on the first reading only. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Parry
Councilmember Hardcastle
Councilmember Hally

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Hally, seconded by Councilmember Parry, that the meeting adjourn at 8:30 p.m.

CITY CLERK

MAYOR
