

APRIL 23, 2009

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, April 23, 2009, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Mayor Jared D. Fuhriman
Councilmember Ken Taylor
Councilmember Thomas Hally (By Telephone)
Councilmember Michael Lehto
Councilmember Karen Cornwell
Councilmember Ida Hardcastle

Absent was:

Councilmember Sharon D. Parry

Also present:

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

Mayor Fuhriman requested Boy Scout Nathan Weber to lead those present in the Pledge of Allegiance.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes for the April 7, 2009 Council Work Session and the April 9, 2009 Regular Council Meeting.

The City Clerk presented several license applications, all carrying the required approvals, and requested authorization to issue those licenses.

The City Clerk requested Council confirmation for the publication of legal notices calling for public hearings on April 23, 2009.

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
April 23, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: AUTHORIZATION TO BID SOUTH TOURIST PARK TO
SUNNYSIDE ROAD PATHWAY PROJECT

The Division of Parks and Recreation respectfully requests authorization to receive bids for the South Tourist Park to Sunnyside Road Pathway Project.

s/ David J. Christiansen

The Public Works Director submitted the following memo:

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City of Idaho Falls
April 14, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – CHURCH FARM LIFT STATION
RECONSTRUCTION

Public Works requests authorization to advertise to receive bids for the Church Farm Lift Station Reconstruction Project.

s/ Chad Stanger

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

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

Nay: None

Motion Carried.

REGULAR AGENDA

The Airport Director submitted the following memo:

City of Idaho Falls
April 21, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Len Nelson, Airport Manager
SUBJECT: ASSOCIATION ACKNOWLEDGEMENT/CONSENT AND
ESTOPPEL

Attached for City Council approval is the Association Acknowledgement/Consent and Estoppel by the City of Idaho Falls (“City”) for the benefit of Scott Machinery Venture LLC, a Utah Limited Liability Company (“Scott”) and Honnen Partners of Idaho LLC, an Idaho Limited Liability Company (“Purchaser”).

The Airport Division recommends approval.

s/ Len Nelson

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It was moved by Councilmember Cornwell, seconded by Councilmember Lehto, to approve the Association Acknowledgement/Consent and Estoppel by the City of Idaho Falls for the benefit of Scott Machinery Venture LLC and Honnen Partners of Idaho LLC and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

The memo from the Fire Chief regarding the purchase of billing and patient care reporting software was withdrawn by the Division Director.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
April 17, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-09-16, ONE (1) NEW 2009 CAB AND CHASSIS (ONLY)
FOR USE AS SEWER SLUDGE TRUCK

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

It has been determined that the City of Idaho Falls cannot consider the apparent low bid submitted by Schow's Truck Center; they do not hold the manufacturer's franchise to sell new Freightliner trucks under the Dealer License No. 0038 from the State of Idaho. Therefore, it is the recommendation of Municipal Services to accept the next low bid of Lake City Trucks. They will furnish a New 2009 International Workstar 7400 cab and chassis (only) for a total amount of \$65,134.00 with trade-in Unit No. 1150.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Hardcastle, to accept the second low bid from Lake City Trucks to provide a New 2009 International Workstar 7400 Cab and Chassis (Only) for a total amount of \$65,134.00 with trade-in Unit No. 1150 as recommended by the Municipal Services Division. Roll call as follows:

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

Nay: None

Motion Carried.

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City of Idaho Falls
April 17, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: BID IF-09-19, FURNISHING/INSTALLING/REMOVING PUBLIC SAFETY EQUIPMENT IN IDAHO FALLS POLICE VEHICLES AS SPECIFIED – INCLUDING BUT NOT LIMITED TO LIGHTS, CAR CONSOLES, PARTITIONS, ETC.

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

It is the recommendation of the Municipal Services to accept the sole bid of Teton Communications, Inc. to furnish and install the required specified equipment for all sections for a Lump Sum Total Amount of \$65,853.00.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Hardcastle, to accept the sole bid from Teton Communications Inc. to furnish and install the specified equipment for all sections for a Lump Sum Total Amount of \$65,853.00. Roll call as follows:

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

Nay: None

Motion Carried.

The memo from the Planning and Building Director regarding the amendments to the Day Care Ordinance was withdrawn by the Division Director.

The Police Chief submitted the following memos:

City of Idaho Falls
April 8, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Steve Roos, Chief of Police
SUBJECT: CITY COUNCIL AGENDA ITEM

Attached is an Ordinance amending Sections 4-3-16 and 4-4-11 of the City Code of Idaho Falls, Idaho; regarding beer and wine sold or donated for benevolent, charitable or public purposes; preserving prior ordinance; providing for methodology; providing for severability; and, establishing effective date.

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Section 4-3-16 addresses beer and Section 4-4-11 addresses wine.

s/ Steve Roos

Councilmember Hardcastle explained that the City Council passed this Ordinance on the first reading only at the April 9, 2009 Regular Council Meeting. The only change is to take "Saturday" from the exclusion times to serve.

Councilmember Lehto stated that he appreciated the opportunity for the public to have two weeks to review this Ordinance Amendment and comment. He, further, indicated that the incident that prompted the stricter requirements for beer gardens was in June, 2002. The previous Ordinance Amendment was passed in February, 2003. Councilmember Lehto stated that he would be opposing this Ordinance Amendment.

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

ORDINANCE NO. 2809

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

The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Taylor seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on the second and third readings, and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Hally
Councilmember Taylor
Councilmember Hardcastle

Nay: Councilmember Lehto

Motion Carried.

City of Idaho Falls
April 16, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Steve Roos, Chief of Police
SUBJECT: CITY COUNCIL AGENDA ITEM

Attached is the Memorandum of Understanding (M.O.U.) between the City of Idaho Falls, Idaho and County of Bonneville, Idaho, regarding the use of the 2009 Byrne Justice Assistance Grant (JAG) Program Award.

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I respectfully request approval of this M.O.U. at the City Council Meeting of April 23, 2009.

s/ Steve Roos

It was moved by Councilmember Hardcastle, seconded by Councilmember Taylor, to approve the Memorandum of Understanding between the City of Idaho Falls and Bonneville County regarding the use of the 2009 Byrne Justice Assistance Grant (JAG) Program Award and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
April 23, 2009

MEMORANDUM

TO: Mayor and Council
FROM: Steve Roos, Chief of Police
SUBJECT: CITY COUNCIL AGENDA ITEM

On the morning of Tuesday, April 20, 2009, the Mayor and City Council heard an appeal from Krisilee Cruz regarding the denial of her Massage Therapist License. The Idaho Falls Police Department denied Ms. Cruz this license based on her background check (see attached).

Ms. Cruz has requested the Mayor and City Council hear her appeal at the City Council Meeting of April 23, 2009.

s/ Steve Roos

Krisilee Cruz, 1651 South Boulevard, appeared to state that she is a recovering meth addict with 9 months being clean. She stated that she has lost everything except her ability to massage. She humbly requested that the City Council give her the chance to prove herself.

Councilmember Hardcastle requested to know whether Ms. Cruz would have a job should the City Council approve the Massage Therapist License.

Ms. Cruz stated that she would be working for a local spa.

Councilmember Lehto requested to know whether a business license could be revoked should a crime be committed.

Captain Ken Brown appeared to state that a license could be revoked. This recommendation would have to be presented to the Mayor and City Council to revoke the license. He reviewed for the Mayor and City Council the process by which he makes a decision on moral turpitude.

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The City Attorney explained that moral turpitude means crimes that reflect upon character, integrity and compliance with the rule of law.

Councilmember Lehto stated that this is a difficult decision for the City Council. Through the City ordinances, the City Council establishes standards and guidelines for issuing licenses. He expressed his concern that the City Council would be going against the Ordinances if, in fact, this license is granted.

Councilmember Hardcastle agreed with Councilmember Lehto.

Councilmember Cornwell stated that this is a difficult decision and requested to know whether there was something that the City could do to assist Ms. Cruz in staying clean so that she might keep her livelihood.

Councilmember Lehto stated that he was hoping that the City Council would not put a further burden on the Police Department to monitor Ms. Cruz.

The City Attorney stated that the Ordinance does not allow for stipulations or conditions. He stated that he was not concerned with setting a precedent should the City Council grant this license. The license could not be revoked because of the past convictions. It would require additional behavior or violation.

Councilmember Cornwell stated the Ms. Cruz could call her once or twice a month to let her know how she is doing.

It was moved by Councilmember Hardcastle, seconded by Councilmember Taylor, to overturn the decision of the Police Department to deny the Massage Therapist License to Krisilee Cruz based on her background check. Roll call as follows:

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

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
April 15, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 3, BLOCK 1, SUMMERHILL
ADDITION, DIVISION NO. 1

The owners of Lot 3, Block 1, Summerhill Addition, Division No. 1, have requested vacation of a utility easement located along the south lot line of the property. All utilities are in agreement with the vacation request.

Public Works requests authorization for the City Attorney to prepare the documents to accomplish this vacation.

s/ Chad Stanger

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It was moved by Councilmember Lehto, seconded by Councilmember Hardcastle, to give authorization for the City Attorney to prepare the documents necessary to vacate a utility easement located along the south lot line of Lot 3, Block 1, Summerhill Addition, Division No. 1. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
April 15, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 33, BLOCK 2, CHANNING WAY
ADDITION, DIVISION NO. 4 AND LOT 10, BLOCK 5, CHANNING
WAY ADDITION, DIVISION NO. 5, FIRST AMENDED

The owners of Lot 33, Block 2, Channing Way Addition, Division No. 4 and Lot 10, Block 5, Channing Way Addition, Division No. 5, First Amended, have requested vacation of utility easements located in these lots. All utilities are in agreement with the vacation requests.

Public Works requests authorization for the City Attorney to prepare documents to accomplish these vacations.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Hardcastle, to give authorization for the City Attorney to prepare the documents necessary to vacate the utility easements located in Lot 33, Block 2, Channing Way Addition, Division No. 4 and Lot 10, Block 5, Channing Way Addition, Division No. 5, First Amended. Roll call as follows:

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

Nay: None

Motion Carried.

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City of Idaho Falls
April 16, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: RIGHT-OF-WAY AGREEMENT – SYRINGA NETWORK

Attached is a proposed right-of-way agreement between the City and Syringa Network LLC, to allow installation, operation and maintenance of fiber optic telecommunication lines within the City's rights-of-way. This agreement, proposed alignment and facilities plan has been reviewed by the City's Engineering Department, Idaho Falls Power, and City Attorney.

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

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Hardcastle, to approve the Right-of-Way Use Agreement between the City of Idaho Falls and Syringa Network LLC to allow installation, operation, and maintenance of fiber optic telecommunication lines within the City's right-of-way and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

City of Idaho Falls
April 14, 2009

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – HITT ROAD – MEPPEN CANAL TO MESA STREET

Public Works requests authorization to advertise to receive bids for Hitt Road – Meppen Canal to Mesa Street Project.

s/ Chad Stanger

Councilmember Lehto requested Councilmember Hardcastle to lead the discussion on this issue.

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Councilmember Hardcastle requested the Public Works Director to come forward to discuss why the City is moving forward with this bid at this time.

Chad Stanger, Public Works Director, appeared to state that this project has been on the Capital Improvements Plan for some time. They did not believe that there was enough money to fund this project, but given the current bidding climate, the Public Works Division took another look at this project. The Engineering Department prepared another estimate for this project. The estimate appears to be well within the City's financing capabilities and is substantially lower than what was anticipated earlier. At this time, there was some interest in the Council to push forward with this project, so he placed it on the City Council Agenda for consideration.

Councilmember Hardcastle requested to know whether coming forward with this project now would allow for this project to be completed before winter weather hits next fall.

The Public Works Director explained that the Engineering Department has calculated back from the winter shut-down in the fall to this evening. In order to meet the winter shut-down, authorization to advertise to receive bids needs to take place tonight.

Councilmember Lehto requested to know whether there were any other projects on the Capital Improvement Plan that are high priority within the City of Idaho Falls that could be moved forward and funded by these same dollars.

The Public Works Director stated that there are a number of projects in the Capital Improvements Plan that are within the City of Idaho Falls. Some of those are critical projects that, even with the current bidding climate, exceed funding capabilities so they have not been moved forward.

Councilmember Lehto requested to know where the money will come from when it is time to complete the Pancheri Improvements.

The Public Works Director stated that the money for that project will come from the Capital Improvement Fund and/or the Arterial Road and Bridge Fund.

Councilmember Hally stated that Hitt Road is vital to the whole community economically and is responsible for moving traffic around the community.

Councilmember Lehto stated that he would not be supporting this issue. He believed that this project could be viewed in two portions, but it will be done as one project. The portion of the road from First Street to Sugarmill and both sides of Hitt Road are all annexed into the City of Idaho Falls. The portion to the south, Meppen Canal to First Street, half on the west side is in the City of Idaho Falls and half is in the City of Ammon. Through a Memorandum with the City of Ammon, it was determined to be a 75%/25% split for this project. The Memorandum of Understanding states, "The City of Idaho Falls agrees to annex the Hitt Road right-of-way along the common boundary of the two (2) cities with the understanding that the cost of constructing Hitt Road street improvements shall be shared equally by the two (2) cities and/or developers fronting each of the respective sides of Hitt Road". Councilmember Lehto stated further that he would like to explore further that "all accesses onto Hitt Road will be in compliance with the BMPO Access Management Plan". If this project moves forward with City of Idaho Falls tax dollars, it is probably fair to say that there should be no access on the Ammon side of the road. Funding for this project comes from two primary sources – the Arterial Road and Bridge Fund (Developers pay into this fund when they are annexed to the City of Idaho Falls) which contains \$1,700,000.00. The Municipal Capital Improvement Fund contains \$4,300,000.00 and is funded by property taxes which was provided for through a 1968 Ordinance. He explained that a large portion of the funding for this project will come from the City of Idaho Falls taxpayers. Councilmember Lehto requested to know how the City Council could support putting City of Idaho Falls property tax dollars into funding Ammon's obligation to this project. He has collected a great amount of correspondence from the City of Ammon regarding this intersection. It was clear to him from this correspondence, that the City of Ammon

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understood that the costs were to be shared 50/50 on any undeveloped portions of Hitt Road moving forward. Councilmember Lehto quoted from a letter written by Ron Folsom, Ammon Planning Director, regarding the Memorandum of Understanding, "that it was written to apply to new developments". That was the intent of the section and all parties involved were aware of that at the signing of the Memorandum of Understanding at that time.

Mayor Fuhriman stated that it has not been firmly established on who will participate and to what percentage that participation will be. He stated, further, that he contacted Mayor Bruce Ard from Ammon to set up an appointment to discuss this issue. That meeting will happen in 7-10 days. At some point in time, there will have to be a discussion between both City Councils. So, to say that Ammon will not participate in this project, it is too premature to tell. The process needs to be worked out.

Councilmember Lehto stated that the Mayor and City Council have been trying to work out this process for five years on area of impact and sewer agreements. He stated, further, that the City of Ammon has rebuffed any attempt to reach agreement. He could not believe that the Mayor and City Council of Idaho Falls would be so naive to believe that the City of Ammon would come to the table to offer 25% of the cost of this project. Councilmember Lehto stated that the City of Idaho Falls should continue to work with the City of Ammon to force this issue until there is an acknowledgement that they will pay their share as stated in the Memorandum of Understanding. Otherwise, the City Council is left in the bad position of trying to explain to the City taxpayer why we spent \$1,000,000.00+ for the City of Ammon's obligations. He stated, further, that he could think of a number of things that \$1,000,000.00 could be used on.

Mayor Fuhriman requested to know from Councilmember Lehto, that under that rationale, if the City of Ammon does not come to the table to assist in the funding, the intersection of Hitt Road and First Street will never be done.

Councilmember Lehto stated that First Street and Hitt Road intersection will get done, but he did not feel that the City of Idaho Falls should pay for the whole project.

Councilmember Hally stated that he felt in representing the taxpayers of Idaho Falls, with or without participation from the City of Ammon, that completing the project at this time, the City of Idaho Falls will spend less money than if the project is delayed.

Councilmember Lehto stated that in his calculations, taking into consideration the Engineer's Estimate and the reduced costs in a tough economy, the City of Idaho Falls would still be paying \$250,000.00 more than what would have taken place last summer. No one can see into the future to what next summer's economy would look like. Councilmember Lehto stated, again, that we should not be paying the City of Ammon's obligation.

Councilmember Hardcastle reminded the City Council that the issue before them, is authorization to advertise to receive bids – not approving a bid.

Councilmember Lehto stated, that as an Engineer working in a consulting firm, that this project will go forward if there is an affirmative vote on this issue. He stated, further, that if there is an affirmative vote on this project, he will get on board and work toward completion of this project.

Councilmember Taylor stated that he is supportive of this request as there is a significant safety issue involved at this intersection. Further delay could wreck the lives of some folks if there is a tragic accident at that intersection. If a person is traveling north on Hitt Road and turning left at First Street, due to the current structure of the intersection, maybe one or two vehicles can complete the turn. As drivers become impatient waiting for that turn, several vehicles will complete the turn on the red light. Councilmember Taylor stated that the City has a unique window of opportunity with a good bidding environment. He stated, further, that even if the City has to pay 100% of the costs now, he was hopeful

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that the City of Ammon would step up to their responsibility. In paying 100% of the cost at this time, it may still be less than paying 75% of the cost at a later date.

Councilmember Lehto stated that there are safety issues on Woodruff Avenue, Meppen Canal to Lincoln Road. There are safety issues on Pancheri Drive. There are students walking in the borrow pit to get to school, as there is no sidewalk. He questioned, further, whether the City has \$1,000,000.00 to throw away. This project will deplete the Municipal Capital Improvement Fund. This will delay the Pancheri project and potentially delay other projects that the Public Works Director spoke to. While the Council is considering the safety issue on Hitt Road, he requested the City Council to consider where the funds will come from to complete projects such as Pancheri Bridge and roadway.

Councilmember Cornwell took exception to Councilmember Lehto's comments regarding throwing away \$1,000,000.00.

Councilmember Lehto stated that Councilmember Cornwell could take exception all she wanted. If Ammon is not obligated by a handshake agreement or Memorandum of Understanding, then the City of Idaho Falls is offering to pay their bill.

It was moved by Councilmember Hardcastle, seconded by Councilmember Hally, to give authorization to advertise to receive bids for Hitt Road – Meppen Canal to Mesa Street Project. Roll call as follows:

Aye: Councilmember Cornwell
Councilmember Hally
Councilmember Taylor
Councilmember Hardcastle

Nay: Councilmember Lehto

Motion Carried.

Mayor Fuhriman requested Councilmember Hardcastle to conduct a public hearing for consideration of Amendments to the Zoning Ordinance to exempt certain airport activities from M-1 design requirements; to permit day care associated with permitted uses in the M-1 Zone; to require buffering between industrial and residential uses; to clarify use of the fifteen foot setback in residential zones; to require fences over three feet in height to be setback fifteen feet from the public right-of-way except in rear yards on reverse frontage lots; to clarify day cares are permitted uses in commercial zones; and, to clarify and update miscellaneous provisions of the Ordinance, including definitions. At the request of Councilmember Hardcastle, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
April 15, 2009

MEMORANDUM

TO: Mayor and City Council
FROM: Renee R. Magee, Planning and Building Director
SUBJECT: AMENDMENTS TO ORDINANCE NO. 1941, ZONING
ORDINANCE

Attached are two ordinances amending Ordinance No. 1941, the City's Zoning Ordinance. The first ordinance contains housekeeping items as well as

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provisions to clarify the fifteen foot setback on side yards, permit child care facilities in commercial zones and the M-1 Zone, and eliminate some design provisions for aviation facilities at the Idaho Falls Regional Airport. The second ordinance amends the fence provisions of the Zoning Ordinance and eliminates fences over three feet in height from the front yard and the first fifteen feet of side or rear yards facing a street. The Planning Commission considered these amendments at their October 7, 2008 Meeting and recommended the provisions incorporated into these ordinances. The Department respectfully requests passage of these Ordinances.

s/ Renee R. Magee

The Planning and Building Director further explained this request. Following is a list of exhibits used in connection with these Ordinance amendments:

- Slide 1 Site Photo showing how fences are presently permitted in side yards
- Slide 2 Site Photo showing same type of fence in the numbered streets where both fences on both sides of the street go to the sidewalk in the side yard
- Slide 3 Site Photo showing fence not quite to the sidewalk
- Slide 4 Site Photo showing fence held back 15 feet from the sidewalk
- Slide 5 Site Photo showing fence held back in the side yard
- Slide 6 Site Photo showing flowers and rock in the 15 foot setback
- Slide 7 Site Photo showing compromise that the Planning Commission is recommending to the City Council

The Planning and Building Director stated that under the definitions there is a clarification under "parking space" that it is 180 feet, which brings it into compliance with the text of the Ordinance. This would allow for a handicapped ramp in the front or rear yards, which is not allowed at the present time. This clarifies when a 15-foot yard is permitted on a residential lot. The first ordinance would increase buffering requirements between parking areas and neighboring residential uses. Code references are updated within the Zoning Ordinance. There is a clarification that day care centers are allowed in commercial zones. Within the M-1 Zone, day cares will be permitted in conjunction with permitted uses. Stand alone parking lots will be allowed in the M-1 Zone. There are certain design requirements that have been exempted in the M-1 Zone in case there is light industrial near residential properties. The second ordinance addresses fences. The above exhibits show examples for that ordinance. Further, Planning Commission recommended that opaque fences not be allowed in the front yard.

Natalie Milligan, 4012 Silverado, appeared to request a clarification of what was being presented regarding fences. She requested to know why the City Council would care where people put their fences.

Councilmember Hardcastle stated that the concern is with regard to aesthetics and safety.

The Planning and Building Director explained that neighbors have complained about the way the City is presently administering the Zoning Ordinance in terms of fences. The complaints revolved around fences that are constructed to the sidewalk. The first complaint dealt with visibility and safety. The second complaint was with regard to aesthetics.

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There being no further discussion either in favor of or in opposition to these Amendments to the Zoning Ordinance, Mayor Fuhriman closed the public hearing.

There was a brief discussion regarding procedure for the Ordinance amendment regarding fences.

Councilmember Hardcastle explained that in many of the subdivisions in Idaho Falls, Restrictive Covenants address where fences can be constructed. The City of Idaho Falls does not have jurisdiction over those covenants. As she has observed, when there is a space left between the sidewalk and the fence, often it is not landscaped. When the City forces the fence back from the sidewalk, back yard space is being taken away.

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

ORDINANCE NO. 2810

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO; AMENDING SECTIONS 2-1-57, 4-4, 4-18, 4-23.S., 4-23.X., 7-3-10, 7-4-10, 7-5-10, 7-9-3, 7-14-2, AND 7-14-8.G. OF ORDINANCE NO. 1941, THE ZONING ORDINANCE OF THE CITY OF IDAHO FALLS; ENACTING SECTION 2-1-91, THE DEFINITION OF GRID PATTERN; 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 Hardcastle moved, and Councilmember Taylor seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

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

Nay: None

Motion Carried.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO AMENDING SECTION 4-26.M., FENCES; DECLARING ORDINANCE METHODOLOGY; PROVIDING FOR PRESERVATION OF PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATE.

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The foregoing Ordinance was presented by title only. Councilmember Hardcastle moved, and Councilmember Taylor seconded to deny this Ordinance with the stipulation that the Planning and Building Director prepare another Ordinance addressing fences in the front yards. Roll call as follows:

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

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Cornwell, seconded by Councilmember Lehto, that the meeting adjourn at 8:35 p.m.

CITY CLERK

MAYOR
