

## February 9, 2021 Work Session

The City Council of the City of Idaho Falls met in Council Work Session, Tuesday, February 9, 2021, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:15 a.m.

### Call to Order and Roll Call:

There were present:

Mayor Rebecca L. Noah Casper  
Council President Michelle Ziel-Dingman (via WebEx)  
Councilor John Radford (via WebEx)  
Councilor Thomas Hally  
Councilor Jim Freeman (via WebEx)  
Councilor Jim Francis  
Councilor Shelly Smede (via WebEx)

Also present:

Pamela Alexander, Municipal Services Director  
Randy Fife, City Attorney  
Kathy Hampton, City Clerk

Mayor Casper called the meeting to order at 7:15 p.m. with the following items:

### Acceptance and/or Receipt of Minutes:

It was moved by Councilor Francis, seconded by Councilor Hally, that Council receive the recommendations from the Planning and Zoning Commission pursuant to the Local Land Use Planning Act (LLUPA). Roll call as follows: Aye – Councilors Hally, Radford, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

### Calendars, Announcements and Reports:

February 17, City offices closed for Presidents Day

Mayor Casper noted, due to her absence, Council President Dingman will be leading the February 11 Council Meeting.

### Liaison Reports and Council Concerns:

Council President Dingman had no items to report.  
Councilor Freeman had no items to report.  
Councilor Smede had no items to report.  
Councilor Radford had no items to report.  
Councilor Hally stated the Idaho Falls Fire Department (IFFD) ladder truck will be received in March.  
Councilor Francis had no items to report.

### Coronavirus (COVID-19) Update:

Mayor Casper stated there were 449 cases State-wide, 64 cases in the Eastern Idaho Public Health (EIPH) District, and 29 cases in Bonneville County. This continues to be a lower case rate and as a result, the number of active cases has decreased. The rate per 10,000 in Bonneville County has decreased below the ten (10) active cases. Due to this lower active cases being achieved for two (2) weeks in a row, Bonneville County has moved from the Moderate Risk level to the Minimal Risk level. Mayor Casper indicated there are several changes from the Moderate Risk to the Minimal Risk although the most notable change is the lack of a mask mandate requirement. She stated it has been suggested that mask wearing should continue. She also stated vaccinations are continuing. She noted IFFD Fire Chief Duane Nelson stated 300 vaccinations could be delivered a day, although only approximately 80 doses are being

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received weekly; Idaho is receiving fewer doses than expected; and the vaccination plan with EIPH has been modified.

### Reconsideration of Resolution 2020-29 and possible action to amend or rescind:

Council President Dingman indicated several business owners closed their businesses due to the resolution passed by the Council in November 2020 (Resolution 2020-29) as the business owners believed they would be cited with a misdemeanor if the six-foot social distancing could not be maintained. She does not believe this was the intent of the resolution. She believes the intent was to communicate a variety of things – that Council was in support of COVID mitigation strategies (at that time there were hundreds of cases); was attempting to prevent super-spreader events (prior to the holidays); and was communicating the support of governing bodies (the governor’s office and EIPH) while realizing the hospitals were overwhelmed. Council President Dingman believes the result of this resolution was mixed. She also believes this resolution continued to muddy the waters in regard to law enforcement as no citations were issued for public events, and the post-holiday COVID spike did not occur. Council President Dingman stated EIPH, the governor’s office, and the school districts have modified their orders and policies since the passage of the resolution. She indicated she is in favor of rescinding the resolution or thoughtfully re-doing the resolution as she hates to see this confusion continue. Councilor Francis stated he agrees with Council President Dingman on many respects. He believes paragraphs 2, 3, and 4 should be rescinded from the resolution which references Stage 2 Orders from Governor Brad Little, which is no longer in effect and may cause confusion for the Parks and Recreation (P&R) Department. He expressed his concern for P&R. He suggested keeping a portion of paragraph 1 to support the EIPH Regional Response Plan. He understands the EIPH Regional Response Plan is a direction. Councilor Freeman suggested removing the first four (4) WHEREAS statements from the resolution. He also agrees to strike-out paragraphs 2, 3, and 4. Councilor Smede believes the Council should be flexible and upcoming situations should be addressed as they occur. She also believes Resolution 2020-29 should be rescinded and a new resolution be approved. Councilor Radford believes the resolution should be modified versus rescinding. He does not believe a resolution will have the same impact as an ordinance. Per Council President Dingman, Mr. Fife explained an ordinance is a statement of law by the governing board that applies to everyone within the jurisdiction with the potential for a misdemeanor, infraction, or civil fine; and a resolution is a statement of intent by the governing board which does not have the effective law although it has the effective persuasion and is the Council’s view/statement/opinion of process or policy. He also noted a resolution can be effective immediately. Council President Dingman believes the conversation has been framed that the resolution is an ordinance. She does not believe amending the resolution will have much impact. She also believes rescinding the resolution falls in line with the other governing bodies. Councilor Radford believes that rescinding the resolution will give a message that the Council thinks this (pandemic) is over. Councilor Francis agrees. He believes the messaging is crucial as the Council is not giving up trying to mitigate this disease. Per Council President Dingman, Mr. Fife indicated legal staff explained the governor’s orders to any public inquiry. Councilor Hally stated his focus in on the virus, he strongly believes a statement should be made regarding mask wearing. Per Councilor Radford, Mr. Fife explained rescinding and superseding a resolution.

It was moved by Councilor Francis, seconded by Councilor Radford, that Council amend Resolution 2020-29 by removing the first four (4) WHEREAS clauses/recitals and removing, of the actual resolution, paragraphs 2, 3, and 4 leaving paragraph 1 in place as worded and work with Legal to rewrite the resolution for February 11 (Council Meeting) with a new resolution to supersede 2020-29. Councilor Freeman suggested to remove ‘will act to’ from paragraphs 1 and 2. It was then moved by Council President Dingman, seconded by Councilor Smede, to amend Councilor Francis’ motion of amending Resolution 2020-29 to withdraw the first four (4) WHEREAS clauses, to strike paragraphs 2, 3, and 4 and to modify paragraph 1 to strike the words ‘will act to’ in the first sentence. Roll call on the amended motion as follows: Aye – Councilors Freeman, Francis, Hally, Radford, Smede, Dingman. Nay – none.

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Motion carried. Roll call on the new motion as follows: Aye – Councilors Dingman, Smede, Radford, Hally, Francis, Freeman. Nay – none. Motion carried. Following brief discussion, it was then moved by Council President Dingman, seconded by Councilor Francis, to amend the modified Resolution 2020-29 to remove ‘and any legal mandates’ from paragraph 1. Roll call on the motion as follows: Aye – Councilors Smede, Francis, Freeman, Hally, Radford, Dingman. Nay – none. Motion carried.

Discussion followed regarding wording/inclusion for a resolution at the February 11, Council Meeting to supersede Resolution 2020-29.

Mayor Casper clarified the City has never had a mask mandate, any requirement has come from EIPH’s order, which is no longer in affect. She also clarified the City will follow the laws of the State, which states the district and the governor can make orders. She reiterated a resolution is an expression of the Council’s intent/will and is meaningful although it does not have the force of law.

There being no further business, the meeting adjourned at 8:45 a.m.

s/ Kathy Hampton  
Kathy Hampton, City Clerk

s/ Rebecca L. Noah Casper  
Rebecca L. Noah Casper, Mayor