

**March 12, 2020**

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, March 12, 2020, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

**Call to Order:**

There were present:

Mayor Rebecca L. Noah Casper  
Councilmember Michelle Ziel-Dingman  
Councilmember John Radford  
Councilmember Thomas Hally  
Councilmember Jim Freeman  
Councilmember Jim Francis  
Councilmember Shelly Smede

Also present:

All available Department Directors  
Randy Fife, City Attorney  
Kathy Hampton, City Clerk

**Pledge of Allegiance:**

Mayor Casper requested Paul White, Idaho Falls resident, to lead those present in the Pledge of Allegiance.

Mayor Casper noted the room has been reconfigured to allow social distancing in a public setting due to the Coronavirus (COVID-19).

**Public Comment:**

Mayor Casper requested any public comment. No one appeared.

Mayor Casper requested to add an item to the end of the agenda, an update and Q&A regarding COVID-19. It was moved by Councilmember Freeman, seconded by Councilmember Dingman, to amend the agenda with Mayor Casper's Good Faith Reason that this information has been received since the posting of the Council Meeting agenda. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

**Consent Agenda:**

The Airport requested approval of minutes from the February 8, 2020 Airport Leadership Workshop.

Idaho Falls Power requested approval of minutes from the February 27, 2020 Idaho Falls Power Board Meeting.

The Police Department requested approval of the Idaho Shelter Coalition Memorandum of Understanding.

Municipal Services requested approval of Bid IF-20-12, Purchase of Tractors for Parks and Recreation Department; Bid IF-20-M, Server Upgrades for Information Technology; Sole Source Purchase for G2 Fire Station Alerting System; Quote, Software and License Renewal for Information Technology; Treasurer's Report for January 2020; minutes from the February 24, 2020 Council Work Session and February 27, 2020 Council Meeting and Executive Session; and, license applications, all carrying the required approvals.

It was moved by Councilmember Smede, seconded by Councilmember Radford, to approve, accept, or receive all items on the Consent Agenda according to the recommendations presented. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally, Radford, Smede, Dingman. Nay – none. Motion carried.

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**Regular Agenda:**

**Idaho Falls Power**

**Subject: Underground Sewer Crossing License Agreement**

The Idahoan Foods plant on N. River Road is located across the street from the Idaho Falls Power Upper Plant. Through this agreement, Idahoan Foods will run a conduit carrying nutrient rich potato waste water under the road of the Upper Plant to an adjacent farm where it will connect to a center pivot irrigation system to water the farm.

Councilmember Freeman stated the road is a dirt service road which is only an access road for the plant. Mayor Casper clarified this waste water is not black water, it is common waste water in the potato industry. She stated this process must be permitted by the State. To the response of Councilmember Francis, Idaho Falls Power Compliance and Engineering Manager Richard Malloy stated this agreement is similar to a lease which can be revoked at any time.

It was moved by Councilmember Radford, seconded by Councilmember Freeman, to approve the Underground Sewer Crossing License Agreement with Idahoan Foods, LLC for \$1.00 and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Radford, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

**Community Development Services**

**Subject: Public Hearing – Rezone From R2 and PB to LC, Zoning Ordinance, and Reasoned Statement of Relevant Criteria and Standards, 4.695 acres including Lots 18-23, Block 22, Highland Park Addition and a portion of Park Village Division No. 1**

For consideration is a request to rezone 4.695 acres including Lots 18-23, Highland Park Addition and a portion of Park Village Division No. 1, from R2 and Professional Business (PB) to Limited Commercial (LC). The Planning and Zoning Commission considered this item at its February 4, 2020 meeting and recommended denial by a 5-1 vote. Staff's recommendation at the time was for approval. However, the Commission believed commercial was more appropriate along Fremont which is an arterial street instead of in the interior part of the neighborhood. In reviewing the Comprehensive Plan, this is a case where both options can be supported by various policies. Staff recommended the applicant consider any other alternatives that might work for their proposal and be more consistent with the comprehensive plan. They have requested the item be brought to the Council for consideration as originally described.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Community Development Services Director Brad Cramer reiterated the request is to rezone from a Residential zone to a Limited Commercial zone. He stated staff originally recommended approval, P&Z recommended denial, and, an alternative proposal is being presented from the applicant.

Slide 1 – Property under consideration in current zoning

Director Cramer stated the property is just over 4½ acres and has been zoned a number of different times, including Higher-density Residential as part of the original development, Professional Business, and, is currently R2 due to a City-initiated zoning from staff due to no activities occurring on the property. He indicated staff approved LC due to LC to the south and Planned Transition (PT) which suggests limited neighborhood commercial services or high-density residential and, commercial development to the east. He also stated a number of Comprehensive Plan policies suggested commercial could be appropriate in this area.

Slide 2 – Comprehensive Plan Future Land Use Map

Director Cramer stated PT is not strictly commercial or residential designation. It came to the City in the mid-1980's following a study of land uses along arterials that were changing from residential to commercial. He noted

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this pattern is along 17<sup>th</sup> Street. The consultants recommended arterials accommodate PT to protect existing residents in the block behind the commercial and, to consolidate access points on a busy road into a single point. Fremont Avenue was included in the study although it was only marked as a place to watch due to some limited change at that time. Director Cramer stated there is a pattern of this PT zone in this area – the first block has traditionally been commercial and, beyond that first block has traditionally been higher-density residential. At the time there were two (2) different PT Overlay zones, one (1) strictly for residential and one (1) for either residential or commercial. P&Z's denial was due to this reasoning.

Slide 3 – Aerial photo of property, currently undeveloped

Slide 4 – Additional aerial photo of property

Director Cramer indicated P&Z believed Latah Avenue and Higham Street was the natural break point between commercial and residential.

Slide 5 – Photo looking west down Higham Street

Slide 6 – Photo looking north along Latah Avenue

Slide 7 – Photo looking northwest across the property

Slide 8 – Considerations for rezoning (11-6-5.I.): 1-Consistent with the principles of the Comprehensive Plan; 2-Evaluation of the potential effect on the following: Traffic congestion as a result of development or changing land use in the area; Exceeding the capacity of existing public services; Nuisances or health and safety hazards that could have an adverse effect on adjoining properties; Recent changes in land use on adjoining parcels or in the neighborhood of the proposed Zoning Map amendment.

Director Cramer stated the roads could accommodate the traffic, however there was a recent rezone of R3A on Fremont Avenue to allow residential at a height greater than two (2) stories. The PT was limited to two (2) stories. Therefore, the R3A zone is an alternative.

Slide 9 – Zones which may be considered consistent with the Comprehensive Plan including LC, R3A (primarily a residential zone), TN (not written very well for a large, single parcel and is more of a form-based code), R3, and, R2 (the current zone)

Slide 10 – LC Development Requirements: 20' landscape along all streets, 10' if parking is to rear or side of building; 20% of site must be landscaped; 20' landscape buffer adjacent to residential, 10' if includes 8' masonry wall or opaque fence; 24' height limit on buildings next to single-unit residential unless building is moved an additional 2' from property line for every 1' of extra height; No blank walls facing a street; Residential development must meet R3A standards.

Director Cramer stated the height limit does not apply as these are not single-unit residential dwellings.

Slide 11 – R3A Development Requirements: 15' landscape along all streets; 20% of site must be landscaped; 10' landscape buffer adjacent to residential, 7' if includes 8' masonry wall or opaque fence; 24' height limit on buildings next to single-unit residential unless building is moved an additional 2' from property line for every 1' of extra height. Director Cramer stated there is no height limit. He also stated he agrees with the P&Z logic to deny the LC. He understands Latah Avenue and Higham Street work as a natural break between commercial and residential. He believes the R3 and R2 would be appropriate zones. He also noted there were no requirements for height, buffer, and landscaping when the PT was written. Most of these standards are currently in normal development practice and have been included in the code.

To the response of Councilmember Francis, Director Cramer stated PT is meant to blend arterial to new development to existing neighborhoods and, the other referenced zones could be considered or the applicant could withdraw the application if these zones are not acceptable. To the response of Councilmember Freeman, Director Cramer stated access to the river would remain by the City's right-of-way; he is unsure when the property became owned by the current owner, and, he deferred the zoning question at the time of purchase to the owner.

Mayor Casper requested public comment from the applicant/applicant's representative.

Blake Jolley, Connect Engineering, appeared on behalf of applicant. Mr. Jolley stated, per discussion with City staff, the PT does fit with the zone. He stated the initial request was LC as the LC seemed to fit within the area however, the P&Z brought to light some different issues. Mr. Jolley stated the request is now taking LC to R3A as most of the uses in the LC were not favorable to the adjacent neighbors. He believes the R3A would still allow professional business offices as a non-evasive use. Mr. Jolley believes the R3A around the corner would be similar

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to this development and would be utilized in many different ways. He believes this zone would allow for residential uses and professional offices and, the PT would help soften the transition. To the response of Councilmember Freeman, Mr. Jolley deferred the time of ownership and the zone at the time of ownership to the owner. To the response of Councilmember Francis, Mr. Jolley stated the Traditional Neighborhood (TN) was discussed in depth, although the TN didn't give the preferred options. The R3A allows for both uses without the restrictions. Councilmember Radford questioned the interest of TN if three (3) stories and small amounts of limited commercial were allowed. Mr. Jolley deferred this question to the owner.

David Kingston, property owner, appeared. Mr. Kingston reviewed the history of property, stating he has owned the property for 25-30 years. He stated the purpose of acquiring the property was to build an office building similar to the building on the south. He indicated the zoning request, which he believes was R3, was approved. Ultimately, the building did not occur due to cost and partnership. Mr. Kingston stated approximately 50 tax notices have been received for this property, which was difficult from an administrative standpoint, so there was a request for one (1) parcel designation. This request is for that zoning. Mr. Kingston believes any concerns from the neighbors were dispelled at that time. He indicated he has been contacted by the Department of Energy (DOE) due to a shortage of housing. He believes some commercial could also be constructed although options are needed. Mr. Kingston stated his intent is to live on this property. Mayor Casper clarified the public hearing is for the zone, not for the intended development. She noted the staff report outlines the zoning history of the property. To the response of Councilmember Radford's previous TN question, Mr. Kingston stated the TN is not economically feasible.

Mayor Casper requested additional public comment.

Greg Crockett, Idaho Falls attorney, appeared. Mr. Crockett stated he is representing the residents and owners of North Park Village. There are 42 condominium units and approximately 70+ residents at North Park Village. The density is approximately 13 units per acre. Mr. Crockett stated these residents are opposing the rezoning application of LC and request the P&Z recommendation that the zoning not be changed. North Park Village is contiguous to property on the south and the east that is applied to be re-zoned. Mr. Crockett stated he recently heard of the R3A possibility as this re-zone request has been closely followed. He indicated R3A is different although density is the issue being 35 units per acre. He suggested this area does not accommodate buffering. He noted this area is an exceptionally unique neighborhood, including Freeman Park, the extension of the Riverwalk, Idaho State University (ISU) campus, etc. Mr. Crockett understands housing is needed and the residents are not opposed to well-planned housing development at this location although they believe 35 units per acre is too much and not compatible. He believes adjacent 4-plexes also have 13 units per acre which is consistence. He also believes the characteristics of this neighborhood deserve to be preserved and not degraded. Mr. Crockett read the definition of the R2 zone from the staff report. He believes the R2 zone fits perfectly for this property. He stated his remarks for this hearing were based on the application of LC. He requested, if the application has changed, that this item be remanded back to P&Z and be considered on a new application as R3A. He indicated the residents are happy with their location. He stated there is no intent for development although, due to the uniqueness of this neighborhood, it shares no purpose to rezone without an idea of what is intended. Nothing has been offered by the developer. Mr. Crockett pointed out, per staff report, he was unsure if a neighborhood meeting was held or will be held. An informational neighborhood meeting with Mr. Kingston might be the right first step. Mr. Crockett is unsure if the neighbors will like what's developed. He requested the zone remain as R2.

Per Mayor Casper's request, Director Cramer stated the official application has not changed from LC to R3A. As is typical in rezone hearings, ideas and options are explored with other options that may fit the developer's plan which is a less-intense zone. These decisions may be made before or at the meeting. Historically it has been okay to modify if less-intense than the original request. Director Cramer stated, per discussion with the applicant, the applicant believed the R3A would be acceptable and is being proposed as an alternative as it is less-intense than originally requested. To the response of Councilmember Francis, Director Cramer believes TN should not be considered as TN is very difficult on this site as it is one (1) large parcel. To the response of Councilmember Freeman, Director Cramer confirmed R3A has less landscape buffering than LC. He also confirmed there are no height limits other than constraints/restrictions of the site. To the response of Councilmember Radford, Director Cramer reviewed the density requirements: R2 allows 17 units per acre with a limitation of no more than four (4)

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units in a building and a height limit of two (2) stories; R3 and R3A allow 35 units an acre, have no height limitations, buffering and landscaping are the same although R3 does not allow professional office; and, all residential in LC reverts to the R3A standards.

Mr. Crockett reappeared. He noted the density in R3A and LC is the same – 35 units per acre total 164 units on the site. He believes this is too crowded. He requested the Council consider what could happen under this rezone.

Dr. Paul Brook, Presto, appeared. Dr. Brook stated he has resided here for 30 years. He reiterated Mr. Kingston's comments regarding the previous building plans and, a majority of the residents agreed with the building. Approximately 15 years later another meeting occurred with Mr. Kingston who indicated he would construct high-end condos, which was also accepted. It was later stated there would be approximately 100 units. Several residents believed the neighborhood was being destroyed. Dr. Brook stated the residents understand and are in favor of development in the flavor of the neighborhood. He believes there is a lot of land south of John's Hole Bridge to accommodate DOE requested housing. He is hopeful the Council will support the P&Z decision.

Ralph Francis, Presto and president of North Park Village condos, appeared. Mr. Francis stated he questioned the zoning office regarding the LC and was told the buildings could not exceed three (3) stories although he is now hearing this is unlimited. He expressed his concern of blending high-density condos, constructed to 6-7 stories, with the current 2-story buildings. Mr. Francis stated he agrees with Dr. Brook regarding development although he believes this should remain a pristine area to enjoy. He questioned the number of vehicles based on the number of 164 units. He believes there should be a presented plan. He is unsure how to approve the rezone when they don't know what could be built and plans could change. The R2 would allow plush condos and there would be no problems selling plush condos in the area. An eye sore will be there for a long time.

Sheila Montague, Presto, appeared. Ms. Montague stated she is against the LC. This would buffer against the greenbelt and Freeman Park that the City has spent millions of dollars to make pristine. Ms. Montague does not believe high-rises fit in Idaho Falls and would look out of place. She considers this space special and is part of the main draw. Ms. Montague believes the zoning should stay R2.

Brett Hutchins, Presto, appeared. Mr. Hutchins stated he rides his bicycle and he drives very little. He believes the City has done a wonderful job creating walkable/bike-able paths. He also believes the City has the power to control what is next to the greenbelt path. He expressed his appreciation for the paths.

Robert Hiramoto, North Park Village, appeared. Mr. Hiramoto stated he has lived here for ten (10) years. He indicated he read staff comments and is nervous about the LC zone. This is a unique residential area. Diversified housing does not enhance, balance, or build a community. There is a need for partnership for developers and the community. Mr. Hiramoto questioned the goal of development. He prefers to see something that fits into the area. He pointed out the service store and the restaurant on Fremont, stating the restaurant has struggled for several years. These few services are not used when Idaho National Laboratory (INL) staff is not there. Mr. Hiramoto believes services must be viable, he does not believe this will happen. He emphasized a partnership in the area that has aesthetic beauty and adds to the special place that currently exists.

Dillon Johnson, Idaho Falls, appeared. Mr. Johnson stated there is consistency with the previous established plan. He also stated Fremont has substantial undeveloped land. He questioned pushing LC into the current residential.

To the response of Councilmember Francis, Mr. Kingston stated this property is divided into two (2) different zones. He indicated the zoning was requested as an option although any development plans are not far enough along to get the neighbors' blessings. He believes he must have the zoning first. To the response of Councilmember Francis, Director Cramer confirmed the R3A zone fits the standards. Councilmember Smede questioned a new zone request from the applicant that P&Z did not discuss. Director Cramer stated this is not typical but not unprecedented. Mayor Casper questioned if the Council is limited to the recommended actions or could this item be sent back to P&Z. Director Cramer stated the item could go back to P&Z. To the response of Councilmember Freeman, Director Cramer stated R2 with a PT overlay is a possibility as it would allow commercial uses.

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Councilmember Radford questioned the height restrictions in the R3A in this area. Director Cramer stated it would depend how the buildings are built. He stated apartments are typically 13-15 units per acre due to the site constraints unless parking is vertical. Each unit must have two (2) parking stalls provided. As the number of units grow, the size of the parking grows, and, the amount of landscaping grows. If structured parking is built, which is incredibly expensive, the building could be as tall as wanted although there are other limitations/factors, including lumber construction and firefighting concerns. He stated any restraints would be economic and design-based and not from the zone. To the response of Councilmember Francis, Director Cramer confirmed a portion of this parcel is currently zoned PB.

Mr. Jolley reappeared. As a follow-up to Councilmember Radford, Mr. Jolley stated 35 units per acre on five (5) acres equals approximately 174 units. A minimum of two (2) beds per dwelling requires 340 parking spaces with roughly 320 square feet per parking space which equates to approximately 3.15 acres. The landscaping would add .99 acres. The five (5) acres has already been met with no buildings. This is not a possibility without extreme vertical parking. 13-15 units per acre is a reality and is typical within five (5) acres. Mr. Jolley stated economics is driving this development to be amenable and also fit in the area. He pointed out R3A is immediately adjacent around the corner.

Mayor Casper closed the public hearing.

Councilmember Hally stated he is normally pro-development although he considers Freeman Park and the river crown jewels. He expressed his concern for development along the river and the density. He prefers to see most of this area remain residential. He is in favor of R2. Councilmember Freeman expressed his concern regarding the height issue although he is not completely satisfied with Mr. Jolley's explanation. He concurred this area is the crown jewel of the City and he prefers residential due to the proximity of the river. He also expressed his concern for the uncertainty of the property, even with the R3A. He prefers to leave as is until there is a more certain plan moving forward. Councilmember Francis sees the reasoning for the R3A since R3A is adjacent. He also realizes the parking would limit the number of units per acre. Councilmember Dingman concurs with staff that there could be several ways to deal with this property. She also believes there are mixed messages in the Comprehensive Plan when applied to particular pieces of land, specifically regarding development of niches along the Snake River, seeking compatible uses adjacent to the Riverwalk, and, seeking diversity of housing. She stated the Comprehensive Plan recommends neighborhood meetings. She also stated she is in support of denying the rezone. She believes the diversity of housing applies as well as other zoning designations in the Comprehensive Plan. She also believes it fits better with R2. Mayor Casper stated decisions are based on laws, rules, preferences and sentiments, and, principles and there is a long-held respect for the tradition of land ownership. The right to own land is special and is typically respected however, there may be community limitations during a deliberative and representative process. Property is not typically developed in order to lose money or be outlandish that becomes undesirable property. Mayor Casper indicated all growing cities are experiencing extreme housing shortages. She stated in-fill development is not easy to come by and she believes the difference between R2 and R3A is not significant enough to overcome. Councilmember Francis believes he would be reluctant with LC. He also believes there is a fear of the future and although the development is unknown there is still a risk. Mayor Casper believes a neighborhood meeting should be more encouraged or required. She also questioned the possibility of adding a third-story allowance to R2. Councilmember Radford stated the plan cannot be seen prior to determination of zone which creates a 'chicken and egg' process. He agrees there is a need for mixed use along this area and density is needed in beautiful places including the river. There needs to be a way to solve these problems. Councilmember Radford also agrees with neighborhood meetings. His preference is to send this item back to P&Z and, let the neighborhood meeting take place. Councilmember Hally believes in the density in zoning. He also believes the use of the land for the developer and marketplace will take care of the density. Councilmember Smede stated she has been comparing R2 and R3A and she does not believe there are a lot of differences, however, she believes a new zoning that has not been previously discussed is awkward. It was moved by Councilmember Radford, seconded by Councilmember Freeman, to remand this back to the Planning and Zoning Commission. Councilmember Francis believes the P&Z notes based on commercial versus residential emphasis are helpful, however, he is not in favor of sending this back to P&Z. Mr. Fife believes clarification is needed for the P&Z. Councilmember Radford prefers the P&Z to consider LC to R3A and request a neighborhood meeting be held. Mr. Fife stated City Code does not

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require a neighborhood meeting therefore the Council does not have that authority for request. It was then moved by Councilmember Radford, seconded by Councilmember Freeman, to remand this back to the Planning and Zoning Commission to consider the change from a R2 and PB to R3A as presented by the applicant. Councilmember Freeman believes the natural break is still germane to a different zone. He also believes the discussion will present options to move forward. Roll call as follows: Aye – Councilmembers Radford, Freeman, Smede, Francis. Nay – Councilmembers Dingman, Hally. Motion carried.

**Amended Item – Update and Q&A Regarding Coronavirus COVID-19**

Mayor Casper stated the City has received many inquiries regarding COVID-19. She emphasized Idaho has yet to have a verified case of COVID-19. She stated the best practice for the public’s response is to be led by Eastern Idaho Public Health (EIPH). She also stated the City is working behind the scenes to be prepared for the impacts of the virus so City services will continue. She detailed steps being taken for health and safety. Mayor Casper stated cancellations have started to occur in the area and the City will follow recommendations of the Governor or Public Health officials to limit large gatherings or to close City offices. She emphasized cancellations have been voluntary at this point. She believes it is possible to host some gatherings responsibly, the Council meeting is an example. She noted there needs to be a balance around cancellations as cancellations can cause other problems. She stated it is essential to not panic and to adjust to the new hygiene practices. She noted all City services will not stop. Public Information Officer Bud Cranor reiterated the City will obtain information from EIPH. He reviewed information available on the City’s website. Mayor Casper stated a decision was made to move to a Unified Command (UC) Response. She noted that model was used in planning for the eclipse. Idaho Falls Fire Department Fire Chief Duane Nelson stated the UC has been in close contact with EIPH which covers eight (8) counties in the region. He stated various players and groups have come together to plan and coordinate as communities are affected and, exercises have taken place in preparation for cases in Idaho. He reiterated there is no known case in Idaho although changes will occur when the first case in the community is confirmed. He emphasized the UC is actively engaged to provide safety for the community. Chief Nelson stated it is important to continue normal business with good hygiene and not to panic. He also stated EIPH is the authority over the pandemic although the City will be part of the solution. The UC will rely on large agency information to create strategies and objectives to move forward. Although there is a standing UC in Bonneville County, where EIPH resides, the UC will be moving toward an area command to involve other counties and regions. Chief Nelson believes this is the right step at the right time to prepare for a community event. Councilmember Radford questioned if there is a budgetary item to request employees to stay home. Mayor Casper stated there is City Code and State law that grants limited emergency powers to appropriate funds as a stop gap until there is a unified command to address the concern. Steps can be taken, however, dialogue may be needed to consider certain steps. Mr. Fife stated the Council has the ultimate authority. The Mayor has authority over staff and can send staff home in an emergency on a day-to-day basis. To the response of Councilmember Radford, Chief Nelson stated protocols from the Centers for Disease Control and Prevention (CDC) guidelines are in place to transport patients. Emergency services has also implemented additional questions at dispatch to minimize interactions with patients at their homes. Following a transport, equipment to decontaminate the ambulance and the contents prior to the next call are in place. Chief Nelson stated there is no need to worry about cross-contamination when contacting emergency services. He reiterated there are no positive tests in the community. Mayor Casper stated Teladoc can also be used. To the response of Councilmember Freeman, Chief Nelson stated test kits are available in the community but are only being used based on the necessity of the patient and symptoms. He believes test results are received within a day.

**Announcements:** There were no announcements.

**Adjournment:**

There being no further business, the meeting adjourned at 9:52 p.m.

s/ Kathy Hampton  
CITY CLERK

s/ Rebecca L. Noah Casper  
MAYOR