



# City Council Meeting

680 Park Avenue  
Idaho Falls, ID 83402

## Minutes - Final

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Thursday, April 14, 2022

7:30 PM

City Council Chambers

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**1. Call to Order.**

**Present:** Mayor Rebecca L Noah Casper, Council President Michelle Ziel-Dingman, Councilor John Radford, Councilor Thomas Hally, Councilor Jim Freeman, Councilor Jim Francis, and Councilor Lisa Burtenshaw

Also present:

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

**2. Pledge of Allegiance.**

Mayor Casper requested Josh Lindula, 9th grade student from Skyline High School and Scout Troop #310, to lead those present in the Pledge of Allegiance.

**3. Public Comment.**

Mayor Casper announced she will not re-open the public hearing regarding Accessory Dwelling Units, which is an item currently included on the agenda.

Bob Smith, Idaho Falls resident, appeared. Mr. Smith requested response from the councilmembers regarding a letter he previously submitted. He noted some councilmembers have responded.

**4. Consent Agenda.**

**A. Municipal Services**

**1) Treasurer's Report for February 2022**

A monthly Treasurer's Report is required pursuant to Resolution 2018-06 for City Council review and approval. For the month-ending February 2022, total cash, and investments total \$153.4M. Total receipts received and reconciled to the general ledger were reported at \$23.9M, which includes revenues of \$22.5M and interdepartmental transfers of \$1.4M. Total distributions reconciled to the general ledger were reported at \$14.1M, which includes salary and benefits of \$5.6M, operating costs of \$7.1M and interdepartmental transfers of \$1.4M. As reported in the attached investment report, the total investments reconciled to the general fund were reported at \$140.6M.

**2) Minutes from Council Meetings**

March 28, 2022 City Council Work Session; March 31, 2022 City Council Meeting; April 5, 2022 County-City Meeting; April 8, 2022 Executive Session; and April 8, 2022 Budget Workshop

**3) License Applications, all carrying the required approvals**

**Recommended Action:**

It was moved by Council President Ziel-Dingman, seconded by Councilor Burtenshaw, to approve, accept, or receive all items on the Consent Agenda according to the recommendations presented. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Dingman, Radford, Freeman, Francis. Nay - none.

**5. Regular Agenda.****A. Public Works****1) Right-of-Way Vacation - Tara Street, West of Skyline Drive**

Public Works recommends vacation of Tara Street right-of-way located west of Skyline Drive, beginning forty feet west of the east section line of the southeast quarter of Section 23, Township 2 North, Range 37 East of the Boise Meridian as depicted in the attached Exhibit. The Developer desires the vacation to better facilitate planned development of this property.

Public Works Director Chris Fredericksen appeared. He stated these requests are in response to development. He also stated there are no concerns/issues with the city. Per Councilor Francis, Director Fredericksen stated this land is undeveloped and there is no intention for the street to continue to the west, although, it is still likely to be used as a drive access for private parking for the multi-family development.

It was moved by Councilor Burtenshaw, seconded by Councilor Hally, to approve the right-of-way vacation ordinance under a suspension of the rules requiring three complete and separate readings and request that it be read by title. The motion carried by the following vote: Aye - Councilors Freeman, Radford, Burtenshaw, Francis, Dingman, Hally. Nay - none.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

**ORDINANCE NO. 3453**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR THE VACATIONS OF RIGHT-OF-WAY LOCATED WITHIN THE CITY OF IDAHO FALLS AND LEGALLY DESCRIBED IN SECTION 1 OF THIS ORDINANCE; PROVIDING THAT TITLE TO SAID VACATED RIGHT-OF-WAY SHALL VEST AS SPECIFIED IN SECTION 3 OF THIS ORDINANCE; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

**2) Right-of-Way Vacation - Capotil (Capital) Hills Addition and Dwight's Addition**

Public Works recommends vacation for all remaining street and alley right-of-way dedications made by Capotil (Capital) Hills Addition and Dwight's Addition as shown in Exhibit "B". The City of Idaho Falls has purchased the surrounding property and intends to build a new Community Policing Facility at this location.

Director Fredericksen stated this process has been reviewed by all appropriate staff. He also stated this is one of the last items remaining for construction of the police facility. Per Councilor Freeman, Director Fredericksen believes these plats may be 100 years old.

It was moved by Councilor Hally, seconded by Councilor Burtenshaw, to approve the right-of-way vacation ordinance under a suspension of the rules requiring three complete and separate readings and request that it be read by title. The motion carried by the following vote: Aye - Councilors Hally, Radford, Francis, Dingman, Burtenshaw, Freeman. Nay - none.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3454

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR THE VACATION OF STREET AND ALLEY RIGHT-OF-WAY LOCATED WITHIN THE CITY OF IDAHO FALLS AND LEGALLY DESCRIBED IN SECTION 1 OF THIS ORDINANCE; PROVIDING THAT TITLE TO SAID VACATED RIGHT-OF-WAY SHALL VEST AS SPECIFIED IN SECTION 2 OF THIS ORDINANCE; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

## **B. Community Development Services**

- 1) Development Agreement, Final Plat and Reasoned Statement of Relevant Criteria and Standards, Southpoint, Division No. 11.

Attached is the application for the Final Plat and Reasoned Statement of Relevant Criteria and Standards for the Southpoint, Division No. 11. The Planning and Zoning Commission considered this item at its July 6, 2021, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

Councilor Francis stated there is an area that will connect to the neighborhood as a walkable area, there are 37 buildable lots, and half of the money for the cost of the bridge over the canal has been set aside by the developer.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the development agreement for Southpoint, Division No. 11, and give authorization for the Mayor and City Clerk to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Hally, Radford, Burtenshaw. Nay - none.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to accept the Final Plat for Southpoint, Division No. 11 and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. The motion carried by the following vote: Aye - Councilors Freeman, Francis, Hally, Radford, Burtenshaw, Dingman. Nay - none.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Southpoint, Division No. 11, and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Dingman, Radford, Francis, Burtenshaw, Hally, Freeman. Nay - none.

- 2) Quasi-Judicial Public Hearing-Rezone from R1, Single Dwelling Residential to LM, Light Manufacturing and Heavy Commercial, and R&D, Research and Development with the Limited Development and Limited Development Approach Surface Airport Overlay Zones, Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, approximately 127 acres located in Section 1, Township 2 North, Range 37 East.

Attached is the application for Rezoning from R1 to LM and R&D with the Limited Development and Limited Development Approach Surface Airport Overlay Zones, Zoning Ordinance, and Reasoned Statement of Relevant Criteria and Standards for approximately 127 acres located in Section 1, Township 2 North, Range 37 East. The Planning and Zoning Commission considered this item at its February 2, 2021, meeting and recommended to the Mayor and City Council denial of the zone change with a unanimous vote. Staff concurs with this recommendation.

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

Community Development Services (CDS) Director Brad Cramer appeared. He stated this property has been purchased by the Idaho Falls Regional Airport (IDA).

He presented the following:

Slide 1 - Property under consideration in current zoning

Director Cramer stated there are two zones being requested, noting this is currently all zoned R1 (Single Dwelling Residential). He identified the area to the west and the north is being requested to LM, and the far east is being requested to R&D. He also stated when IDA purchased the property, per grant assurances with the FAA (Federal Aviation Administration), the property needed to be rezoned to allow IDA activities to occur as necessary. Director Cramer stated the LM zone was originally written for the airport in the old zoning code. He also stated this was originally proposed to all be rezoned as LM, however, a number of neighbors who attended the P&Z (Planning and Zoning) Meeting requested a buffer zone next to the single-family housing as LM was not appropriate, which the P&Z concurred. Director Cramer stated since that time, CDS and IDA staff held a neighborhood meeting to discuss what would be appropriate and acceptable, and from that meeting staff determined the boundaries around that subdivision that R&D would be more appropriate as far as commercial uses and is meant to be a higher standard development with a greater buffer. Therefore, Director Cramer stated staff is recommending the buffer around the subdivision, however, he indicated the current map was not taken back to P&Z as staff believed this addressed the discussion regarding an appropriate buffer. He also indicated if council does not agree, this item could be remanded back to P&Z. He believed this hearing allowed the opportunity for the neighbors to still speak.

Slide 2 - Aerial photo of property under consideration

Director Cramer stated this property is east of the Snake River, north of Iona Road, and south of Sage Lakes Golf Course.

Slide 3 - Additional aerial photo of property under consideration

Director Cramer identified the existing subdivision, stating the remaining property is undeveloped.

Slide 4 - Airport Overlay Map

Director Cramer stated this property has two different designations which are included in the request - Limited Development Overlay Zone which further restricts what can happen on the site; and Limited Development Approach Surface, which is a critical area that the IDA is trying to protect from the moratorium that previously occurred.

Slide 5 - Comprehensive Plan

Director Cramer stated this area is a mix of General Urban, where it's expected to find a variety of

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housing types and smaller commercial services, and Special Use, noting all of IDA is considered Special Use.

Councilor Freeman believed the P&Z recommended the entire area to be R&D. Director Cramer stated staff did not agree as they believed LM is written to accommodate the airport. Councilor Burtenshaw requested explanation of the public notification for the neighborhood meeting. Director Cramer believes all residents in the subdivision and along the adjacent road received notification, the PowerPoint that was shown included similar maps to the current slides, believing there was confusion with the uses as the Airport Overlay listed uses do not match exactly what the zone uses allow. He explained the most restrictive zone applies. He also stated there was discussion regarding the uses, the airport issues, and the Comprehensive Plan. Director Cramer indicated staff reviewed comments received so they could be addressed. Per Mayor Casper, Director Cramer stated the LM zone is the only actual use for the airport although R&D could be supportable. He also stated this eliminates heavier uses and retail-oriented uses as staff wants to be careful with any future uses with direct access into the neighborhood. Councilor Francis questioned if anything that is incompatible with the airport would be eliminated in LM. Director Cramer stated staff would take the uses allowed in LM and the uses allowed in the Overlay, and if the uses are only allowed in one or the other, the most restricted would apply. Per Councilor Francis, Director Cramer confirmed there are more options in the LM than the R&D. Councilor Francis believes this would be feasible as R&D with limited development options. Director Cramer believes this would eliminate all airport functions on the property.

Mayor Casper requested any public comment.

Chris Jensen, Cove Fort Drive, appeared. Mr. Jensen stated this affects him and his neighborhood. He does not believe this was shown to every member of the neighborhood as public notices are usually found in a ditch. Mr. Jensen questioned the R&D zone and how big it is with the possibility of being next to a drinking establishment that is allowed in LM. He believes there are a lot of different options in the LM and he requested this be considered as this is a family neighborhood. He understands this needs to be changed for the airport, but he wants to know what will be put there. He also wants to see a side-by-side comparison of the LM and the airport, and he believes this list should be published for the neighborhood so they can see what's going in. Mr. Jensen questioned why? He does not want his street to become a busy street. He requested the council consider these requests.

Mayor Casper clarified there is no intent with the proposal to put LM next to residential.

Gregg Baczuk, Tradition Circle, appeared. Mr. Baczuk stated he did not receive an invitation to the neighborhood meeting.

Blane Wilson, Fairway Estates neighborhood, appeared. Mr. Wilson questioned, per the R&D zone, if the street would go through the neighborhood and if it would become an access portal for that area. Mayor Casper clarified that is a development question and is not germane to the rezone issue. Mr. Wilson stated he would hope the consideration be made for the neighbors that access to the R&D area would be limited to passage other than through the neighborhood.

Mike Marshall, adjacent area, appeared. Mr. Marshall stated he understands the zoning, but he questioned the strip on the south side that was purchased because the property was sold that way. He questioned why this can't be tied into the south of this subdivision as it doesn't seem logical to have a

section of R&D to the south when there will be a community meeting on April 19 regarding 51 acres along Iona Road that he assumes will eventually come to the city. Mr. Marshall questioned the area for future development. Mr. Fife clarified the council can discuss the proposed zoning for the strip and the possible uses within the area, although any decision for items off the property are not appropriate. Mr. Marshall wants something logical and that would tie into the subdivision realizing this property was purchased with federal money. He believes this should be considered with development right up to the R&D in the future.

Per Mayor Casper, IDA Director Rick Cloutier had no additional information to share. Councilor Freeman questioned the parcel in the south as mentioned. Director Cramer believes only seeing one application at a time it looks as if it's happening in isolation although he noted the next agenda item will include the strip which is a rezone and annexation which recently happened. He noted those plans are not pertinent to the current discussion although these things are discussed by staff all together, and staff is well aware of what's happening in the area. He clarified the area in the south is R3A (Residential Mixed Use), which could allow single-family. Per Mayor Casper, Director Cramer stated, per the public meetings, the record was within 300' of the property although a pocket in the center may have been missed. Per Mayor Casper, Mr. Fife stated the city is required to send out notices, and is not liable for any Postal services. Per Mayor Casper, Director Cramer stated he has a list of mailing notices for the hearings, the neighborhood meeting was a guideline at the time although this is now required, and the neighborhood meeting was held jointly with IDA, although he is unsure who these notices were mailed to. Councilor Burtenshaw questioned R&D as a buffer zone to R3A. Director Cramer stated transitions would typically be R&D to R3A to R1, however, R&D was written with stringent buffer requirements in the event it was up against residential as it is not a light zone for buffering. Per Councilor Radford, Director Cramer stated any developer would be required to put a 20' wide landscape strip with trees planted at intervals adjacent to the residences, or 15' if a 8' tall masonry wall or opaque fence is constructed. Also per Councilor Radford, Director Cramer stated discussion has occurred over the previous year for the entire area as an innovation district for the Idaho National Laboratory (INL), including a study that was performed with several stakeholders and funded by the Regional Economic Development Association, noting this has not been officially adopted by anyone at this point. He indicated the discussion included the idea for a potential large campus, which R&D fits, things within LM fits, and this area could take a variety of zones. Also per Councilor Radford, Director Cramer identified the proposed interchanges, he believes the earliest known answer will be this fall with construction in 2027. Councilor Francis questioned a delay if this were sent this back to P&Z. Director Cramer explained the process, stating this wouldn't go to P&Z until July, although there is the potential of June. Councilor Burtenshaw questioned an urgency. Director Cramer stated there is no urgency for CDS although he deferred to Director Cloutier. Director Cloutier appeared. He stated there is no timeframe, noting the master plan meeting was held at the same time as the neighborhood meeting. He does not believe two more months would make a difference. Council President Dingman believes there's a lot of misunderstanding in why IDA can't keep this property in R1. To this, Director Cloutier stated IDA requested LM as that would allow construction of IDA facilities for future use. He also stated R&D does not allow any facilities, therefore, R&D was a compromise with the neighborhood for a buffer, noting IDA would most likely not build anything. He emphasized residential development is not allowed in any areas that are funded by FAA due to noise and safety. Council President Dingman questioned the consequences of not changing the zone. Director Cloutier stated this would be a violation of grant assurances which could result in penalties and paying back grant obligation funds. Per Council President Dingman, Director Cloutier stated R&D would allow minor development although it must be far away from the residences.

Mayor Casper closed the public hearing.

Council President Dingman believes the city is attempting to solve a safety issue with the rezone. Unfortunately, per the P&Z minutes, she also believes the residential zone is not consistent and as IDA grows additional safety structures will likely be built in the future. She expressed her appreciation for the R&D to prevent the navigational equipment being too close to residential. Council President Dingman believes the most strict use must be applied; there will not be concerns from the residences; this allows a very limited amount of things to be built, noting the priority is safety, not financial; it's the city's goal to be in alignment with FAA grant assurances; and this makes the most sense for capital development of IDA. Councilor Freeman clarified access to this area will be addressed in the future. He stated he agrees with Council President Dingman that the property was purchased to support IDA and to preserve the grant assurances, and he believes this is a good compromise as a buffer and is the only buffer available. Councilor Burtenshaw believes the Airport Overlay allows additional opportunities south of the subdivision. She does not believe R&D is the only thing necessary against this neighborhood. Council President Dingman questioned which zoning has no residential component as the city can't request a residential zoning that aligns with the Airport Overlay and the grant assurances. Due to discussion following the history of the R3A area, Mayor Casper re-opened the public hearing. Director Cramer identified the R3A area, north of Iona Road, stating a portion of this area allows residential to be built because the city owns this property. He clarified the R3A to the south is still permissible because the city does not own this property. He stated there's a small portion of land within this area that will not allow residential so development must be designed around it. Councilor Radford questioned special uses in the Airport Overlay that would be compatible. Director Cramer believes the issue is not with people gathering in one place, this is a permanency issue, noting that expectation deteriorates over time with noise as a nuisance. He stated a notice is placed on any plat within the noise restriction areas regarding airport operations and noise levels exceeding the threshold. Mayor Casper believes this is also about nuisance or uses that will generate complaints. Per Councilor Francis, Director Cramer confirmed the key to this item is that the city owns the property, and it can't be developed in ways for a private developer due to the subject of grant assurances. Per Councilor Radford, Director Cloutier stated once this property is purchased with FAA funding it falls under grant assurances and becomes encumbered under federal acquisition laws and it must go to congress and be excepted, which happens very few times. Director Cloutier reiterated there cannot be residential zoning in anything the airport owns. Per Councilor Francis, Director Cloutier stated the land could not be sold, it could be leased but any lease more than 10 years is considered a sale in the FAA guidelines. He emphasized this is very restrictive in any development other than airport uses.

Mike Marshall reappeared. Mr. Marshall stated he understands this property was purchased with federal funding although he does not believe the city would have bought the property south of that subdivision if it wasn't forced as part of entire sale. He does not believe this property is in the flight zone, and it serves no purpose except for a connection road. Mr. Marshall believes this could be zoned R&D but it could also be left alone, which fits well. He indicated 30 adjacent acres are now for sale which could tie into the entire area.

Chris Jensen reappeared. Mr. Jensen stated he's received several messages that the website connection is not working so several individuals cannot participate. Mayor Casper clarified there is no virtual connection for the meeting unless specifically requested in advance. Mr. Jensen questioned to know what will go in the zone.

Mayor Casper explained all information received for the hearing is very thorough in terms of uses.

Mayor Casper closed the public hearing.

Councilor Francis believes LM and R&D is the best protection for the IDA's future; R&D as buffer makes sense; a key piece is that this is city-owned property; and if something could be learned from P&Z there is no point to remand this back to P&Z. Councilor Hally believes there would be no value to send it back to P&Z; the airport needs flexibility; IDA is one of the fastest growing airports in the nation and is an incredible asset to the community; and this is the best decision going forward. Councilor Freeman noted the current agricultural uses can stay in place even with the zoning change. Councilor Burtenshaw prefers not to remand this back to P&Z as the city's hands are tied. Councilor Radford believes the P&Z would learn what the council has learned if this was sent back to P&Z; he agrees this is the best protection for the airport; and this is the best case scenario for the neighborhood. Councilor Freeman stated this request to P&Z was all for LM, noting the P&Z suggested the R&D which was a compromise from staff. Mayor Casper believes protecting the airport is protecting everyone. She emphasized the city is bound to honor the grant assurances.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the ordinance rezoning approximately 127 acres located in Section 1, Township 2 North, Range 37 East from R1 to LM and R&D with the Limited Development and Limited Development Approach Surface Airport Overlay Zones under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Mayor Casper expressed her gratitude to the councilors, staff, and the public with this complicated item. The motion carried by the following vote: Aye - Councilors Radford, Freeman, Burtenshaw, Francis, Dingman, Hally. Nay - none.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3455

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR THE REZONING OF APPROXIMATELY 127 ACRES AS DESCRIBED IN SECTION 1 OF THIS ORDINANCE FROM R1, SINGLE DWELLING RESIDENTIAL TO LM, LIMITED MANUFACTURING AND HEAVY COMMERCIAL, R&D, RESEARCH AND DEVELOPMENT, WITH THE LIMITED DEVELOPMENT AND LIMITED DEVELOPMENT APPROACH SURFACE AIRPORT OVERLAY ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the Rezone from R1 to LM and R&D with the Limited Development and Limited Development Approach Surface Airport Overlay Zones and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Hally, Burtenshaw, Dingman, Freeman, Francis, Radford. Nay - none.

- 3)** Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 10.630 acres of Section 1, Township 2 North, Range 37 East.

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of LM, Light Manufacturing and Heavy Commercial, R&D, Research and Development, and Limited Development and Limited Development Approach Surface Airport Overlay Zones which includes the Annexation Ordinance and



Reasoned Statement of Relevant Criteria and Standards for 10.630 acres of Section 1, Township 2 North, Range 37 East. The Planning and Zoning Commission considered this item at its February 2, 2021, meeting and unanimously voted to recommended approval of the annexation with an initial zoning of R&D.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record. She requested staff presentation as the city is the applicant.

Director Cramer appeared. He stated these items are similar to what was just heard and similar in location.

He presented the following:

Slide 1 - Property under consideration in current zoning

Director Cramer identified the area, stating this property was purchased by IDA. He stated R&D is proposed as a buffer from the adjacent residential.

Slide 2 - Comprehensive Plan Map

Director Cramer stated this is consistent with Special Use and General Urban.

Slide 3 - Aerial photo of property under consideration

Director Cramer stated this land is currently vacant. He identified the single-family residential in the vicinity.

Slide 4 - Airport Overlay Map

Director Cramer stated most of the property is in the limited development noting a portion towards the west side falls within the limited development approach surface.

Mayor Casper requested any public comment. No one appeared. Mayor Casper closed the public hearing.

Councilor Burtenshaw reiterated this follows the prior hearing, noting this R&D will reach the R&D and the LM in the prior hearing.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the ordinance annexing 10.630 acres of Section 1, Township 2 North, Range 37 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Radford, Dingman, Freeman, Francis. Nay - none.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3456

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 10.630 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 10.630 acres of Section 1, Township 2 North, Range 37 East and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Dingman, Burtenshaw, Francis, Freeman, Hally, Radford. Nay - none.

- 4) Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of LM, Light Manufacturing and Heavy Commercial, R&D, Research and Development with the Limited Development and Limited Development Approach Surface Airport Overlay Zones, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 10.630 Acres, Southeast ¼ of Section 1, Township 2 North, Range 37 East.

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of LM, Light Manufacturing and Heavy Commercial, R&D, Research and Development with the Limited Development and Limited Development Approach Surface Airport Overlay Zones which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 10.630 Acres, Southeast ¼ of Section 1, Township 2 North, Range 37 East. The Planning and Zoning Commission considered this item at its February 2, 2021, meeting and recommended approval of R&D by a unanimous vote.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to assign a Comprehensive Plan Designation of "General Urban and Special Use" and approve the ordinance establishing the initial zoning for LM, Light Manufacturing and Heavy Commercial, R&D, Research and Development with the Limited Development and Limited Development Approach Surface Airport Overlay Zones as shown in the ordinance exhibits under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Hally, Radford, Burtenshaw. Nay - none.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3457

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 10.630 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS LM, LIMITED MANUFACTURING AND HEAVY COMMERCIAL AND R&D, RESEARCH AND DEVELOPMENT, WITH THE LIMITED DEVELOPMENT AND LIMITED DEVELOPMENT APPROACH SURFACE AIRPORT OVERLAY ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of LM, Light Manufacturing and Heavy Commercial, R&D, Research and Development with the Limited Development and Limited Development Approach Surface Airport Overlay Zones and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Dingman, Radford, Freeman, Francis. Nay - none.

- 5) Second Reading for the Amendment of the Comprehensive Zoning Ordinance, Sections 11-2-6, 11-3-4 and Tables 11-2-1 and 11-3-3 allowing for accessory dwelling units in all residential zones and establishing land use standards.

On February 15, 2022, the Planning and Zoning Commission recommended to the Mayor and City Council approval of the ordinance amendments as presented with a vote of 3 to 2.

On March 31, 2022, the Mayor and City Council approved the first reading of the ordinance allowing for Accessory Dwelling Units in all residential zones and establishing land use standards and read by Title with a vote of 4 to 1.

In response to comments from the previous work session and Council meeting, the attached draft includes changes which include rear and side yard setbacks for detached ADU's and clarifications on requirements when adjacent to alleys.

Councilor Francis announced he read three emails and received two phone calls as he did not understand the second reading rules. Mr. Fife explained the legislative hearing stating the hearing had been closed and receiving additional information outside of the hearing would be perceived to be unfair. He believes the hearing should be re-opened or the councilors should recuse themselves as information was taken outside of the hearing. Councilor Francis believes one of the reasons for the second reading would allow time for public input as well as discussion with staff regarding concerns. Mayor Casper believes the previous conversation included time for staff discussion. Councilor Freeman agreed. Councilor Radford stated he also read emails. Discussion followed regarding re-opening the hearing. Council President Dingman, Councilors Hally, Freeman, and Burtenshaw stated they did not read any emails. Councilor Burtenshaw prefers all councilors have a chance to weigh in. She also prefers that the hearing be re-opened and allow the public to have a chance to speak. Councilor Radford believes this was an honest mistake, he also believes there was time to hear from the public. Council President Dingman also believes this was an honest mistake and she is hopeful the community understands the inconvenience. Per Mayor Casper, Ms. Hampton stated, per the minutes that were included in the packet, that additional information could be received. Mayor Casper stated she does not want to set precedent although she believes she needs to re-open the hearing. Mr. Fife explained options for information being received stating another hearing could be held in the event of a third reading. He stated the first hearing was noticed that allowed the legal opportunity to speak. Per Councilor Freeman, Mr. Fife indicated this is a legislative hearing and the original notice should suffice. He also indicated this item could be tabled and another hearing could be noticed. Mayor Casper questioned any urgency. Director Cramer stated there is no urgency for individuals wanting ADU permits. Councilor Radford clarified none of the information he received was going to change his perception. Councilor Francis stated he would recuse himself although he believes the council needs to find more ways for public engagement. Per Councilor Radford, Mr. Fife stated any item received through the city server becomes a public document. Mayor Casper re-opened the public hearing and ordered recently received communication to be entered into the record to allow full deliberation by the councilmembers which would avoid the conflict for recusal. Council President Dingman read an email from Halli Stone; and an additional email stating ADUs are a terrible idea. Councilor Burtenshaw stated she also received similar emails. Councilor Hally stated he didn't open any emails. Councilor Francis stated he received a similar email from Halli Stone in which he responded that his concerns are related to the setback's issues; he received the same email as referenced by Council President Dingman and Councilor Burtenshaw; he read two emails from William Phoenix in which he responded with his concerns; and he recapped two telephone calls he received from Ann Mitchell and Ms. Hitt. Councilor Freeman had no items to share. Councilor Radford stated he received a similar email from Halli Stone in which he responded; and he read an email from Bill Robertson in which there were two responses. Ms. Hampton read an email received in the Clerk's Office. Director Cramer read emails from the City of Chubbuck Planner as well as the City of Ammon. He believes it's helpful to have some local experience from surrounding communities. Mayor Casper closed the hearing. Per Mayor Casper, Director Cramer

reviewed the changes in the amended version of the ordinance for detached dwellings - the side yards must be the same as required by the zone for a primary structure, a rear yard must be at least 10' unless it is adjacent to an alley that is at least 16' in width, and any ADU more than 12' in height would require the same setbacks as a primary building. Councilor Burtenshaw believes a larger distance in the rear yard may allow the opportunity for living space or a deck, which was a concern. Councilor Francis prefers 15' for the rear yard which would keep consistency with the alley separation, although he believes 12' is middle ground.

It was moved by Councilor Francis that the draft ordinance be modified on Section 11-2-6 (N) (2) (b) (ii) to read as follows: a detached accessory dwelling shall have the minimum setback from the rear property line of 15' except when adjacent to a public or private alley that is at least 16' wide. The motion died for lack of a second. Councilor Burtenshaw believes this is accepting a lot of high-density multi-family housing although she prefers this be slowed down.

It was then moved by Councilor Francis, seconded by Councilor Radford, that previous stated section read as follows: a detached accessory dwelling shall have the minimum setback from the rear property line of 12'. The motion carried by the following vote: Aye – Councilors Hally, Francis, Radford, Dingman, Freeman. Nay – Councilor Burtenshaw. Councilor Francis believes an attached ADU may not be known, he expressed his concern for the detached building, noting the extra setback helps with his decision.

It was moved by Councilor Francis, seconded by Councilor Radford, to approve the ordinance allowing for accessory dwelling units in all residential zones and establishing land use standards under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. The motion carried by the following vote: Aye – Councilors Freeman, Dingman, Radford, Francis, Hally. Nay – Councilor Burtenshaw.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3458

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING CITY ZONING CODE SECTIONS 11-2-6, 11-3-4, AND TABLES 11-2-1, 11-3-3 TO CLARIFY REQUIREMENTS REGARDING ACCESSORY DWELLING UNITS; AND PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

## 6. Announcements.

Mayor Casper announced the Zoo opened on April 13. Councilor Radford announced an Idaho Parks and Recreation Convention was recently held in Idaho Falls and was very successful. Councilor Freeman reminded all individuals of the upcoming Tax Day. Mayor Casper wished all a Happy Easter.

## 7. Adjournment.

There being no further business, the meeting adjourned at 10:02 p.m.

s/ Kathy Hampton  
Kathy Hampton, City Clerk

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