

COUNCIL MEMBERS:

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>		<i>Mayor</i>				



AMENDED MINUTES
 Meeting of the Twin Falls City Council
January 14, 2013
 City Council Chambers
 305 3rd Avenue East - Twin Falls, Idaho

5:00 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG
 CONFIRMATION OF QUORUM
 INTRODUCTION OF STAFF
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:
 PROCLAMATIONS:

AGENDA ITEMS	Purpose	By:
I. <u>CONSENT CALENDAR:</u> 1. Consideration of a request to approve the accounts payable for January 8 – 14, 2013. 2. Consideration of a request to approve the January 7, 2013, Minutes. 3. Consideration of a request to approve Findings of Fact, Conclusions of Law, and Decision: a) Final Plat for Eastland Heights Amended Subdivision. b) Conveyance Plat for John Reeder Conveyance Plat.	<u>Action</u>	<u>Staff Report</u> Sharon Bryan L. Sanchez Mitch Humble
II. <u>ITEMS FOR CONSIDERATION:</u> 1. Consideration and adoption of Ordinance 3046, an Ordinance of the City Council for the dissolution of the Citizen Finance and Planning Commission. 2. Consideration of a request to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017. 3. SECOND READING: Consideration of a request to adopt Ordinance 3044, for a Zoning Title Amendment which would amend Twin Falls City Code 10-7-14 by allowing limited outside display of merchandise for sale subject to conditions. 4. Consideration of a request to approve to modify the traffic pattern on 4th Avenue North, from Shoshone Street to Fairfield Street North, to one-way in the northwesterly direction. 5. Discussion and possible action on staff's research on anti-discrimination policies. 6. Consideration and adoption of Ordinance Number 3045, an Ordinance of the City Council providing for the sale and issuance of bonds for the modified local improvement district (LID) number 2012-1 as requested by petition by Chobani. 7. Public input and/or items from the City Manager and City Council.	Action Action Action Action Discussion/ Possible Action Action	Lorie Race Susan Ash Mitch Humble Jacqueline Fields Mike Williams Travis Rothweiler
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> 6:00 – None.		
V. <u>ADJOURNMENT:</u>		

**Any person(s) needing special accommodations to participate in the above noticed meeting should contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting.*

Present: Shawn Barigar, Don Hall, Suzanne Hawkins, Jim Munn, Greg Lanting, Rebecca Mills Sojka, Chris Talkington

Absent: None

Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Chief Finance Officer Lorie Race, Community Development Director Mitch Humble, City Engineer Jacqueline Fields, Human Resource Director Susan Harris, Library Director Susan Ash, Assistant to the City Engineer Mike Williams, PIO Josh Palmer, Deputy City Clerk/Recording Secretary Leila A. Sanchez.

Mayor Lanting called the meeting to order at 5:00 P.M. He then invited all present, who wished to, to recite the pledge of Allegiance to the Flag with him. Mayor Lanting introduced staff. A quorum is present.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None

PROCLAMATIONS: None

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of a request to approve the accounts payable for January 8 – 14, 2013, total: \$368,493.60
January 4, 2013, Payroll, total: \$118,684.09
2. Consideration of a request to approve the January 7, 2013, Minutes.
3. Consideration of a request to approve Findings of Fact, Conclusions of Law, and Decision:
 - a) Final Plat for Eastland Heights Amended Subdivision.
 - b) Conveyance Plat for John Reeder Conveyance Plat.

MOTION:

Councilperson Munn made a motion to approve the Consent Calendar as presented. The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion. Councilperson Talkington abstained from voting because he was not present at the January 7, 2013, City Council Meeting. Approved 6 to 0.

II. ITEMS FOR CONSIDERATION:

1. Consideration and adoption of Ordinance 3046, an Ordinance of the City Council for the dissolution of the Citizen Finance and Planning Commission.

Chief Finance Officer Race explained the request.

The Citizen Finance and Planning Commission was formed by ordinance in July of 2010. Five citizens were appointed and the Commission has been meeting on a monthly basis since that time. They have regularly reviewed the City's financial dashboards and participated in various projects. During the latter part of 2012, the Commission began to question whether their original goals, as outlined in the original ordinance, had been met, and whether or not they should continue meeting or disband.

After discussion regarding their original goals and mission, the current chairman, Darrell Buffaloe made the recommendation the Commission disband. The motion was made and approved by the members.

Staff recommends City Council honor the wishes of the Commission and approves the dissolution of the Citizen Finance and Planning Commission.

Darrell Buffaloe explained that he believes the Commission has served its purpose.

The Council expressed appreciation to those who served on the Commission.

MOTION:

Vice Mayor Hall made a motion suspend the rules and place Ordinance 3046, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, REPEALING CHAPTER 2 OF TITLE 2 OF THE TWIN FALLS CITY CODE, PROVIDING FOR A CITIZEN FINANCE AND PLANNING COMMISSION

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

on third and final reading by title only. The motion was seconded by Councilperson Talkington and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Councilperson Mills Sojka made a motion to adopt Ordinance 3046. The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

2. Consideration of a request to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017.

Library Director Ash explained the request.

The Board of Trustees recommends to the Council the appointment of Margaret Peck.

Council discussion followed.

-Advertisement of Library Trustee

Library Director Ash stated that the position was posted on the library website and newspaper.

Margaret Peck stated she is impressed with the new ideas and projects at the Library.

MOTION:

Councilperson Talkington made the motion to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Susan Ash gave an update on the Lecture Series held every third Wednesday of the month, the mobile compact shelving, and bookmobile.

3. **SECOND READING:** Consideration of a request to adopt Ordinance 3044, for a Zoning Title Amendment which would amend Twin Falls City Code 10-7-14 by allowing limited outside display of merchandise for sale subject to conditions.

Community Development Director Humble explained the request. A public hearing was held on January 7, 2013, with no public input.

Council discussion followed.

Community Development Director Humble explained that a parking lot sale permit shall be issued for not more than five consecutive days. Parking lot sale permits issued in different calendar year quarters shall have a minimum of seven days between permits. He made the clarification that an applicant may have two five day permits one after another with a seven day down time period between the two (2) five day permits in a quarter.

Mayor Lanting opened and closed the meeting for public comment with no input.

Councilperson Hawkins stated that at the November 27, 2012, Planning & Zoning Commission Meeting, the one business owner who attended the public hearing spoke in favor of the request. No one spoke against the request.

MOTION:

Vice Mayor Hall made the motion to suspend the rules and place Ordinance 3044, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE §10-7-14 BY PERMITTING PARKING LOT SALES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, THAT TWIN FALLS CITY CODE §10-7-14 IS AMENDED AS FOLLOWS:

on third and final reading by title only. The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Vice Mayor Hall made the motion to adopt Ordinance 3044. The motion was seconded by Councilperson Talkington.

Council discussion followed.

Councilperson Barigar stated that on January 7, 2013, he voted against placing the ordinance on third and final reading, to give the request additional consideration and to receive input from the public. He spoke with a handful of business owners and some business owners were not aware that parking lot sales are not permitted. He appreciates the goal is to attempt to regulate what might be perceived as clutter in the community, but found it somewhat ironic in the fact that in order to allow more freedom and free enterprise for businesses, more regulation, laws and enforcement are created. He stated that after the ordinance has been in place for a period of time, consideration may be made to get rid of the parking lot sales permit not being allowed and allowing it.

Mayor Lanting allowed Rob Greenwood and Wade Pettingale to speak at this time.

Rob Greenwood, Sawtooth Vacuum, 329 Addison Ave W., explained the benefits of displaying vacuums outside his business to promote business and pay taxes. He stated his concern of allowing parking lot sales only ten days a quarter.

Wade Pettingale, Sawtooth Vacuum, 329 Addison Avenue W., explained his concern of limiting displaying products and falling within the guidelines will be difficult.

Council discussion followed.

Councilperson Mills Sojka stated that she is for less regulation as opposed to more. She stated her concern that the City, as a government and whose purpose is to protect and make sure there is public safety, is requesting to regulate when and how business owners sell and display their inventory on their own property. She stated that she would be in support of deleting the proposed section.

Vice Mayor Hall expressed that he does not believe it is regulating but liberating by an attempt to open up to businesses to make them more successful. The City Council will have an opportunity review parking lot sales in the future.

Councilperson Hawkins stated she is in support of the ordinance which is giving opportunities to small businesses; and, if this is to be reviewed in the future she would suggest splitting it into single business properties and shared business properties.

Roll call vote showed all members present voted in favor of the motion.

4. Consideration of a request to approve to modify the traffic pattern on 4th Avenue North, from Shoshone Street to Fairfield Street North, to one-way in the northwesterly direction.

City Manager Rothweiler stated that at 3:30 P.M, he received a call from Commissioner Mills, who made the clarification that the County is in support of the one way on one block of 4th Avenue North. Commissioner Mills spoke with Gerald Martens and Alan Horner prior to the City Council meeting.

City Engineer Fields stated that Alan Horner of First Federal, and Gerald Martens of EHM Engineers, will explain the request

Alan Horner, First Federal Bank, stated that the presentation made to the County Commissioners was for the first block of 4th Avenue North and after the meeting with Commissioners, he and Gerald Martens met with City Engineer Fields where discussion was made on making both blocks a one way. He stated that he failed to go back to the Commissioners to inform them that the one way would also include the second block.

First Federal is proposing expansion but parking is an issue. An agreement was reached with the City on purchasing the Brown Lot located behind Title Fact for employee parking. To make the design work, the existing customer parking lot is needed for office space and additional parking is needed in the street. Covered parking will be for handicap parking and for senior citizens.

Council discussion followed.

Alan Horner stated that parking on the street will be public parking, but will be asking that signage limiting time limits be placed. First Federal employees will not be allowed to park on the street.

Councilperson Talkington asked for clarification of the parking requirement for the new construction and how the public conveniences are enhanced by the one way.

Community Development Director Humble stated that the proposed building addition is located inside the P 1 Parking Overlay District. The P 1 Overlay District does not require parking be provided. It assumes that all parking will be provided in a public manner so long as streets and public lots are nearby. The building permit will be issued without a required parking lot being constructed. Public parking on the street will be used to meet the parking requirement in the building as well as all the other buildings in the area. He also stated that the benefit to the public is additional parking in the area. Currently, parallel parking is limited on the south side of 4th Avenue North and parking will increase from six to seven spaces to twenty spaces. The parking between Gooding and Fairfield is the P 1 Overlay District and could be used by all businesses in the area for customers.

Gerald Martens stated that there will be a significant net increase of total parking in the neighborhood. On overhead projection he showed the proposed parking. He explained that the plan is to construct the entire block including the area in front of Title Fact. There will be landscaping in the islands and bulbs will be reconstructed at each end of the block, which results in a shorter crosswalk and safer for pedestrians. The block between Gooding and Fairfield at this time is proposed only for restriping and with angle parking on one side. In speaking with business owners Tim Thompson, Verlyn Broek, and Bill Kyle, they stated they are in favor of the increased parking. Just A Mere Inn has no net change impact. The building construction is 30,000 square feet. The block is a First Federal campus with the exception of Title Fact. Construction would begin in the spring.

Councilperson Munn recused himself at 5:59 P.M. from discussion and deliberations from the request. He stated his daughter is an employee of First Federal Bank.

Vice Mayor Hall asked for input of back end parking.

City Engineer Fields stated that she is in favor of back end parking. The two blocks of 4th Avenue North would be a one lane one way street as opposed to a multi-lane one way street. The geometry of the existing street is limiting and back end parking was discussed.

The City benefits with the request because this is one less block of pavement needing to be scheduled for replacement and curb cuts will ADA compliant. The street is a low volume road. The Sheriff's office will continue to be at the Courthouse and the Coroner's office will be at the DMV location.

Councilperson Mills Sojka asked how this will affect traffic. She is concerned of using public roads to meet business parking needs.

City Engineer Fields stated that the P 1, 2, and 3, Parking Overlay District were in place prior to her employment at the City. A one way traffic pattern in a commercial zone laid out some of the basis for consideration or denial of one way streets and other places downtown. Internally it was agreed that perhaps there is a need to have a larger discussion on expanding the potential of the one way street network in downtown. Staff will ask Council to consider funding the Transportation Master Plan Update next year.

Councilperson Talkington stated that he likes the innovation shown but is concerned that the direction of the one way will set the tone for any other parallels and perpendiculars. He asked if the City is in conflict with the Transportation Master Plan and if there is justification of the reduction of the traffic flow on 4th Street Avenue for one or two blocks by a private use, and what the mitigations in the surrounding commercial areas are.

City Engineer Fields stated the City is not necessarily in conflict with the Transportation Master Plan. The street is a residential class street. The street has an arterial two blocks away and a Shoshone acts as an arterial, and 6th is technically the collector street. She

did not believe that the choice to make this into a residential class street into a one way would substantially diminish capacity. It may be possible that staff would be subject to one parking requests in conflicting directions on every street.

Councilperson Barigar asked what is the net gain or net loss in parking in the area if 4th Avenue is kept as a two way street and parking was diagonal on the south side and the north side was parallel parking

City Engineer Fields explained the long term benefits of retaining the angle parking on the south side of 4th Avenue is to reduce pressure on the street.

Gerald Martens explained the direction of the one way and stated that Shoshone is a major collector allowing customers to do their business and leave. He requested signage limiting time limits be placed.

Councilperson Barigar stated his concern of creating excessive parking that is not used because it has conflicts with the traffic flows and while at the same time creating parking that is more convenient but perhaps creating confusing traffic flows.

Councilperson Hawkins asked if contact was made with the Presbyterian Church, located on 5th Avenue, as to how it will affect their traffic flow.

City Engineer Fields stated that she had not contacted the church. She explained that in the traffic data she did not see any concerns on the street.

Councilperson Mills Sojka asked if the applicant had other alternatives than what is proposed and if a cross use parking potential with the County was considered.

Gerald Martens stated that he expects that the County building will be occupied.

Alan Horner stated that he does not have any other alternatives than what is proposed.

Kevin Haight, Co-Chair of the Traffic Safety Commission, stated that the Commission voted unanimously in favor of the request.

Vice Mayor Hall stated that he would like the County to weigh in on the request.

Mayor Lanting made the motion to adjourn to recess at 6:40 P.M., to allow time for Commissioner Mills to arrive at the meeting.

Mayor Lanting convened the meeting at 6:49 P.M.

County Commissioner Leon Mills stated that the Commissioners spoke with Gerald Martens and Alan Horner a month ago and the Commissioners spoke in favor of the proposal of the one block on 4th Avenue North be turned into a one way. At this time, the County has not seen the current proposal. He personally did not believe there would be a problem making the second block of 4th Avenue a one way.

Councilperson Hawkins asked if it is possible to time the traffic lights on Shoshone Street to make a bigger gap for those who want to exit through 3rd Avenue.

City Engineer Fields stated that the Traffic Tech makes changes to the timing of all traffic lights when traffic patterns change.

Staff recommends that Council accept the Traffic Safety Commission's recommendation to modify the traffic pattern on 4th Avenue N., from Shoshone St. to Fairfield St. N, to one-way in the northwesterly direction.

MOTION:

Councilperson Talkington made the motion to approve the recommendation of the Traffic Safety Commission to modify the traffic pattern on 4th Avenue North, from Shoshone St. to Fairfield St. N, to one-way in the northwesterly direction, consistent with the plans of the applicant, First Federal, and with the other parties on that block and in compliance with all City Standards, input, and approval. The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0. Councilperson Munn abstained from voting.

5. Discussion and possible action on staff's research on anti-discrimination policies.

City Manager Rothweiler stated that staff made a commitment to Council to make a review of why cities have added "sexual orientation" to their anti-discrimination policies.

The issue was approached from two areas. The first area looked at was strictly from a city personnel manual only. The manual governs the activities of those employed by the City and also sets direction for those who may become employed by the City. The second is looking at what other cities, namely and most recently Boise, have done to incorporate a larger ordinance throughout the entire community. An ordinance will be much more encompassing and would include more than the City of Twin Falls. Human Resource Director Harris will be available for questions that the Council may have as to how they relate to the City's hiring practices and the internal aspects of the city's personnel.

Assistant to the City Manager Mike Williams will be sharing the background on his research.

Assistant to the City Manager Williams stated that he contacted the AIC to discuss the landscape and background as to what they had seen as to why cities are considering adopting additions to their resolution or adopting a citywide ordinance on the specific anti-discrimination language. Last year the State Senate and Affairs Committee received a bill that would amend the Idaho Human Rights Act to include banning discrimination in the matters of employment, housing, education, public accommodations on the basis of sexual orientation and gender identity. The bill did not receive the votes necessary and received no further consideration. The bill had to do more with hiring and firing and public opportunities in the matters of public accommodations, housing, etc., throughout the community. The legislature's decision to not add sexual orientation and gender identity into the State's non-discrimination policy has been a key motivation for some cities currently exploring and passing their own ordinance and resolution language. The other driver appears to be reported incidents and complaints of harassment based on sexual orientation occurring in some communities.

Maryanne Jordan, Council-President for the City of Boise, stated in 2007, language was added to their employee resolution to not discriminate based on sexual orientation or gender identity. Additionally, they did this to promote a safe workplace, promote equality, and found this as an opportunity to track and retain employees in the organization. The City was losing a significant amount of employees to the private sector. They believe the clause would promote economic development and employee retention as well. In 2012, they adopted a citywide ordinance. The Police Department showed there had been verbal and physical harassment taking place in their downtown corridor. Individuals did not feel they could go further in the judicial process citing concerns that they may have to explain to employers why they were going to court and why they would have to miss work. They believed this would open them up to hiring or firing. The City of Boise made the decision to go forward with the ordinance after the State Legislature chose not to take action on the matter. The process took them approximately eight months after working with members in the community, the Chamber of Commerce, and other interest groups.

The City of Pocatello adopted language into their employee personnel policy in 2009, to include the sexual orientation and gender identity language. In 2012, the City Council rejected a resolution condemning discrimination on the basis of sexual orientation and gender identity. The City Council decided that they wanted to do something that had more clout, and are currently looking at and adopting an ordinance similar to the City of Boise into their city code. The chair of their Human Relations Advisory Committee said the push for creating and adopting an ordinance was seen as a way to protect their gay and lesbian citizens in the matter of housing and employment.

The City of Sandpoint was the first to adopt such ordinance and essentially followed the same lines as to what occurred in Pocatello and Boise. They perceived a real problem within their community with harassment and they decided to go forward. This was prior to the 2012 Legislative Session.

There are several other communities who are considering a civil ordinance that includes the City of Idaho Falls and the City of Moscow. Before taking action they are looking at the ordinances passed by the City of Boise and the City of Sandpoint. In October 2012, the City of Driggs considered a similar ordinance but the ordinance failed.

The AIC and ICRIMP do not have guidance or a stance on what cities should do on the policy.

Currently, the City of Twin Falls includes anti-discrimination language in its employee resolution that is recognized by the U.S. Equal Employment Commission (EEOC). Employment decisions are based upon qualifications and performance.

Council discussion followed.

Councilperson Talkington asked if ICRMP had received any complaints or filings.

Mike Williams stated that in speaking with Jim McNall, he had not received any sort of claim of a city discriminating on the basis of sexual orientation or gender identity.

Councilperson Talkington stated that he would like ICRIMP to respond to the following questions in reference to the internal resolution and the 1964 Civil Rights Act, as amended: Is adequate protection being provided, are they making any recommendations to expand towards those additional classes, and what they perceive is the problem.

Mike Williams stated he has not asked ICRIMP any specific questions and will follow up with ICRIMP.

Councilperson Mills Sojka stated that she asked the question on sexual orientation a few weeks ago when discussing the personnel policy. The City's policy is that the City does not discriminate and the City does not discriminate based on sexual orientation. The policy does have a list of statuses that the City does not discriminate against and it may be beneficial to include sexual orientation. The intent of adding the language is a statement to not treat people differently regardless of their sexual orientation.

Oregon, Washington and Utah have added the language to their personnel policy; in addition, fifteen cities, including Salt Lake City, have a non-discrimination citywide policy. The issue is to be more inclusive and more specific. This is not based on any known circumstances, but crimes that involve rape and involve shame are not reported. If someone is being harassed based on femininity or masculinity in the City's organization, the intent is to create a place for a person receiving discrimination recourse. She is proposing that the language on sexual orientation be considered in the city employee policy only.

Mayor Lanting asked if it is written in our policy that the City does not discriminate for any reason.

City Manager Rothweiler stated that it is the City of Twin Falls policy not to discriminate and any form of discrimination is a form of harassment. The City of Twin Falls has a no tolerance harassment policy. Discrimination on the basis of sexual orientation is a form of harassment. The personnel policy manual includes the following language: *"The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit."*

Councilperson Munn asked if harassment based on femininity or masculinity is covered under sex in the EEOC and the Idaho Human Rights Commission; and, what is being considered is sexual orientation, which would give a right to persons who are gay, lesbian, and transgender in the workplace.

City Attorney Wonderlich responded in the affirmative and stated that the language sexual orientation would provide a right that is not provided under state or federal law, and this would be affecting only city employment.

Councilperson Mills Sojka stated that she does not see this as a new right being given that does not already exist.

Councilperson Hawkins stated that currently what is in place lines up with the EEOC statement. She stated her concern that if the City starts specifying sexual orientation, gender, etc., what happens when the next group wants to be included. She questioned if the City has a legal right to start picking and choosing which groups are listed and afforded specific rights. The City does not discriminate and is meeting legal guidelines.

St. Luke's Human Resource Department stated that the language is not in their personnel policy; however, Magic Valley St. Luke's Clinic has the language in their personnel policy. (The Magic Valley Regional Medical Center had it in their personnel policy.) Magic Valley St. Luke's Clinic is currently in the process of taking the language out of their local statement. They have no recorded problems, but are concerned that by leaving this in their policy they are opening themselves up to problems. In summary, she personally feels that the City does have a legal statement that the City does not discriminate.

Mayor Hall stated that the City of Twin Falls does not discriminate and this is stated in the City manual. He personally believes that as a past employee of the City and serving on the Council for seven years, the City does not believe in discrimination. He stated that this is more an exercise in political correctness than anything else.

Councilperson Talkington stated his wife, as a single school teacher, was seeking employment in a number of towns covered by the Civil Rights Act of 1964, and in one "religious" town she was discriminated against and was told she would not fit in. He stated he is not concerned about the next group that comes in and is not so sure that more sensitivity, even to a more specific statement for internal hiring only, is not worthy of consideration.

Councilperson Munn stated that it has been indicated that the City of Twin Falls has a policy that prohibits harassment in any form. He asked if the City has a written policy for complaints based on sexual orientation.

City Attorney Wonderlich responded in the affirmative. The person will have the right to go to the City Manager or City Council to complain of unfairness in their treatment.

Councilperson Munn stated for clarification that an employee, who claims that a supervisor harassed him/her or discriminated against him/her because he/she is gay or lesbian, could file a complaint according to the City's current resolution. It would then be investigated by a supervisor and brought to a disposition at some staff level, and if the employee is not satisfied, he/she could bring it to the City Council and the City Council would adjudicate the grievance. He asked for the procedure for cases of termination based on sexual orientation.

City Attorney Wonderlich stated that in cases of termination, there is an employment contract, and all city employees are employees at will. The City has adopted the same standards of the EEOC, and if the City violates the standards, the employee's recourse is to the Human Rights Commission. The Human Rights Commission will prosecute for the employee but the Commission will not pick up a violation that is not a violation of state or federal law.

Councilperson Munn asked what better benefit would be provided by adding the language sexual orientation to the employee resolution to people who are gay, lesbian or transgender. Provisions are in the employee resolution for both a grievance and discipline.

City Attorney Wonderlich stated that internally none, and externally, if there is a claim that puts them in a protected class they have recourse to the Human Rights Commission. He stated that he couldn't think of a way that the language would add more protection.

Councilperson Barigar stated he would argue that the language would not afford them less protection either by simply calling it by name, the same way he is not afforded any more or less protection with items listed out in the employee resolution. At a certain extent this isn't about necessarily affording additional rights to folks that they don't have now, but it is about being sensitive to understanding and recognizing a group of citizens who live in the community. In listening to NPR, today marks the 50th anniversary of George Wallace's speech as the Governor of Alabama, in which he spoke about "segregation now, segregation tomorrow, segregation forever." This is not about political correctness or about coming up with the next protected class that might walk in; it is a reality in 2013. A group of citizens who live and work in our community deserve, at a minimum, to be recognized and acknowledged for something they have no control over. The consideration of adding sexual orientation or gender identity as items in the internal employee manual is something that is owed to a segment of citizens. A consideration should be made to move forward for that in our community and for the global market place to acknowledge citizens with differences and share that with the world that all are acceptable.

Councilperson Mills Sojka stated that this is not about political correctness and not about addressing a group of people and sectioning them off. She stated her sexual orientation is a married heterosexual. It is simply stating a status and raising awareness. She stated that it is not okay to use the R word to describe someone to call them stupid. This is known because of awareness and education. She worked with children with a medical diagnosis of mental retardation and stated they are real people with a real diagnosis. In society, there is much disrespect of people who may be LGTBQ, (lesbian, gay, transgender, bisexual, or questioning.) Sexual orientation should be listed in the City's listed statuses that are not discriminated against. She explained the epidemic of suicide in schools because of bullying on the issue and the need for education.

Mayor Lanting stated he will allow public comment on the City of Twin Falls Employment Resolution only.

Cal Killinger stated that he was pleased to hear that Mr. Wonderlich stated that the language actually did not add any protection to the prospective or present employees.

Mayor Lanting stopped Mr. Killinger and stated that he would not allow testimony regarding behaviors.

Cal Killinger asked City Attorney Wonderlich if he said there is no benefit and they have sufficient protection now.

City Attorney Wonderlich said he did not state that there is no benefit. They have protection of the grievance procedure, arbitration and mediation procedure.

Cal Killinger spoke against the request. He believes that by adding the words sexual orientation is validating behavior. He stated that everybody has areas of weakness and areas of strength. Mr. Munn knows that people for many years make choices. They had free agency and made the wrong choice. He stated that he is not saying you don't show these people consideration and it is not saying don't hire them. In his church all are welcome. Mr. Munn and our criminal justice system have seen it. The American Liberties Union and Hollywood validates this behavior.

Councilperson Munn stated that because Mr. Killinger brought his name up, it is imperative for him to discuss his thoughts on the issue. He stated that one set of people believe homosexuality is a choice and the other set believes it is the way one is born. He stated his personal belief is that people are born homosexual and should be afforded the same protection afforded others.

Christopher Reed, 1486 Bradley Street, stated everyone is protected right now on a no discrimination policy and asked why the language is being considered.

MOTION:

Councilperson Mills Sojka made the motion to add sexual orientation to the Employee Resolution, under Section II, as it pertains to harassment and equal opportunity employment. The motion was seconded by Councilperson Barigar.

City Manager Rothweiler stated that staff's interpretation of the motion will be to add the language in all places where it would be appropriate, not just in Section II, but throughout the personnel manual, as it would be appropriate and as it mentions the other areas such as race, color, national origin, in order to provide consistency.

Councilperson Mills Sojka amended her motion to add sexual orientation to the Employee Resolution as stated by City Manager Rothweiler. Her second, Councilperson Barigar, agreed to the amendment.

Councilperson Barigar asked Councilperson Mills Sojka if she wanted to add the language "sexual orientation" or "sexual orientation identity."

Councilperson Mills Sojka stated that she wants to add sexual orientation only and explained that she majored in Sociology in College, and in sociology, gender and race is something that is studied. The actual definition of gender is socially constructed. Gender by definition is what you identify with and sex is the biology one is born with. The motion has no comment of support or lack of support for any gender identity or any sexual orientation; therefore, she believes sexual orientation suffices.

Councilperson Hawkins asked Human Resource Director Harris how many complaints the City received on discrimination in general.

Personnel Director Harris stated that she has been a City employee for 26 years and during that time three complaints went to the Human Rights Commission: one racial, one age, and one gender. All three cases were dismissed in the City's favor.

MOTION:

Councilperson Barigar proposed an amendment to the motion to expand the wording to include sexual orientation and sexual identity and expression. The motion failed for the lack of a second.

Roll call vote on the main motion showed Councilpersons Barigar, Lanting, Munn, Mills Sojka, and Talkington voted in favor of the motion. Councilpersons Hall and Hawkins voted against the motion. Approved 5 to 2.

City Manager Rothweiler stated that Marianne Jordan, City of Boise, will make herself available to explain the process, and in addition, she will be attending the January 31, 2013, AIC meeting.

6. Consideration and adoption of Ordinance Number 3045, an Ordinance of the City Council providing for the sale and issuance of bonds for the modified local improvement district (LID) number 2012-1 as requested by petition by Chobani.

City Manager Rothweiler explained the request.

Ordinance 3045 allows for the sale and issuance of bonds associated with LID number 2012-1. This is the last legislative step in this process.

Staff recommends the adoption of Ordinance 3045.

MOTION:

Councilperson Talkington made the motion suspend the rules and place Ordinance 3045, entitled:

AN ORDINANCE PROVIDING FOR THE SALE AND ISSUANCE OF BONDS FOR LOCAL IMPROVEMENT DISTRICT NO. 2012-1 OF THE CITY OF TWIN FALLS, IDAHO; PROVIDING FOR THE PAYMENT AND COLLECTION OF SPECIAL ASSESSMENTS LEVIED IN SAID LOCAL IMPROVEMENT DISTRICT; PROVIDING FOR THE HANDLING OF FUNDS RECEIVED FROM SPECIAL ASSESSMENTS AND THE CREATION AND ENFORCEMENT OF LIENS IN CONNECTION WITH THE SALE AND ISSUANCE OF BONDS; PROVIDING FOR THE CREATION OF A LOCAL IMPROVEMENT DISTRICT BOND FUND AND INTEREST FUND; PRESCRIBING DETAILS CONCERNING THE FOREGOING; PROVIDING FOR A REASSESSMENT OF ASSESSMENTS AND THE REISSUE OF BONDS; REPEALING CONFLICTING PROCEEDINGS; ORDERING PUBLICATION; PROVIDING IRREPEALABILITY; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

on third and final reading by title only.

The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Vice Mayor Hall made the motion to adopt Ordinance 3045, as presented. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion.

7. Public input and/or items from the City Manager and City Council.

City Manager Rothweiler reported on the following:

- The Citizens Advisory Committee on infrastructure will be held on Friday, January 18, 2013.
- The AIC Meeting will be held on Tuesday, January 22, 2013.
- The City of Twin Falls will be closed on Monday, January 21, 2013, for Martin Luther King Day.

Vice Mayor Hall gave a report on the Urban Renewal Agency and contract with Mark Rivers.

Councilperson Hawkins gave a report on the Youth Council and media coverage.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

IV. PUBLIC HEARINGS: 6:00 – None.

V. ADJOURNMENT: The meeting adjourned at 8:04 P.M.

Leila A. Sanchez
Deputy City Clerk/Recording Secretary