

February 22, 2022 Council Work Session

The City Council of the City of Idaho Falls met in Council Work Session, Tuesday, February 22, 2022, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls at 3:00 p.m.

Call to Order and Roll Call

There were present:

Mayor Rebecca L. Noah Casper
Council President Michelle Ziel-Dingman
Councilor Thomas Hally
Councilor Jim Freeman
Councilor Jim Francis
Councilor Lisa Burtenshaw
Councilor John Radford (arrived at 4:18 p.m.)

Also present:

Brad Cramer, Community Development Services Director
Renee Magee, Idaho Falls Redevelopment Agency Consultant (via WebEx)
Chris Fredericksen, Public Works Director
Pamela Alexander, Municipal Services Director
PJ Holm, Parks and Recreation Director
Duane Nelson, Fire Chief
Kent Fugal, City Engineer
Joel Tisdale, Police Captain
Michael Kirkham, Assistant City Attorney
Bud Cranor, Mayor's Office Chief of Staff
Randy Fife, City Attorney
Kathy Hampton, City Clerk

Mayor Casper called the meeting to order at 3:04 p.m. with the following items:

Calendars, Announcements, Reports, and Updates:

February 24, Idaho Falls Power (IFP) Board Meeting; Chamber Legislative Call; Federal Aid Meeting (Bonneville Metropolitan Planning Organization (BMPO) Policy Board Members); and City Council Meeting
February 25, Property Tax 101
March 11, City Club
March 16, BMPO
March 30, City County Meeting

Mayor Casper distributed updated schedules/calendars for City Council Work Sessions, City Council Meetings, and IFP Board Meetings as well as the 2022/2023 Council Budget Preparation Calendar. Mayor Casper announced a recent article in the Idaho Falls Magazine featuring Rick Cloutier, Airport Director. She also requested councilmembers use the Sales Tax Exemption Form when traveling.

Acceptance and/or Receipt of Minutes:

It was moved by Councilor Francis, seconded by Council President Dingman, that council receive the recommendations from the February 15, 2022 meeting of the Planning and Zoning (P&Z) Commission pursuant to

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the Local Land Use Planning Act (LLUPA). The motion carried with the following vote: Aye – Councilors Freeman, Burtenshaw, Francis, Dingman, Hally. Nay – none.

Liaison Reports and Councilmember Concerns:

Council President Dingman announced Greater Idaho Falls Transit (GIFT) has hired a Transit Coordinator. She expressed her appreciation to staff members for their support and assistance. She also stated staff is currently reviewing the Request For Proposals (RFPs).

Councilor Hally stated the bid openings for the Law Enforcement Complex (LEC) as well as the 17th Street and Woodruff Avenue intersection project will be held in March. He noted the construction for the intersection project will occur one (1) corner at a time.

Councilor Burtenshaw stated she and Councilor Francis met with the Idaho Falls Police Department (IFPD) regarding the LEC, and police officers and recruitment (there are currently no applicants). She also stated Police Chief Bryce Johnson and Director Cloutier have been in discussion regarding the police at the Idaho Falls Regional Airport (IDA) and the restrictions.

Councilor Francis stated the election for the (Idaho Falls School District 91) school plant facility levy will be held March 8.

Councilor Freeman stated the Fire Department has been particularly busy with structure fires.

Legislative Update:

Mayor Casper distributed and briefly explained legislative bills supported and opposed by the Association of Idaho Cities (AIC) including House (H) Bill H499 (Emergency Communications Officers (ECOs) and the Rule of 80), H529 (registration/stickers for license plates), H573 (increase the dollar threshold for abandoned vehicles), H582 (eliminate all licensing requirements for non-profit home builders), H635 (annexation of lands currently located in other cities), and H648 (would allow cities to create their own tax rebate program). She stated new revenue from sales tax, property tax relief money, and online sales tax money are being discussed. Councilor Hally briefly explained H442 (local entities limiting fees/deposits on rental units), and H331 (delivery services and sidewalk damage), stating these bills are strongly opposed by AIC. He also briefly explained Senate (S) Bill S1249 (removes urban renewal from the budget cap). Brief discussion followed regarding S1283 (Medicaid), release of law enforcement information, and H531 (monuments).

Community Development Services/Discussion: Eligibility Report for the Pancheri-East Urban Renewal District:

Director Cramer reviewed the Eligibility Report for Pancheri East Bank, which is located southeast of the intersection of Capital and Pancheri. He noted a district recently closed in this area. He also noted this item came about due to the property owner needing assistance with some eligible expenses. Director Cramer stated part of the process of creating a district is to identify whether an area is eligible per the criteria of State Statute. He also stated this report meets many eligibility requirements. He emphasized the resolution being presented/considered at the February 24 City Council Meeting does not establish a district and it does not establish a boundary, it only defines the area as being eligible for a district. Director Cramer introduced Ms. Magee, former Community Development Services Director and former Executive Director of the Idaho Falls Redevelopment Agency (IFRdA). Ms. Magee then presented the following with general comments throughout:

- Purpose – to determine if all or a portion of approximately 36 acres meets one or more of the criteria outlined in the Idaho statutes for an urban renewal area.
- Boundaries – Pancheri Drive on the north, the Snake River on the west, Yellowstone Highway on the east, IFP substation on the south, and Capital Avenue right-of-way (ROW) and 2160 S. Yellowstone Highway. The parcel boundaries were also identified.

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- Findings – the study meets one or more of the criteria; the study area is eligible to be an urban renewal area; this finding not does commit the Idaho Falls Redevelopment Agency or the Idaho Falls City Council to include any or all portions of the study area in an urban renewal area; this study area does not include the Candlewood Suites or the adjacent River Walk which received tax increment assistance in the past.

Ms. Magee stated there are 14 criteria outlined, this area met 11 of the 14 criteria. She reviewed the most eligible criteria.

- Conditions in Study Area: Street Facilities. Meets the criteria for an urban renewal area: predominance of defective or inadequate street layout; outmoded street patterns; and lack of correlation with streets in municipality.
- Conditions in Study Area: Parcels. Meets the criteria for an urban renewal area: faulty lot layout.
- Conditions in Study Area: Safety. Meets the criteria for an urban renewal area: unsafe conditions.
- Conditions in Study Area: Economic Disuse. Meets the criteria for an urban renewal area: age or obsolescence, economic underdevelopment of the area, and substantially arrests or impairs the sound growth of the municipality.

Ms. Magee described the land use changes from 1992 and 2016. She noted there is a dramatic increase in vacant land in this study area.

- Conditions in Study Area: Utilities. Meets the criteria for an urban renewal area: unsafe conditions.

Ms. Magee identified water/sewer utilities in the study area. She also identified land use designations, one of which is a mixed-use corridor, and the other is an urban core. She stated there is a proposed concept in between these two (2) land use designations for the extension of Capital Avenue to connect from the intersection of Capital Avenue to Yellowstone Highway.

- Proposed Comprehensive Plan for Idaho Falls. Meets the criteria for an urban renewal area: arrests or impairs the sound growth of the municipality.

Per Councilor Freeman, Ms. Magee stated building is allowed with the 500-year flood plain although there may be a high-water table in the area and substantial ponding which may cause maintenance issues. She believes basements may not be allowed in this area. Also per Councilor Freeman, Director Cramer stated this area is currently not included in the South Broadway area. He also stated a boundary could be modified although the base value would reset which could be critical to obtain the tax increment financing needed to support projects. He believes the boundary should not be expanded, a different district should be created. Per Councilor Francis, Director Cramer stated a smaller boundary would be determined by the IFRdA and the City Council. He also stated the current boundary would likely be different than the district's creation. He indicated a larger area would require an additional eligibility report. Director Cramer stated this item will be included on the February 24 City Council Meeting agenda as a resolution to accept the eligibility report to determine this area as eligible for the creation of a district and authorize the IFRdA to continue forward to create a plan. That plan would then go to the IFRdA Board, the P&Z Commission, and then to the council for approval. Ms. Magee expressed her appreciation to Kerry Beutler and Caitlin Long, Community Development Services staff members.

Public Works, and other departments/Follow-up Discussion: Impact Fees:

Director Fredericksen reviewed the impact fee process, stating the proposed resolution adopting the Impact Fee Study must be approved, followed by approval of the Comprehensive Plan, and approval of the Impact Fee ordinance. He stated all three (3) items will be included on the February 24 City Council Meeting agenda as public hearings. Per Mayor Casper, Director Fredericksen stated a number of items would need to be addressed following approval of these items, including appointment of a fee administrator, approval of a fee resolution, and changes to other sections of the code (elimination of current fees). Mr. Fife stated all three (3) proposed items would be affected if one (1) of the items is not approved, and the ordinance could be passed on a first reading only. He

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clarified an additional public hearing would occur for a fee resolution, including the timeframe to impose the fees. It was noted the fee ordinance date would be effective May 1. Discussion followed regarding the minimum 30-day timeframe per State law, any adjustment of fees, publication(s) of ordinance summaries, and publication(s) of public hearings for a fee resolution. Per Councilor Hally, Director Fredericksen believes other cities of similar size to Idaho Falls all have impact fees with the exception of Pocatello. Director Fredericksen explained the three (3) proposed items in the resolution: setting forth reasonable methodologies and analyses for determining the impacts of various types of new growth and development of the identified City public facilities; the Impact Fee Study uses a calculation methodology in accordance with generally accepted accounting principles and other relevant principles; and the council adopts the Capital Improvement Plan and Development Impact Fee Study. Director Cramer reiterated the three (3) proposed items must occur and be approved in sequential order. Discussion followed regarding an immediate vote following the public hearings and any potential delays. Councilor Francis believes additional discussion may be needed with a decision at the March meeting. Council President Dingman does not believe there should be any delay of a vote as this would be inconsistent with previous council governing. Councilor Burtenshaw believes this is different than the land use laws. She questioned if this type of hearing allows more variability. She also believes most of the issue is centered around the implementation of impact fees. Mr. Fife stated the LLUPA are quasi-judicial hearings, these particular hearings are legislative hearings that are more broad and allows information in a variety of ways. Mayor Casper reiterated these items will be included on the February 24 City Council Meeting agenda.

Municipal Services/Briefing: The Disposition of City Property:

Director Alexander stated the city has been previously approached regarding the acquisition of city property. She described property adjacent to Pinecrest Golf Course which was donated to the city in 2017. This property consists of four (4) parcels, totaling 8.6 acres, was appraised "as is" at \$610,000, and was originally proposed for a holding pond for future golf course water usage. Director Alexander provided the verbiage of the donative quitclaim deed. Mr. Kirkham stated there are restraints on selling city property. He reviewed State statutes/procedures for sale of real property owned by city:

- Underutilized or not used for a public purpose
- May declare a minimum price for property
- May declare not to establish a minimum price
- Appraisal of property is not required
- Public hearing is required (publish summary of proposed action in newspaper 14 days prior to public hearing)
- Public auction to higher bidder

Mr. Kirkham also reviewed exchanges of real property owned by city:

- Exception to convey property to a "tax supported government unit"
- Sale or conveyance of real property
 - Fair market value
 - Less than fair market value (Mr. Kirkham believes less than fair market value should support or promote a specific public purpose objective, and retain a reversion interest in property)
- Lease property

General discussion followed regarding other city properties, including those properties that may be of interest to individuals. Director Alexander stated discussion occurs with all departments for intended uses/purposes. Mayor Casper believes any property needs to be addressed fairly for city interest or other individual/entity use. Per

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Councilor Francis, Mr. Kirkham stated any funds from a sale would be allocated to the General Fund with possible council discretion. Additional discussion followed regarding leased property. Per Councilor Radford, Director Alexander stated staff is currently working to consolidate all city property. Mr. Kirkham indicated some city properties may have conditions or restrictions.

Legal Department/Discussion: Possible Change to Record Retention Resolution for Audio/Cameras Recording:

Mr. Fife stated State statute allowed cities to create a public record for a period of time, and cities are allowed to classify the type of records, which the city clarified in 2016. He also stated there is the ease of recording, specifically for the IFPD, which creates a lot of data. He believes, rather than waiting for the State, the city can reclassify city media recordings and IFPD media recordings. If these recordings have no purpose/value, they could be destroyed in 120 days. If these recordings do have a purpose/value, these recordings could be retained for a minimum of two (2) years. Mr. Fife believes there is some risk to this, however, he also believes these recordings are risk-tolerance. Mayor Casper stated Mr. Fife has previously written versions for State legislators for several years, with no interest, although, there has been recent interest with local legislators and the AIC. Councilor Freeman stated he is in favor of the idea although he questioned who would review the recordings. Captain Tisdale does not believe it's the IFPD position to monitor all facilities although the IFPD would review any necessary recording. Mr. Fife believes the IFPD currently has a good system for reviewing recordings and indexing to a report, however, he believes the departments could use the 'first in, first out' method if there's no value with the recording. Director Alexander stated departments can submit a 'ticket' to the Information Technology (IT) Division who will then review the non-IFPD category. Per Councilor Francis, Captain Tisdale believes 120 days is an adequate timeframe. Mayor Casper believes the opportunity to use technology is not being used due to the cost of retention which is cost-prohibited. Director Alexander confirmed storage of technology is expensive. Per Councilor Burtenshaw, Mr. Fife stated Idaho is a one-party consent for recording. He also stated most of these recordings will not be audio. He does see a significant problem. Mayor Casper stated this item will be included on a future City Council Meeting agenda.

Mayor and Council/Follow-up Discussion: Public Comment:

Mayor Casper believes public comment language should create an environment without legal issues. Councilor Francis distributed an amended version for public comment. He explained his suggestions including the elimination of written public comments submitted to the Clerk (he believes the council could receive the same email(s)), the inclusion of 'expected' to follow guidelines and speakers are 'expected/required' (he believes this language should be stronger), and the inclusion of 'personally harassing' or 'discriminatory in nature' (he added this language per the city personnel manual). Discussion followed regarding the expectation/requirement versus encourage/request (Mr. Fife believes expectation/requirement puts the city at first amendment risk), comments pertaining to activities or performances of individual city employees, personally harassing or discriminatory in nature (Mr. Fife would not recommend these as he believes these have specific legal ramifications), the Americans with Disabilities Act of 1990 (ADA) accommodations, public forum for general public information, repeated comments toward an individual(s), public employees versus private employees, legal advice, and violation of rights. Following comments and additional discussion, 'expected' will be replaced with 'encouraged', 'personally harassing' or 'discriminatory in nature' will be eliminated, and 'typically' will be included with dialogue or questions. Mayor Casper stated future discussion could occur if needed.

There being no further business, the meeting adjourned at 6:11 p.m.

s/ Kathy Hampton

Kathy Hampton, City Clerk

s/ Rebecca L. Noah Casper

Rebecca L. Noah Casper, Mayor