

**APRIL 8, 1976**

The City Council of the City of Idaho Falls met in recessed regular meeting, Thursday, April 8<sup>th</sup>, 1976, at 7:30 P.M. in the Council Chambers in Idaho Falls, Idaho. There were present at said meeting: Mayor S. Edde Pedersen; Councilmen Paul Hovey, Tom Campbell, Jim Freeman, Mel Erickson, Ralph Wood, and Gil Karst. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; John Evans, City Controller; Robert Pollock, Police Chief; Les Corcoran, Fire Chief; Chad Stanger, General Services Director; Lee Mundell, Personnel Director; Ernie Craner, Parks & Recreation Director; Don Lloyd, Public Works Director.

Minutes of the last recessed regular meeting, held March 25<sup>th</sup> and a special meeting held March 31, 1976, were read and approved.

The Mayor acknowledged a troop of Weiblovs of Ammon Cub Scouts in the Council Chambers, accompanied by their Scout Master Dennis Shaw. The Mayor thanked them for their presence and their interest in local government.

The Mayor announced that this would otherwise have been the time and the place for a public hearing, as advertised, to consider an amendment to the Upper Valley Telecable Company Franchise Ordinance which would permit that company to engage in the business commonly known as pay television. The Mayor continued his announcement by saying that said hearing would be continued until further notice and that, at the proper time, assuming a hearing on this matter was still considered appropriate, another legal notice would be published announcing the time and the place.

Reference was made to page 322 in this book of minutes and, more specifically, an appearance by Mr. Keith Douglas, concerned about the closure of Eagle Rock Street in connection with his business with side access on said street, known as the Superior Auto Safety Clinic. Mr. Douglas reappeared at this time, particularly concerned because all access had been, temporarily at least, eliminated. Councilman Karst explained that this was occasioned because of storm drain construction associated with the Shoup Avenue Municipal Parking Lot and that this inconvenience should be very temporary. Douglas said that, otherwise, he was willing to work with the Urban Renewal Commission to solve his access problem but, to date, nothing had been resolved. Asked for comment, Public Works Director Lloyd reported that there had been a meeting with Urban Renewal Director Callan and Mr. Douglas in attendance and Callan had proposed that Mr. Douglas acquire the adjacent land along Eagle Rock Street so that when said street was closed, both sides of Eagle Rock Street would be vacated in his favor. Karst registered an opinion to the effect that this would be a more favorable solution than leaving Eagle Rock Street open, in which case, being converted to a dead end street, there would be constant traffic and parking problems. Karst told Mr. Douglas he was desirous of conferring with him at a later date in a further effort to resolve the problem.

Bills for the month of March, 1976, having been properly audited by the Fiscal Committee, were presented. The City Clerk read aloud all fund totals for materials, services and payroll, as follows:

<u>FUND</u>	<u>SERVICE AND MATERIALS</u>	<u>GROSS PAYROLL</u>	<u>TOTAL EXPENDITURES</u>
General Fund	\$240,254.26	\$248,697.56	\$488,951.82
Street Fund	11,211.26	13,712.45	24,923.71
Airport Fund	3,041.75	5,035.96	8,077.71
Water and Sewer Fund	105,857.58	28,334.87	134,192.45
Electric Fund	183,938.09	45,608.60	229,546.69
Recreation Fund	1,460.48	2,780.71	4,241.18
General Library	2,297.04	10,063.02	12,360.06
Regular Library	150.65	654.60	805.25
Revenue Sharing	41,633.30	.00	41,633.30
Community Development	<u>7,449.84</u>	<u>553.76</u>	<u>8,003.60</u>
<u>TOTALS</u>	<u>\$597,294.24</u>	<u>\$355,441.53</u>	<u>\$952,735.77</u>

**APRIL 8, 1976**

**LIBRARY CONSTRUCTION EXPENDITURES**  
**BONDS AUTHORIZED**  
**\$2,677,000.00**

<b><u>DATE</u></b>	<b><u>COMPANY</u></b>	<b><u>DETAIL</u></b>	<b><u>EXPENDITURES</u></b> <b><u>TO DATE</u></b>
1-14-75	I. F. Redevelopment Commission-Land	500.00	
3-14-75	Post Register-Bond Advertisement	147.40	
4-14-75	Post Register-Lib. Gen. Obligation Bonds	152.46	
4-16-75	I. F. Redevelopment Commission-Land	256,976.30	
4-16-75	Hoyt Galvin & Assoc.- Consulting Fee	1,598.12	
<b><u>Year to Date - 4-30-75</u></b>			259,374.28
5-75		.00	
6-75		.00	
7-75		.00	
8-75		.00	
9-75	City of I. F. General Fund	799.86	
	Hoyt Galvin & Assoc.- Consulting Fee	1,011.34	261,175.48
10-75		.00	
11-7-75	Mitchell Construction Co.	57,596.86	
11-17-75	Idaho First National Bank, Boise	13,385.00	
11-25-75	Mitchell Construction Co.	55,090.64	387,247.98
12-75		.00	
12-76			
<b><u>1976</u></b>			
1-9-76	Sundberg & Associates, Inc.	101,000.00	
1-9-76	Mitchell Construction Co.	80,021.74	568,269.72
2-5-76	Mitchell Construction Co.	17,520.62	
2-11-76	Hoyt Galvin & Associates	5,594.99	591,385.33
3-12-76	Mitchell Construction Co.	35,692.99	627,078.32

Councilman Karst explained all major expenditures. It was moved by Councilman Karst, seconded by Freeman, that the bills be allowed and the Controller be authorized to issue warrants or checks on the respective funds for their payment. Roll call as follows: Ayes, 6; No, none; carried.

Reports from Division and Department Heads were presented for the month of March, 1976, and, there being no question nor objections, these were accepted by the Mayor and ordered placed on file in the office of the City Clerk.

License applications for RESTAURANT, Dean C. McClellan for Idaho Falls Temple; ELECTRICAL CONTRACTOR, Steve Bailey with Bailey's Electrical Services; JOURNEYMAN ELECTRICIAN, Clarence Shore, Ronald O. Scott, Kermit L. Owens, Steve Bailey, Glen S. Landon; APPRENTICE ELECTRICIAN, Bill Shore with B & W Equipment; CLASS C CONTRACTOR, GAS FITTING AND WARM AIR, Ernest L. Andrus with ABC Furnace Co.; CLASS C JOURNEYMAN, WARM AIR HEATING, GAS FITTING, Ernest Andrus; MOTEL, (TRANSFER ONLY) from Sarah Kenney to S.A. Shearman for Haven Motel, N. Bruce Gregory for Bonneville Motel; NON COMMERCIAL KENNEL, Douglas Hadley, 765 Royal Avenue; TAXI CAB DRIVERS, Donald Warbington, Ted Delezene; BARTENDER, Stanley Burgard, Terry Miller, Karen Bergman, Dale Thornock, Margot Brewer, Linda Penner, Karl Sorman, Linda

**APRIL 8, 1976**

---

Miller were presented. It was moved by Councilman Erickson, seconded by Karst, that these licenses be granted, subject to the approval of the appropriate Division Director, where required. Roll call as follows: Ayes, 6; No, none; carried.

From the City Controller came this memo:

City of Idaho Falls  
April 7, 1976

MEMORANDUM

TO: Mayor S. Eddie Pedersen and City Council  
FROM: John D. Evans, Controller  
SUBJECT: GROUP LIFE INSURANCE RENEWAL

Enclosed are applications from the Equitable Life Assurance Society of the U. S. for renewal of our present Group Life and Group Accidental Death and Dismemberment policy.

Lee Mundell and I have reviewed this policy and to our knowledge find the policy to be in order. It is our recommendation the City accept this policy and authorize the Mayor to sign the enclosed documents.

s/ John Evans

In answer to a question by Councilman Freeman, the City Controller reported that there were certain housekeeping changes which required this revised policy and that it would not normally come up for renewal each year. It was moved by Councilman Karst, seconded by Freeman, that the Mayor be authorized to sign the various documents attached to this revised policy. Roll call as follows: Ayes, 6; No, none; carried.

Another memo from the City Controller was forthcoming, as follows:

City of Idaho Falls  
April 8, 1976

MEMORANDUM

TO: Mayor S. Eddie Pedersen and City Council  
FROM: John D. Evans, Controller  
SUBJECT: C.D. BUDGET AND APPLICATION REVISION

Requesting authorization for the Mayor to sign a request for an amendment to the 1975 Community Development Budget and a revision of the 1976 Community Development Application as per pre-audit recommendations by the H.U.D. officials.

s/ John Evans  
s/ Rod Gilchrist

It was moved by Councilman Karst, seconded by Freeman, that the Mayor be authorized to sign the various documents as described. Roll call as follows: Ayes, 6; No, none; carried.

Finally, from the City Controller, this memo was presented:

**APRIL 8, 1976**

---

City of Idaho Falls  
April 8, 1976

MEMORANDUM

TO: Mayor S. Eddie Pedersen  
FROM: John D. Evans, Controller  
SUBJECT: CITY OF I.F. TRUCK GARAGE - SHERRY BUILDERS -  
BANKRUPTCY CLAIM

Requesting your authorization to issue a check payable to the Industrial Indemnity Co. in the amount of \$583.21 for 50% of Sherry Builder's utility bill which was withheld from the final payment on the SSTP Truck Garage.

Attached is the letter from the City Attorney concerning this matter and his recommendation.

s/ John Evans

It was moved by Councilman Karst, seconded by Freeman, that authorization be granted the City Controller to issue the check as described to the Industrial Indemnity Company. Roll call as follows: Ayes, 6; No, none; carried.

This memo from the General Services Director was submitted:

City of Idaho Falls  
April 8, 1976

TO: Honorable Mayor and City Council  
FROM: Chad Stanger  
SUBJECT: LAND LEASE

The General Services Division respectfully requests permission to advertise for lease proposals on approximately 280 acres of City owned land west of the City.

Thank you,  
s/ Chad Stanger

It was explained by Councilman Hovey that this was land previously used by the City as a landfill and dump area and its present use is limited to grazing. It was moved by Councilman Hovey, seconded by Freeman, that authorization be granted to advertise for lease proposals on the area as described. Roll call as follows: Ayes, 6; No, none; carried.

Another memo from the General Services Director was reviewed, to-wit:

City of Idaho Falls  
April 8, 1976

TO: Honorable Mayor and City Council  
FROM: Chad Stanger  
SUBJECT: RECOMMENDATION BID #IF176-9

**APRIL 8, 1976**

---

It is the recommendation of Public Works and General Services Divisions that the City Council accept the low bid submitted by Skyline Industries at \$230.00 per sanitation container for cover type I and \$232.00 per sanitation container for cover type II. It is also recommended that the City Council accept the alternate bid of Skyline Industries at \$35.00 each for extra cover type I and \$37.00 each for extra cover type II.

Thank you,  
s/ Chad Stanger

It was moved by Councilman Hovey, seconded by Erickson, that Skyline Industries be awarded the bid on sanitation containers and covers as recommended. Roll call as follows: Ayes, 6; No, none; carried.

By memo, the Parks and Recreation Director requested authorization to advertise for bids for the construction of restrooms at Russett Noise Park, noting that monies for this project would be forthcoming from B.O.R. and the off-road vehicle funds. It was moved by Councilman Freeman, seconded by Erickson, that authorization be granted to advertise for bids on the project as indicated. Roll call as follows: Ayes, 6; No, none; carried.

This memo from the Director of Aviation was presented:

City of Idaho Falls  
March 31, 1976

TO: Mayor and City Council  
FROM: Director of Aviation  
SUBJECT: STAR VALLEY-JACKSON STAGES AIRPORT LEASE

The current operational lease with the subject company has expired. The lessee has requested a 1-year extension, with which the Airport Committee concurs.

The Committee recommends that the City Council authorize the Mayor and City Clerk to execute this extension.

s/ H.P. Hill

It was moved by Councilman Hovey, seconded by Wood, that this one year extension to the Star Valley-Jackson Stages Airport Lease Agreement be accepted and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

**ORDINANCE NO. 1453**

AN ORDINANCE AMENDING SECTION A4-4-10(A) OF THE CITY CODE OF IDAHO FALLS, IDAHO, SAID SECTION ESTABLISHING SINGLE METER COMMERCIAL RATES FOR CUSTOMERS OF THE IDAHO FALLS ELECTRICAL DISTRIBUTION SYSTEM; PROVIDING THAT ALL CUSTOMERS CONSUMING ELECTRIC ENERGY FOR PUMPING WATER IF SEPARATELY METERED FOR SUCH PUMPING SHALL BE CHARGED UNDER THE SINGLE METER COMMERCIAL RATE; PROVIDING WHEN THE ORDINANCE SHALL BECOME EFFECTIVE.

**APRIL 8, 1976**

---

The foregoing Ordinance was presented in title. It was moved by Councilman Wood, seconded by Campbell, that the provisions of Section 50-902 of the Idaho Code requiring all ordinances to be fully and distinctly read on three several days be dispensed with. The question being, "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, 6; No, none; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the Ordinance placed before the Council for final consideration the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, 6; No, none; carried.

Councilman Campbell introduced an error that had been made in May of 1962, relative to Annexation Ordinance No. 1027 and asked City Attorney Smith to elucidate. By way of explanation, this legal opinion, prepared by Smith, dated April 7, 1976, was first presented and made a matter of record:

City of Idaho Falls  
April 7, 1976

Honorable S. Eddie Pedersen  
Mayor, City of Idaho Falls  
City Building  
Idaho Falls, Idaho

RE: ANDERSON-LINCOLN ROAD AREA

Dear Mayor Pedersen:

At the Public Works meeting last Tuesday a serious problem concerning annexation of land north of Lincoln Road arose. I have been studying this matter with the Public Works Division, Roy Barnes and Rod Gilchrist for the past two days. Frankly, the issue is as follows: Is the Motorview Theatre land and the old Ken Garff property in the City Limits? The Ken Garff property has now been sold to four owners south of Yellowstone Avenue. Among these, for instance, is El Ranchito.

Ordinance No. 1027, passed May 8, 1962, annexed all of this land to the City. Ordinance No. 1030, passed June 7, 1962, attempted to amend the description of the annexed land. The description was so defective that it is questionable whether the ordinance had any effect. One call was 201 feet when it should have been 771 feet. The City Council never amended the second ordinance to correct the mistake. All land owners south of Yellowstone in the original area annexed, including all of the old Ken Garff property, have paid City taxes ever since 1963. As you know, the City, however, has regarded much of this land as being outside the City and has charged double for sewer service, etc. None of the area residents protested the payment of taxes as best I can ascertain. The Motorview Theatre has not paid taxes because the County made some mistake in the platting on the rolls.

**APRIL 8, 1976**

---

The question is whether the City should, at this time, try to give any effect to the second ordinance purporting to amend the first one. It is the opinion of this office that no effect should be given to amended ordinance. Accordingly, it is believed that the City should take the position that all of the land included within the first ordinance has at all times been within the City limits.

This solution to the problem would require that the City be willing to reimburse the owners in the old Ken Garff area for any double charges on water or sewer. It would also mean that the City should de-annex the south end of the Motorview Theatre as it has never paid taxes in the City and would file a formal protest to the original annexation. That land was never subject to annexation and is not now under the statute. All land south of Yellowstone Highway has been subject to annexation for many years.

The City should also notify the people south of Yellowstone that they are in the City limits, that the City is willing to reimburse them for their overcharge on the sewer or water and that they must obtain permits for any future development.

It is believed that this is the most appropriate course to solve the above entanglement. It is the opinion of this office that any other solution presents more difficult problems, both legal and practical, than the suggested solution.

Sincerely yours,  
A.L. Smith  
City Attorney

It was then learned from Smith's verbal testimony that there was an attempt made, by Ordinance No. 1030, passed in June of 1962 to correct or amend the legal description contained in Ordinance No. 1027 but that the amendatory Ordinance was not in good legal form and, in fact, erred in its legal description. He said this resulted in certain lands, now occupied by commercial businesses, having been in the City since 1962 although it was generally accepted that they were outside the City except, as it was recently determined, City taxes had been paid on most of said properties all these years. The City Attorney concluded his remarks by saying that, in his opinion, the second ordinance, being not in good legal form, must be considered null and void. It was moved by Councilman Campbell, seconded by Karst, that all of the recommendations included in the foregoing legal opinion be accepted and the original boundaries as contained in Ordinance No. 1027 be declared valid in the present determination of City limit boundaries. Roll call as follows: Ayes, 6; No, none; carried.

By general Council agreement, the Public Works Director was authorized and directed, in compliance with one of the recommendations in the foregoing legal opinion, to have prepared for Council consideration, subject to approval by the property owner, a de-annexation ordinance of all the Motorview lands now annexed into the City. Also, by general Council agreement, the City Clerk was authorized and directed to write letters to the other four businesses affected by this decision, explaining the happenings of this night and offering reimbursement of one-half of all water and sewer payments paid to the City, also in compliance with one of the recommendations contained in the foregoing legal opinion.

There being no further business, it was moved by Councilman Freeman, seconded by Erickson, that the meeting adjourn at 8:35 P.M. carried.

ATTEST: s/ Roy C. Barnes  
City Clerk

s/ S. Eddie Pedersen  
Mayor

\* \* \* \* \*