

**JANUARY 24, 1978**

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Pursuant to a call by the Mayor the City Council of the City of Idaho Falls met in Special Session in the Town House on January 24<sup>th</sup>, 1978 , at 12:00 o'clock Noon, for the purpose of considering a lease agreement with the Salvation Army for the old Library premises; also further considering the covered swimming pool project with the City serving as Fiscal Agent; and also, any other business that might be appropriately presented.

There were present at said meeting: Mayor Tom Campbell; Councilmen Jim Freeman, Mel Erickson, Ralph Wood, Charles Clark, Paul Hovey, and Sam Sakaguchi. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Chad Stanger, General Services Director and various representatives from the Salvation Army, including Major Tom Cisar, Divisional Secretary from Portland, Oregon., Lt. Lewis Fuqua and several Board Members.

Noting from the call sheet that one of the purposes of this meeting was to further consider a lease agreement in favor of the Salvation Army, the Mayor invited Councilman Erickson, as Chairman of the General Services Council Committee, to preside over this portion of the meeting. Erickson, in turn, invited Councilman Hovey, as the former Chairman of said Committee, to present a brief historical background, dating back several months. Hovey commented to the effect that several informal meetings had been held in an effort to satisfactorily relocate the Salvation Army, anticipating the time that the old Salvation Army premises would be razed to provide space for the City-County Law Enforcement complex parking lot. During said meetings, by general agreement, the City offered the old library building with the understanding the Salvation Army would be responsible for remodeling, maintenance and utilities, all of this without benefit of a written agreement. At a later date, continued Hovey, this tentative agreement was contested by certain citizens which prompted a study to delve into the historical background of property ownership, plus a legal opinion rendered by the City Attorney. Hovey emphasized two paragraphs in said legal opinion having to do with debt, as follows:

- (d) A lease of property not needed at the time for City purposes might properly be made to a private organization in payment of a debt owed to the private corporation, but in such case, some care should be taken to see that the fair value of the lease is not in excess of the debt owed. Material over payment of the debt would, of course, be a donation, and if not for a purely public purpose, ultra vires.
- (e) The Salvation Army, as I have been able to determine, is a "private, religious, charitable" organization. Accordingly, a City may not donate money or property to it. Idaho Falls may lease the old library to it upon terms which constitute the repayment of a debt (to the extent an indebtedness is found to exist.) Any material value passing to the Salvation Army above the amount of the indebtedness would constitute a donation.

Hovey concluded his remarks by saying that, as a result of the former committee's findings, it was determined that, even though there may be some moral obligation, there is no evidence of debt owed the Salvation Army by the City.

Mr. John St. Clair, Attorney for the Salvation Army, made reference to the following letter as prepared by Major Tom Cisar, Divisional Secretary:

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The Salvation Army  
January 23, 1978

Mr. Chad Stanger, Director  
General Services Division  
P.O. Box 220  
Idaho Falls, Idaho

Dear Mr. Stanger:

The Salvation Army in Idaho Falls finds itself in a very precarious position regarding its very existence within your fair City. We feel our precarious position is directly related to the City's inability to come to a decision they had previously all but consummated some month ago. "A man without a Country" is bad enough, but a service organization such as ours trying to do a good job without a permanent facility in which to operate is even worse.

The reasons for the City not coming to a decision regarding the leasing of the library building seems to be getting greater and more complicated each day. The separation of Church and State, the election year, Civil Liberties, Alcoholics Anonymous, non-smoking clause, legal opinions, etc., are some of the issues raised. This can go on for ever and leave the Salvation Army severely hindered in its functions of serving the needy in Idaho Falls.

All of the above issues can be debated through infinity. But it will never change the fact that the people of Idaho Falls did elect to provide a place of operation for the Salvation Army forty years ago and continued its provisions until the early part of 1977.

At that time, the property the Salvation Army headquarters was occupying was needed by the City. We were told that if the Salvation Army would move out, the City would lease the library building to us. We trusted the City leaders and in an effort to cooperate with them and save them money, we moved out. The old Salvation Army building was demolished and made into a parking lot. Since last summer we have had no permanent place in which to operate.

Am I wrong in assuming the City has a moral, ethical, and legal obligation to help provide the Salvation Army with a permanent residence? We have served the community and people well over the years as partners.

I would remind the City that operation in the library building without permanent occupancy is very costly and can not be endured forever. Remodeling should be started as soon as possible to cut down operational costs.

I understand that the Salvation Army Advisory Board met with the Idaho Falls City Council on August 26, 1976 at which time the Council agreed to lease the entire library facility to the Salvation Army, thus assuring the Salvation Army a place in which to serve the community. We are not asking the City for a church, but a place to perform all of our social reclamation programs.



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In view of the above facts, it is imperative that the City keep faith with the Salvation Army in providing the Salvation Army with the library or come up with some other plan or offer towards a permanent place of operation in Idaho Falls.

The City has been most understanding over the years towards the services the Salvation Army provides for the people here. I'm sure the thousands of citizens assisted by the Salvation Army will attest to the fact that an organization like ours is a tremendous asset to the community.

We hope a decision can be made soon so we can get on with the business of serving all people, regardless of race, color or creed, who came to us for help.

Sincerely,  
s/ Tom Cisar  
Major Tom Cisar  
Divisional Secretary

Mr. St. Clair advised that, according to most recent estimates, \$50,000 to \$75,000 would be necessary to accomplish needed remodeling of the old library for appropriate use by the Salvation Army and, if this were done, it would constitute permanent improvement to the building and, thus, enhance the City's investment. St. Clair said that, even though the Salvation Army does provide certain religious functions, its overall objective is far broader from the standpoint of social and charitable public services. Major Cisar concurred, adding that it was by an Act of Congress that the Salvation Army came into existence as a charitable, religious and a social welfare organization. He said such an entity can do more toward rehabilitation than a strictly religious organization because there is no conflict of interest. By way of illustration, the Major noted that no church would have on their governing board a cross-section of men and women of many faiths. Also, continued the Major, the Salvation Army would serve in case of a major disaster, particularly by offering spiritual assistance. He said in view of the broad spectrum of services rendered, he could see no conflict between church and State, as alleged, if the City were to continue with the original plan to provide a relocation for the Salvation Army. Councilman Erickson said that, to his knowledge, the City has no quarrel with the Salvation Army's activities, functions, or objectives and that the only reason this issue is now being discussed was to air the question of legality. He said he would like to see a working arrangement with one or more sister cities which might serve as a guide as to how this City could legally, cooperate. In answer to a question by Councilman Freeman, General Services Director Stanger said his findings did not reveal other instances where cities were subsidizing the Salvation Army. On this question, Cisar also commented by saying that he could not specifically document other instances although this is common practice for counties. City Attorney Smith concurred and added that this would normally be the responsibility of the County who is even empowered to levy taxes for welfare purposes. Attorney St. Clair said that, in his opinion, an agreement could be drawn that would legally protect the City. Among other data that should be established, continued St. Clair, is a fair rental value for the old library which might or might not have rental attraction. He said, as an example, the building in question might be of debatable rental value to the Salvation Army in view of its location, plus the funds needed for renovation. The City Attorney, noting an earlier comment by St. Clair that remodeling would enhance the City's investment, advised and cautioned the Council that certain types of

renovation, such as a chapel, even though costly, would not be of benefit to the City. Mr. Ken Slusser, Salvation Army Board Member, suggested the possibility that the City place the

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building up for bid and that, if this were done, there was a further possibility that the Salvation Army might be one of the bidders. The Mayor, referring back to portions of the City Attorney's legal opinion, registered concern as to whether or not the City, in fact, did have a debt to the Salvation Army. Cisar responded by saying they wanted no feeling of any debt. He said he was in hopes, instead, that there would be a feeling of partnership. He said, in other cities, a building has been financed through donations and that, for years, in Idaho Falls, a similar assumption had been made and in view of this most recent controversy over legality, it posed a real problem, in the event the library building was not to be made available as to where the Salvation Army would go and how they would continue to operate. He said the functions rendered must be continued and it would be difficult if not impossible to place a dollar value on this type of service. It was recommended by Councilman Erickson that Major Cisar furnish this City with any and all appropriate contractual arrangements between the Salvation Army and other cities for study by the City Attorney and Attorney St. Clair and that, from said study a recommendation might be forthcoming for a workable arrangement. This met with general concurrence from the Mayor and all Councilmen. Therefore, it was moved by Councilman Erickson, seconded by Hovey that, for the reasons as stated, no immediate action be taken and that another discussion session be scheduled at the proper time, on this issue. Roll call as follows: Ayes, 6; No, none, carried.

At this time, the Mayor declared a brief recess to allow the Salvation Army representatives to withdraw and, also, to welcome certain citizens interested in a covered swimming pool, including Ernie Craner, Parks and Recreation Director, Gail Lewis, Regional District 5 and 6 Planner from the Idaho Department of Parks and Recreation and certain Representatives from the Joint City-County Parks and Recreation Commission. When the meeting was reconvened, Councilman Freeman introduced Lee Thompson, Chairman of the City-County Parks and Recreation Commission. Ms. Thompson reported that the group she represented, individually and collectively, has been bombarded with swimming pool advocates ever since the bond issue was defeated in 1974 and that this is the first time an opportunity has presented itself, by means of a B. O. R. Grant as well as the probability of local participation, for a covered pool to be constructed without benefit of a bond issue. However, continued Thompson, time is of the essence so that the B. O. R. can be assured that the City does, in fact, have a project and that assurance must include documented data to the effect that funding has been arranged. She said the community, including the School District and the County, as well as private donors, looks to the City to take the lead in this regard. Recognizing from past conversations that the B. O. R. now allows Grant funds for covered swimming pools, the Mayor asked Gail Lewis for comment. Ms. Lewis reported that Congress, at one time, for a limited period, directed the B. O. R. to accept applications for such a facility but has now ceased accepting such applications. She said the application as submitted by the City of Idaho Falls was received in time and therefore was accepted for a covered swimming pool grant. On the other hand, continued Lewis, the City must agree to show evidence in 1978 that the project is started and give assurance that the project would be completed in two years. Recognizing that the City's \$100,000 commitment would be forthcoming from the next two budget periods and recognizing, further, that at the rate of \$50,000 per budget period, the Council could not at this time guarantee that said funds would be available. Councilman Erickson noted that a commitment now on the swimming pool would be no different than the commitment originally made on the Sand Creek Golf Course. In other words, continued Erickson, the City did not have sufficient funding for completion of the golf course when the original commitment was made; however, concluded Erickson, if a project is started, this would serve as valid justification for a request for an extension, if needed. In answer to a question, Ms. Lewis admitted that if it is found that

there is not sufficient monies to fund the pool there would be no project but that, for

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purposes of the grant, total funding must be found by June, 1978 and that, without a commitment by February 15<sup>th</sup>, 1978, the project would not be submitted to the BOR.

John Orr, member of the Swimming Pool Committee, spoke briefly on the great need for a covered swimming pool. He said there are many young people in the community who enjoy swimming as evidenced by those who partake of that sport in the summer, not only in the existing pools but also, in the canals which have an element of danger. He said the 7<sup>th</sup> Street location meets with general approval due to its central location necessitating bussing from only two schools, rather than three. He said there is an added advantage, due to the fact that the land is presently owned by the City and that ample parking would be provided. He said that, contrary to earlier reports, present building plans would not necessitate the closing of 7<sup>th</sup> Street. Orr continued by saying that, once leadership is decided by the City, other commitments from other Governmental entities and from private donations should be forthcoming as indicated by the fact that the school district has previously committed itself, subject to proper leadership, and the committee was looking to the County for a substantial contribution in money and/or work in kind. Orr concluded his comments by saying it would be necessary for the City to act as Fiscal Agent on this project. Erickson concurred and added that the City is in a better position to respond to public pressure than any other local governmental entity and initiation of the program should be considered the City's opportunity as well as an obligation. Asked for comment about a combined City-YMCA joint venture, Parks & Recreation Director Craner said the YMCA has its own program. The City has had, for several years, both public pools filled to capacity during the summer months as evidenced by the fact that 3,000 swimmers have been served during a three year period. Craner said it would be difficult to meld together a public and a private swimming program.

Mr. Karl Page, another member of the Swimming Pool Committee, urged the City to take the lead on this project. He said this would provide the needed assurance for others to participate. Mr. Willis Yost, early advocate and supporter of the swimming pool in 1974, appeared to suggest that the pool be named after Wayne Hammond and that this, in itself, should encourage private financial participation. In answer to a question by Councilman Clark, Freeman said the commitment, if made by the City, would also commit the proposed site. Clark said he had reservations about the site location and also public reaction at this time to a favorable vote of the Council on the swimming pool project as it might adversely affect the chances of passage of the bulb turbine bond election.

Councilman Sakaguchi said he also had reservations on the proposed site as it might create utility problems. Sakaguchi said he also had reservations based upon open discussion at this meeting pertaining to the extent to which the City would be bound because of the deadline for beginning of construction. Freeman again emphasized the need for the City taking the lead on this decision as other participation was dependant on the City's position. Asked for comment, the City Attorney said that, in his opinion, any action taken by the City at this time would show intent only and would not be binding. Councilman Hovey registered concern because the City, to date at least, had received no favorable response from the School District. He said that, according to his understanding, certain School Board Members opposed the concept at this time, even though that entity would be the primary beneficiary. Hovey concluded his remarks by saying he would feel better about City participation if he could get a clearer understanding of possible commitment by all the parties mentioned as potential contributors. Councilman Wood said he felt satisfied that the School District was only waiting for the City to act favorably and, thus, take the lead. Wood continued by saying that the surest way to expect a decision by the School District was to let them know, by positive action, the City's position on this issue. In the absence of further

comment, it was moved by Councilman Freeman, seconded by Erickson, that the City Council go on record in support of the Swimming Pool program, as outlined, and act as

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Fiscal Agent in submitting the project to the BOR and, further, that it is the City's intent to make \$100,000 available as its share during the period as heretofore outlined. Roll call as follows: Ayes, 5; No, none; carried. Councilman Hovey voting no.

In other business, it was moved by Councilman Freeman, seconded by Erickson, that authorization be granted to enter into a contract with Bill Bates, landscape architect, for the design of the Park within the Esquire Acres area. Roll call as follows: Ayes, 6; No, none; carried.

There being no further business, it was moved by Councilman Freeman, seconded by Wood, that the meeting adjourn at 2:15 P.M., carried.

s/ Roy C. Barnes  
City Clerk

s/ Thomas Campbell  
Mayor

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