

May 9, 2019

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, May 9, 2019, 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 Thomas Hally
Councilmember Shelly Smede
Councilmember Michelle Ziel-Dingman
Councilmember Jim Freeman
Councilmember Jim Francis
Councilmember John Radford

Also present:

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

Pledge of Allegiance:

Mayor Casper requested Bryce Johnson, Police Chief, to lead those present in the Pledge of Allegiance.

Public Comment:

Steve Henderson, appeared. Mr. Henderson expressed his appreciation to the Mayor and Council. He stated he owns an airplane and hangar at the Idaho Falls Regional Airport (IDA). He shared a personal story of riding in an airplane beginning at the age of 9. Since that time, Mr. Henderson has been interested in aviation of all forms and learned to fly in 1983. He has owned a couple of airplanes and has flown out of the country. He believes the very best flying is in Idaho. He has mentored aviation students. Mr. Henderson stated his purpose is to bring attention to those effected by the lease changes.

John Wheeler, appeared. Mr. Wheeler stated he is a third-generation Idaho Falls resident. He expressed his concern regarding the changes to leases at IDA. Mr. Wheeler began his flying career shortly after high school and since that time has stored airplanes at IDA. He stated he needs an indoor space to store his current airplane. He was introduced to a gentleman who was selling his hangar. He discussed with the director at that time the particular hangar as it was an older hangar. The director believed changes would not occur for approximately 20 years. Mr. Wheeler was confident in the purchase and believed it was a good long-term investment. He stated earlier this year there was a proposal to change the lease policy which would significantly and negatively affect Mr. Wheeler and would make it no longer financially possible to acquire alternative indoor storage. He stated it is challenging for someone engaged in aviation. After hearing of these changes he began to discuss options with the Rigby Airport. Rigby indicated attractive land lease options were available. Mr. Wheeler again expressed concern for owners who may be unaware. He stated he prefers to stay in Idaho Falls.

Greg Weitzel, Parks and Recreation Director, appeared. Director Weitzel stated he has submitted his resignation and expressed his appreciation for the opportunity, support, guidance, and, help. He stated Idaho Falls is an incredible community and it is hard to leave. Mr. Weitzel believes his greatest accomplishment is the relationships formed. He wished the best for the future.

Consent Agenda:

The Fire Department requested approval of the donation of Used Self-contained Breathing Apparatus' (SCBAs).

May 9, 2019

Idaho Falls Power requested approval of Hydro Plant Barrier Line Purchase.

The City Clerk requested approval of minutes from the February 28, 2019 Idaho Falls Power Board Meeting; March 28, 2019 Idaho Falls Power Board Meeting; April 25, 2019 Idaho Falls Power Board Meeting; April 22, 2019 Council Work Session; and, April 25, 2019 Council Meeting; and, License Applications, all carrying the required approvals.

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

Regular Agenda:

Public Works

Subject: State/Local Agreement with the Idaho Transportation Department for the Idaho Falls City-wide Microsurfacing

For consideration is a State/Local Agreement with the Idaho Transportation Department and accompanying Resolution for the Idaho Falls City-wide Microsurfacing project. Project costs associated with engineering and inspection will be considered in-kind services and applied towards the City's match requirement. This agreement requires City financial contribution toward the entire project of \$49,811.00.

Councilmember Freeman believes this process will be good use of State funding. Director Frederickson stated microsurfacing has not been regularly performed in the community as it has been a more expensive process than chip sealing. He stated this process will be compared to the current process for performance. He indicated this project will cost approximately one-third of the annual paved street maintenance budget. Director Fredericksen stated the process is similar in nature to the current process with a less coarse application than typical sealing. He indicated the microsurfacing has currently been applied on Pancheri Drive as well as Yellowstone Highway. He reviewed numerous roadways that will be microsealed.

It was moved by Councilmember Freeman, seconded by Councilmember Francis, to approve the Agreement with the Idaho Transportation Department and accompanying Resolution for the Idaho Falls City-wide Microsurfacing project and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Radford, Freeman, Francis. Nay – none. Motion carried.

RESOLUTION 2019-05

WHEREAS, THE IDAHO TRANSPORTATION DEPARTMENT, HEREAFTER CALLED THE STATE, HAS SUBMITTED AN AGREEMENT STATING OBLIGATIONS OF THE STATE AND THE CITY OF IDAHO FALLS, HEREAFTER CALLED THE CITY, FOR MICROSURFACING OF COLLECTORS AND ARTERIALS WITHIN CITY LIMIT.

Parks and Recreation

Subject: Funland Agreement

For consideration is the Tautphaus Park Arcade Concession Agreement. This annual renewal agreement between the City of Idaho Falls and LOML, LLC d/b/a Funland, allows for the operation of the arcade and concessions at Tautphaus Park. This renewal agreement will end November 15, 2019.

Councilmember Freeman stated this is an annual renewal agreement. He noted Funland is currently operating for the season.

May 9, 2019

It was moved by Councilmember Freeman, seconded by Councilmember Radford, to approve the Tautphaus Park Arcade Concession Agreement with Funland and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Radford, Dingman, Smede, Freeman. Nay – none. Motion carried.

Municipal Services

Subject: Approve the Settlement Agreement and Mutual Release of Claims Related to Work and Financial Management Systems

It is the recommendation of the Municipal Services Department to accept and approve the Settlement Agreement and Mutual Release of Claims Related to Work and Financial Management Systems between the City of Idaho Falls and N. Harris Computer Corporation. The Settlement Agreement and Mutual Release of Claims amends the original software license agreement to remove the work and financial management software.

Councilmember Radford stated this item has been discussed at length.

It was moved by Councilmember Radford, seconded by Councilmember Smede, to approve the Settlement Agreement and Mutual Release of Claims Related to Work and Financial Management Systems with N. Harris Computer Corporation and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Radford, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

Community Development Services

Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Carriagegate Division No. 7

For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, for Carriagegate Division No. 7. The Planning and Zoning Commission considered this item at its February 5, 2019, meeting and recommended approval by unanimous vote.

Councilmember Smede stated the preliminary plat was approved in 2005, it was revised and approved again in 2017. She also stated this is the last unplatted division and will tie into the existing developments. The lots are all buildable lots.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement for Carriagegate Division No. 7, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Radford, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to accept the Final Plat for Carriagegate Division No. 7, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Carriagegate Division No. 7, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally, Radford, Smede, Dingman. Nay – none. Motion carried.

Public Hearing – Ordinance to Vacate First Amended Brodbeck's Addition, Lots 4-22, Block 17 Brodbeck's Addition, plus all of E 21st Street lying east of South Higbee Avenue and West of Holmes Avenue

May 9, 2019

For consideration is an ordinance vacating First Amended Brodbeck's Addition, Lots 4-22, Block 17 Brodbeck's Addition, plus all of E 21st Street lying east of South Higbee Avenue and West of Holmes Avenue. The area proposed for vacation does not include existing development or public infrastructure. The majority of the area is a plat that was never developed. The portion of 21st Street is right-of-way that has for many years been landscaped and maintained by an adjacent property owner. There are no utilities within the right-of-way or plat.

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

Community Development Services Director Brad Cramer appeared with the following:

Slide 1 – Aerial photo of property under consideration

Director Cramer stated the vacation is independent of other possible developments that may occur. There is currently a new owner and proposed plan. Development conversation can occur at another time. Director Cramer invited individuals to come to his office to view the plan as the type of development proposed doesn't require a public hearing. The vacation would essentially erase lot lines and rights-of-way currently on the property. The vacation does not include the public alley on the south.

Slide 2 – Additional aerial photo of property under consideration with lot lines

Director Cramer stated this is a vacant site with no public infrastructure, no utilities, and, a portion of right-of-way has been landscaped.

Councilmember Francis questioned the zoning change. Director Cramer confirmed there is no change to zoning and is currently zoned traditional neighborhood. Councilmember Radford questioned the older portion of plat and whether there was an intention for a bridge to connect to Holmes. Director Cramer was unsure of this section and is also unsure of the intention. Councilmember Francis questioned the extension of 21st Street. Director Cramer stated Holmes is a major arterial, staff would not advise extension of 21st Street in the current location. Councilmember Dingman believes the extension of 21st Street could potentially drive additional and unnecessary traffic through the neighborhood. Director Cramer concurred stating any extension to an arterial would add traffic.

Mayor Casper requested any public comment.

Charles Cole, 439 20th Street, Idaho Falls, appeared. Mr. Cole stated he is familiar with property. He expressed his concern with the vacation from the original plan and the possibility of rezoning. He also expressed his concern with a bridge being built at the end of 20th Street as that area is already congested. Mr. Cole believes the public should know what is going to be built.

Director Cramer confirmed the zoning will not change with the vacation and if there was a proposed change in zoning there would be two (2) more hearings with resident notification within 300' of the property. He briefly reviewed traditional neighborhood zones which predominately are single family homes. However, they allow a mix of multi-family and small limited commercial on certain streets or, through a conditional use permit that requires additional hearings. To the response of Councilmember Smede, the property would still be accessible through the public alley on the south and 20th Street on the north would need a bridge. Councilmember Radford clarified that vacations only come to Council if an owner has requested the vacation. Director Cramer stated vacations can also be requested by the City if the City has no more need for an easement or right of way. However, this particular request is by the owner. Director Cramer confirmed the zoning around this plot is also traditional neighborhood.

Mayor Casper closed the public hearing.

Councilmember Smede reiterated Director Cramer's comments regarding this area. Councilmember Freeman reiterated this action is to vacate only and not to rezone or approve what will be built on this property.

May 9, 2019

Councilmember Dingman believes this is a simple concept, she concurred with previous comments. Councilmember Francis believes the current plat is holding up future development.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Vacation of Plat ordinance for First Amended Brodbeck's Addition, Lots 4-22, Block 17 Brodbeck's Addition, plus all of E 21st Street lying east of South Higbee Avenue and West of Holmes Avenue, under the suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Dingman, Radford, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

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

ORDINANCE NO. 3246

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; VACATING THE FIRST AMENDED PLAT OF BRODBECKS ADDITION SUBDIVISION PLATS, DESCRIBED HEREIN, WITHIN THE CITY OF IDAHO FALLS, IDAHO; PROVIDING FOR SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

Public Hearing – Rezone from LC to HC, Zoning Ordinance, and Reasoned Statement of Relevant Criteria and Standards, 47.918 acres in Snake River Landing (SRL)

For consideration is a request to rezone M&B 47.918 Acres, Sections 25 and 26 T 2N R 37E, including Lot 1, Block 9 Snake River Landing Division 9 and Lots 4-6, Portion Lot 7, Block 6, Snake River Landing Division 12 from LC to HC. The Planning and Zoning Commission considered this request at its April 2, 2019 meeting and recommended approval by unanimous vote.

Mayor Casper opened the public hearing and ordered all items presented to be included in the record.

Director Cramer appeared with the following:

Slide 1 – Current zoning of property under consideration

Slide 2 – Comprehensive Plan Map

Slide 3 – Aerial photo of property under consideration

Director Cramer stated this area is mostly undeveloped. The area includes the proposed future site of the Event Center.

Slide 4 – Additional aerial photo of property under consideration

Slide 5 – Photos looking into the parcel from locations near the east side

Slide 6 – Photos looking into the parcel from Pioneer Drive that shows the property is vacant

Director Cramer believes this request is partially due to the changes in the Zoning Ordinance and preemptively rezoning properties. This property changed in land use and there is desire to have some of the land uses reincorporated back. Director Cramer indicated that the HC zone will not allow residential uses. It would allow small-scale food production or storage units. HC zone also allows for more flexible sign regulations which could be important for the Event Center.

Mayor Casper requested public comment from applicant.

Clint Boyle, Horrocks Engineering, 901 Pier View Drive, Idaho Falls, appeared. Mr. Boyle stated there are multiple parties involved in the rezone, including River View 2, Pioneer Front, and, SRL Development, which are all subsidiaries of Ball Ventures, as well as the Idaho Falls Auditorium District. He indicated this property is already zoned commercial and when the City updated the Zoning Ordinance it changed the zoning on this property from GC1. He believes the requested HC better aligns with the prior zone as well as what Ball Ventures had intended for

May 9, 2019

development on this site. Mr. Boyle stated that Snake River Landing has a master plan that highly regulates the architecture and landscaping and they intend to maintain a high quality of development. This property is bounded by major streets on both sides with Snake River Parkway on east; Event Center Drive that will be a five-lane roadway and will be developed to facilitate traffic, the Interstate, and, Pioneer Road. Mr. Boyle stated area to the north is currently developed with no adverse response to the rezone request. He reiterated this rezone will only change subtle nuances that bring it back into alignment with the previous GC1 zone. Councilmember Francis questioned the apartments. Mr. Fife noted this is not part of the hearing.

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

Councilmember Smede reiterated Director Cramer's comments regarding the changes to the rezone. The applicant will be required to make improvements to Pioneer Drive, the other streets have been or will be improved. Councilmember Smede indicated this area will not allow residential and would not allow industrial.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance rezoning M&B 47.918 Acres, Sections 25 and 26 Township 2 North Range 37 East, including Lot 1, Block 9 Snake River Landing Division 9 and Lots 4-6, Portion Lot 7, Block 6, Snake River Landing Division 12, under the suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Radford, Freeman, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

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

ORDINANCE NO. 3247

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE REZONING OF M&B: 47.918 ACRES SECTIONS 25 & 26, T 2N, R 37E, INCLUDING LOT 1, BLOCK 9 SNAKE RIVER LANDING DIVISION 9 & LOTS 4-6, PORTION LOT 7, BLOCK 6, SNAKE RIVER LANDING DIVISION 12, AS DESCRIBED IN SECTION 1 OF THIS ORDINANCE FROM LC TO HC; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the rezone of M&B 47.918 Acres, Sections 25 and 26 Township 2 North Range 37 East, including Lot 1, Block 9 Snake River Landing Division 9 and Lots 4-6, Portion Lot 7, Block 6, Snake River Landing Division 12, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Smede, Dingman, Freeman, Francis, Radford. Nay – none. Motion carried.

Public Hearing – Resolution and Reasoned Statement of Relevant Criteria and Standards to Amend the Comprehensive Plan Future Land Use Map

For consideration is a Resolution amending the Comprehensive Plan Future Land Use Map. The map amendment was considered by the Planning and Zoning Commission at its April 2, 2019 meeting and recommended for approval by unanimous vote. Since that time, based on further meetings with property owners in the affected area, staff has also included a slightly modified version of the map. The modified version amends less area from the Low Density Residential on the northern end and adjusts the areas for Employment Centers and Greenbelt Mixed Uses to more closely follow the proposed zoning overlay for the area

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

May 9, 2019

Director Cramer appeared. He stated this was due to the moratorium put in place on January 31, 2019 to address health, safety, and, welfare concerns surrounding the airport for critical airport services. The moratorium allowed six (6) months to put in place the tools, plans, and, ordinances that are necessary to ensure the land uses around the airport are compatible. Director Cramer reminded the Council that the Comprehensive Plan is “broad brush strokes” and doesn’t follow property lines, the lines are intended to be blurry. He indicated the document is an aspirational document but does not grant or take away rights. It is only a plan to guide future decision making.

Slide 1 – Off Airport Land Use Map

Director Cramer initially believed the moratorium would be broader in its scope and regulations. He stated the largest area of concern was the northeast and southwest areas of the airport and immediately south of the smaller runway. He indicated initially there wasn’t a need to change the Comprehensive Plan in places where most development had already happened (south of smaller runway); the southwest area already had planned for non-residential uses, and, the only area left to discuss is the north east of the airport.

Slide 2 – Off Airport Land Use Map with Comprehensive Plan Overlay

Director Cramer stated staff reviewed existing Comprehensive Plan Policies for what should happen along the Snake River, near the airport, and, near major arterials. There was also general public outreach meetings and conversations with specific property owners in the immediate area. Staff has made changes based on those meetings and conversations. Director Cramer stated there has been development pressure in this area that is immediate, and they want to ensure it is done appropriately in conjunction with airport planning.

Slide 3 – Comprehensive Plan Map

Director Cramer stated these boundaries were recommended by P&Z. Staff is also presenting Option Two (2) based on a recent property owner meeting. Director Cramer confirmed the advertisement for the hearing is P&Zs recommendation. Staff proposed small changes to reduce the low-density residential area, which is the main concern. Director Cramer stated there is a need for higher education, research and development, and, professional offices around the Snake River and those uses are compatible with the airport functions. He also stated adjustments to two (2) areas of the map were not critical, although it made sense to amend at the same time. Director Cramer indicated the airport has begun to purchase land on the west side of the Snake River so it doesn’t make sense to plan for low-density residential when the airport doesn’t intend to develop residential. He stated the additional change was to the east side of US 20 that had a lot of higher education center. As the west side of US 20 increases there might not be the need for as much higher education center and the uses that have already developed are more industrial in nature.

Slide 4 – Aerial photo of property under consideration

Director Cramer stated the area includes single-family residential, MK Simpson Blvd Campus, industrial uses on the east side of US 20, and, largely undeveloped area.

Slide 5 – Comprehensive Plan amendment

Director Cramer clarified the County property will not affect this property unless there is a request for annexation.

Slide 6 – Comprehensive Plan Option 1 (P&Z recommendation)

Slide 7 – Comprehensive Plan Option 2 (staff recommendation)

Director Cramer stated staff would highly recommend this option as it shifts the Greenbelt mixed use and the employment center to the south and leaves more of the low-density residential that was already shown.

Slide 8 – Comprehensive Plan amendment with Airport Overlay Zone

Director Cramer believes staff’s recommendations show the Greenbelt mixed uses and employment center which would better align with the areas that would not allow residential zoning. He indicated staff is trying to do as little harm as possible for the areas that were already planned for residential and still recognize the need to follow the lines where the airport critical areas exist. He stated staff is attempting to create an innovation district and there is a concern with land-locking potential uses that might want to expand into this area. Director Cramer indicated Snake River Landing has been used as a comparison for a type of development in this area. He stated Snake River Landing is just under 600 acres, including developed and undeveloped area. The shift to leave more low-density residential, including all employment centers, Greenbelt mixed use, and, higher education center it is just over 600 acres. Director Cramer expects this to be an ongoing conversation with property owners. He stated if an innovation

May 9, 2019

district, or mixed-use development, wants to occur in this area, it will require more conversation, however staff committed to lift the moratorium as quickly as possible. Director Cramer believes these changes, knowing there is more work to be done, is sufficient to lift the moratorium.

Councilmember Radford questioned if these changes will meet Federal Aviation Administration (FAA) requirements. Airport Director Rick Cloutier believes they have met the minimum criteria needed and this will make a good statement to the FAA that staff is trying to do the right thing to protect the areas. Councilmember Radford questioned the potential loss of FAA funding. Director Cloutier indicated the FAA has allowed this development to happen for many years, the FAA is asking the City to get ahead of the problem. He stated the City is responsible as the governing party of the airport. The FAA has reviewed and are comfortable with this plan.

Mayor Casper requested any public comment.

Dave Johnson, 477 Shoup, Idaho Falls, appeared. Mr. Johnson is the attorney for Johnson Legacy LLC. Johnson Legacy owns the property in the epicenter of this controversy with 7/10 river frontage immediately across from the north east portion of the airport. Mr. Johnson indicated he has attended several meetings sponsored by the City, he commended Director Cramer. He stated historical Comprehensive Plan has been suburban residential property, that plan was put into place when the airport existed and was operated. Mr. Johnson does believe the Comprehensive Plan is intended to be aspirational, but in this context, it is used to implement ordinances and regulate land. He believes the proposal is not conceivable and reasonable. Mr. Johnson stated Idaho State University (ISU) operates the satellite campus. The demographics show a drop of 2.5% of student population, graduate level .8% increase, and, there are 150 graduate students currently enrolled at the ISU campus. This is compared to the national level with predictions of the loss of half of the brick and mortar campuses by 2030. Mr. Johnson stated he contacted ISU and was informed there were no commitments for the future. He acknowledged the Idaho National Laboratory (INL) Stakeholders (present at the meeting) and indicated development will take several decades of time. Mr. Johnson stated the land is remotely accessed, there are only two-lane roads, and, there is nothing planned for infrastructure. He believes conflict arrives when the City tries to use the change as a regulatory means for the use of land. He indicated he will presenting this information to the County to see if the City and County can work together for a reasonable solution. Mr. Johnson stated there has not been a feasibility study performed. He believes this plan is a dead end. Mr. Johnson commended Tom Campbell as a visionary for the Greenbelt. He stated the Comprehensive Land Use Change is not to have a vision, but to solve an immediate problem and that is not what comprehensive planning is about.

Brett Hobbs, 5060 Eaglewood Drive, Idaho Falls, appeared. Mr. Hobbs expressed his appreciation to those who run for public office. He expressed his concern for the scaled down process as his property is on the east side of 5th East. Mr. Hobbs questioned when the next step would happen and when his property would be involved in a runway. He stated he has received no answers from the presentations and only received speculations. He expressed his concern regarding plans for development and indicated this is a driving community. Mr. Hobbs acknowledged that INL drives business and growth, however it is run by a government entity that can end the processes in short order. He questioned future planning for airport locations. He stated if the City is going to grow the airport, they should look into Federal dollars to include other places including Pocatello and Blackfoot. Mr. Hobbs questioned why the City is enlarging the airport if it will only be a problem down the road. The Comprehensive Plan should address the location of the airport. Mr. Hobbs expressed his concerned about the direction of the Comprehensive Plan. He believes it is pipe dreams that will affect people right now.

Greg Hansen, 4743 Tanglewood Drive, Idaho Falls, appeared on behalf of Rockwell Homes. Mr. Hansen expressed his appreciation and apologized to Director Cramer as he just recently received new information which has not been reviewed with the director. Mr. Hansen believes Director Cramer has been good with communication and staff has listened to the requested changes. He stated Rockwell recently acquired property with first right of adjacent

May 9, 2019

property. Rockwell has invested a significant amount of money (\$2M) in this land and had gone through the process of due diligence prior to the purchase to ensure there were no airport issues in this area. Mr. Hansen submitted a plat to City. He stated Rockwell also negotiated a land swap with District 91 for an elementary school and in good faith could not move forward with the contract. The changes will not allow approximately one-third of the property to be developed. This presents problems with current plans including street layout. This is costing Rockwell a lot of money. Rockwell has looked at additional adjacent areas. Mr. Hansen believes the growth with INL is wonderful, but Rockwell is so far along in the process, they cannot wait for future developments. He indicated he has had conversations with land owners who are interested in buying property and leasing it to those companies although they have no interest in the Rockwell property. The City has also shown no interest in purchasing the property. Mr. Hansen stated the property is only seen as farm ground and they will lose \$1.5M if the property is sold to farmers. He reiterated due diligence, followed the Comprehensive Plan, and now they are stopped in the middle of the process. Mr. Hansen recently came across two (2) pages from the FAA Guideline Manual. He briefly reviewed six (6) zones from this manual. He also presented a map which indicates the number of feet when the zones come together. He stated the impact area that is shown can actually be changed. Rockwell would like to have the opportunity to talk about this new information before the Comprehensive Plan is adopted. Mr. Hansen believes the end of the runway has the different zones going from 2500' to 5000'. He does not believe the property is impacted as far as the map goes out. Mr. Hansen requested additional time to research this new found information. He indicated the FAA is working with them to define the boundaries. He stated if the Comprehensive Plan can be altered with this new knowledge then Rockwell can develop the area into residential. Mr. Hansen asked for clarification for the difference between sound and danger. He stated the sound area can have development with certain restrictions. He also stated the restrictions make no sense where a hospital, elementary, etc. can be built, but not residences. Mr. Hansen requested Council not approve due to additional questions and requested future discussion with County. He believes the City is changing the plan, putting a different zone over what was previously there, and, is trying to tell Rockwell what they can do with the property. Mr. Hansen reiterated no one is interested in commercial development in the area except for the INL and they cannot wait 50 years for the INL.

Lynn Rockhold, 5905 Glen Eagles Drive, Idaho Falls, appeared. Mr. Rockhold concurred with Mr. Hobbs regarding consideration for the airport. He requested the City to acknowledge with future growth and expansion of the City, the City should consider making the airport more of a regional airport that is smaller and won't be as restrictive. The airport should be moved to a more remote place between Pocatello and Idaho Falls to share in the expense and control. Mr. Rockhold believes this solution would resolve issues with the Comprehensive Plan.

Gerry Johnson, 1000 W 33rd North, Idaho Falls, appeared. Mr. Johnson lives in exclusion zone of airport. He indicated due to health issues this property is his retirement and it is important to be able to develop. He stated he has never seen a large plane crash and it is a theoretical concept that one could crash. He noted the wind blows primarily from the south west and the planes land over his property and take off over a heavily populated area on the south end of the runway. Planes crash on takeoff, as well as landing. Mr. Johnson stated it would make sense to move the airport, rather than penalize the people that have planned to develop. He believes it is the Federal Agency's tend to strong arm local government. He indicated the impact to his family with the proposed change would be approximately \$3M. He believes it is in the best interest of everyone to move the airport.

Roger Blew, 825 Geri Avenue, Idaho Falls, appeared. Mr. Blew is a private pilot based at the airport and has been in the airport planning process for ten (10) years. He clarified the geometry of the polygons is driven by number of issues. He stated that the two ends of the main runway are different sizes and the reason for that is the precious instrument approach capability which brings airplanes closer to the ground before they have to determine if they land or go around. This is the reason the corridor is longer than the other end. Mr. Blew stated the runway to the south is smaller as it is a visual approach runway only, there is very little chance of an airplane crash landing before the runway. He informed the rationale for no homes, although hospitals and schools are allowed, is due to the

May 9, 2019

noise. FAA has learned people complain about airport noise where they live not where they work. Mr. Blew stated in the Seattle area there are long abandoned streets and neighborhoods where there are no longer houses because the FAA was forced to buy out entire neighborhoods to keep airport in that location. He also stated this type of planning will be required to avoid that problem in the future. Mr. Blew believes changing to a smaller airport requires the same geometry and the approach capability is required for the precision approach into Runway 21. He stated a new airport would be decades out. Mr. Blew gave the example of Hailey/Sun Valley and trying to find a new place for an airport, the best place for the new airport was 20 miles from Hailey and the cost would be over \$300 million. Idaho Falls Airport would cost significantly more and the FAA would never pay for that amount.

Councilmember Radford questioned residential on the Comprehensive Plan as he recalled it was not residential. Director Cramer stated residential has been zoned for a length of time. He indicated there was no dispute of previous development and due diligence was done on the properties. He also indicated at the time he was giving the go ahead to develop residential they understood it was okay. Since that time, changes have evolved and the FAA has required the change. Director Cramer indicated the Airport Map was approved in 2010 but had not been adopted by the department as a regulatory tool as it was their understanding they didn't need to. He stated staff is attempting to build the planning tools around what the City has adopted, and the FAA standards might be a matter of opinion. He indicated they are building the Comprehensive Plan and other changes around what the airport is planning for. Director Cramer stated it is not uncommon to see a zone that cuts across a Comprehensive Plan land use designation when it is appropriate. He doesn't believe there is a need to postpone this item based on the new information presented by Mr. Hansen. The main goal is to get development moving by lifting the moratorium. Director Cramer indicated all those options can be discussed at the time of application for annexation and initial zoning. Staff will attempt to accommodate any request, although they will be cautious to ensure they have the correct information and approvals. Councilmember Radford questioned if the Comprehensive Plan could be amended again if there was not growth in the designated areas. Director Cramer confirmed that the Comprehensive Plan is an amendable document although there are limitations on how often per State Statute. Councilmember Smede questioned the Takings Process. Director Cramer stated the State of Idaho does allow for a review of regulatory takings. He will discuss that process with anyone that has concern. Councilmember Dingman questioned Director Cloutier regarding past decisions, history of issues and how it is now impacting property owners, and, how this conversation began. Director Cloutier stated as he began conversations there was concern with FAA regarding land use development around the airport. The FAA was going to put the Airport on notice that they could be in violation. Director Cloutier indicated the plan was adopted in 2010 and the zones come directly from FAA including the different runway and approach zones. He stated as they began to evaluate, they realized these things had been ignored in the past, it cannot continue into the future. Director Cloutier indicated future FAA funding for development is in jeopardy. He indicted the rules are in place for noise and aviation safety as well as the precision approach zone. He clarified the FAA Audit will occur in FY2020.

Mayor Casper closed the public hearing.

Councilmember Smede stated she personally moved out of the airport zone due to the noise. She indicated much time has been spent on this item, all things can change, and the entire City needs to be considered. Councilmember Smede stated staff reviewed current development, participated in extensive public outreach, and, there is a need to shift a plan of development needs due to FAA rules. She agreed it can be frustrating, but the City needs to move forward to preserve assets. She indicated the proposed changes meet the needs of the community and the needs of the airport. Councilmember Smede confirmed Director Cramer assured her that the affected area is the smallest it can possibly be, the plan can be adjusted if necessary. She believes process will continue and will be refined. Councilmember Francis believes this is the first step to lift moratorium. This will provide stability to the region of the City and that stability will be part of protecting the property rights. Councilmember Freeman believes issues may be more difficult the longer they are delayed. He also believes the Council needs to consider the greater good as they are tasked with making difficult decisions.

May 9, 2019

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Resolution amending the Comprehensive Plan Future Land Use Map for the area south of W 65th South, west and north of U.S. Highway 20, and east of the Snake River, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smede, Hally, Radford, Dingman, Freeman, Francis. Nay – none. Motion carried.

RESOLUTION 2019-06

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING THE COMPREHENSIVE PLAN DESIGNATION IN THE AREA LOCATED SOUTH OF 65TH NORTH, WEST OF NORTH 5TH EAST, NORTH OF HIGHWAY 20 AND EAST OF THE SNAKE RIVER; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the amendment of the Comprehensive Plan Future Land Use Map, and give authorization to the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally, Radford. Nay – none. Motion carried.

Public Hearing – Ordinance and Standards to Amend Title 11, Chapter 5 of the City Code, Adopting an Airport Overlay Zone

For consideration is an ordinance amending Title 11, Chapter 5 of the City Code which adopts an airport overlay zone. This zone was developed during the moratorium for certain classes of permits and development passed in January. The zone is modeled after the 2010 Airport Master Plan and protects against incompatible land uses with normal airport operations while still allowing development of compatible land uses. The ordinance was considered by the Planning and Zoning Commission at its March 5, 2019 meeting and recommended for approval by a 3-1 vote.

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

Director Cramer indicated there were small changes to the code after the packet was sent out including a page that shows a list of exceptions to the land use rules. He reviewed the change to clarify the intent that the footnotes would apply. He reviewed items include in the table that references 11-5-3(B)(c).

Slide 1 – Off Airport Land Use Map

Director Cramer stated this map is located in the 2010 Airport Master Plan which includes a model zoning code for regulating land uses around the airport. This document was modeled from that code with significant changes, as the land use code would have been more restrictive than what is proposed. Director Cramer stated the 2010 Airport Master Plan was not adopted as a regulatory document in the zoning code, this hearing will propose that the map and regulations are adopted into the zoning code.

Slide 2 – Overlay Zone

Director Cramer stated this does not affect County regulations and is only applied to future City land annexations (although a significant area of the map is in the County). He reviewed the three (3) components: land use, heights, and, noise. He indicated some areas are more dense and each zone has its own land use regulations. Under the overlay will be base-zone which will apply until the overlay is applied. The most restrictive zone will then apply. Director Cramer noted the only purpose in two (2) of the areas is to require a 74/60 permit by FAA, these are exempted if the structure is less than 200' tall or doesn't penetrate an imaginary slope from the runway.

Slide 3 – 2010 Airport Plan Land Use Table Sections

Director Cramer stated the proposed code has more diverse range of land use when compared to the code in the Airport Master Plan. He believes letter (I) from the Airport Master Plan Code would have posed a significant

May 9, 2019

challenge to growth in Idaho Falls, the proposed Code takes away the ambiguity of (I) and still has the FAA approval.

Slide 4 – Proposed Overlay Zone Land Use Table Section

Director Cramer explained the Avigation Easement requirements. He indicated the avigation easement does not protect from illegal or negligent use of aircraft. The land use table will prevent open bodies of water or development that generates smoke or steam or, other visual obstruction. An airport disclaimer note will be required on plats recorded after the adoption of this section.

Slides 6-8 – Overlay Zone

Director Cramer reviewed the overlay zones including: No Development Zone; Limited Development Approach Surface; and, Controlled Development.

Slide 9 – Off Airport Land Use Map Aerial

Slide 10 – Airport Overlay Height Zones

Director Cramer stated that for every 50' you get away from the runway the allowed height rises 1' and it doesn't take much to get a single-story building. He indicated the key point is things cannot be allowed to penetrate any of the protected air space. He also indicated an individual could apply for 74/60 permit and possibly be approved for the land use by the FAA.

Slide 11 – Idaho Falls Regional Airport Noise Contour Map

Director Cramer stated this contour map includes all runways at the airport. The only regulated area is the center area that is the 65-decibel area.

Slide 12 – Overlay Zone

Director Cramer stated this covers a significant amount of land if everything was annexed into the City. He indicated staff has tried to scale back the original scope. He expressed his appreciation to the public that has participated with him and his staff to narrow the plan back to what is necessary.

Councilmember Smede questioned County communication. Director Cramer indicated he has been in contact with the County. He stated a final draft will be submitted to the County Planning Commission as any future County or City development affects the airport. He also stated this document has been sent to the airport engineers and consultants with approval.

Mayor Casper requested any public comment.

Dave Johnson, 477 Shoup, Idaho Falls, Idaho. M. Johnson is an attorney by profession and has been reviewing this issue. He indicated easement over farm consent has been previously allowed by consent. He stated the City has no written recorded easement that is avigational in nature. The issue is what is available by right and by law. The Supreme Court has set that anything above 500' is free air space. The municipality has the right to an easement below 500' for purposes of landing and takeoff, although that easement is subject to compensation. Mr. Johnson believes what is happening is a regulatory taking. He stated the City would be required to do a condemnation action, or an inverse condemnation action. He also stated there is a dead zone which cannot allow trees or houses because of the proximity of high-valued land very close to the airport. Mr. Johnson questioned whether the City will engage in compensation. He stated the requirement of the law is for a municipality to acquire the necessary property for the operation of the airport. He also stated he is willing to talk, however, he believes the City is acting and presenting this to the County to do what they need to do to protect the value of the property. Mr. Johnson believes the Ordinance and the Overlay Zone has problems. He indicated since he resides in the County, there is question of legal liability that the City is trying to impose. He also indicated there hasn't been a dialogue about just compensation, or a dialogue about compatible uses that the stake holders in the area can find economically feasible. Mr. Johnson suggested Council look at the ordinance as they will find it won't be workable, it will require compensation, and, it will not be passing onto the County.

May 9, 2019

Kevin Alcott, 101 Park Avenue, Idaho Falls, appeared. Ms. Alcott would like to see the Ordinance passed due to a standstill of development. He indicated he has missed the spring construction schedule to build lots and will now be bidding lots in the middle of summer when things are more expensive. He expressed his frustration because the net effect of all the effort and moratorium will be to put a note on a plat. They have lost a years' worth of business. Mr. Alcott believes this moratorium has real impact today, not just future impact. He stated he has pushed hard with Director Cramer to get the sound map back to what is in the ten-year plan, which is what is being proposed. He believes it is critical to pull the map back to the 65 decibels.

Councilmember Radford questioned Mr. Johnson's comments with Mr. Fife. Mr. Fife stated case law regulates what government can do with private rights and there are processes to sort that through. He indicated it depends on whether they have established their property right and to what extent the engagement the government has with that property right. Mr. Fife agreed that if the government takes a piece of property they owe fair market value compensation for that taking. He indicated there are processes in the Local Land Use Planning Map that explore the alleged takings. The City would be responsible for compensation and any litigation.

Mayor Casper closed the public hearing.

Councilmember Smede reiterated that Community Development Services has reached out to the County. He also reiterated the Plan has been reviewed by consultants and FAA representatives. They concur this should not be delayed, however, the Plan can be amended. Councilmember Freeman commended staff for their efforts following public concerns.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Zoning Ordinance amendments under the suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Smede. Nay – Councilmember Radford. Motion carried.

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

ORDINANCE NO. 3248

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 11, CHAPTERS 5 AND 7 OF THE CITY COMPREHENSIVE ZONING ORDINANCE; PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

Public Hearing – Ordinance and Reasoned Statement of Relevant Criteria and Standards, Rezoning Certain Properties to Include the Airport Overlay

For consideration is an ordinance rezoning certain properties in the City to include the Airport Overlay Zone. The ordinance was considered by the Planning and Zoning Commission at its April 2, 2019 meeting and recommended for approval by unanimous vote.

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

Director Cramer appeared with the following:

Slide 1 – Overall Map

Slide 2 – Rezone Boundaries

Director Cramer stated each property is listed with the appropriate Overlay Zone designation within the ordinance. He indicated this map is consistent with the principles of the Comprehensive Plan.

May 9, 2019

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

Councilmember Smede reiterated Director Cramer's comments.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance rezoning certain properties to include the Airport Overlay Zone under the suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Freeman, Francis. Nay – Councilmember Radford. Motion carried.

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

ORDINANCE NO. 3249

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE REZONING OF PROPERTIES AS DESCRIBED IN SECTION 1 OF THIS ORDINANCE; PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the rezone, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Dingman, Smede, Freeman. Nay – Councilmember Radford. Motion carried.

Resolution Removing Moratorium Restrictions on Certain Types of Permits and Development Applications in Certain Areas near the Idaho Falls Regional Airport

For consideration is a resolution removing the moratorium restrictions on certain types of permits and development applications in areas near the Idaho Falls Regional Airport. The moratorium was passed in January 2019 due to immediate development pressures that presented a risk to the health, safety, and welfare of future residents in the area. All of the actions necessary to protect the areas have been completed or will be completed prior to this item's consideration on May 9th. Statutorily, the City may keep the moratorium in place for an additional three months if the Council believes work still needs to be done prior to the removal. However, staff is confident the moratorium is ready to be removed.

Councilmember Freeman complimented the staff on completing the project in a timely, and ahead of schedule, manner. Mayor Casper concurred including the rapid response to this issue.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Resolution removing the moratorium on certain types of permits and development applications near the Idaho Falls Regional Airport and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Radford, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

RESOLUTION NO. 2019-07

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REMOVING THE MORATORIUM OF JANUARY 31, 2019, CONCERNING CERTAIN DEVELOPMENT AND USES NEAR THE IDAHO FALLS REGIONAL AIRPORT; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

May 9, 2019

Property Transfer Agreement between the City and Idaho Falls Redevelopment Agency for The Broadway Plaza, Surface Parking, and Garage

For consideration is a property transfer agreement between the City and Idaho Falls Redevelopment Agency (IFRdA) for The Broadway Plaza, Surface Parking, and Garage. These portions of The Broadway project were funded by IFRdA through a purchase and sales agreement.

Councilmember Smede stated the IFRdA is turning over the plaza, the service parking, and, the underground parking garage to the City. She noted there is a parking management agreement in place and the project is under warranty for one (1) year. Councilmember Francis questioned the parking for the tenants as well as use for the public. Director Cramer stated the property builder wanted to ensure the tenants of the building have as much right to the parking as the public. Councilmember Dingman believes the underground users are primarily the tenants of the building. Director Cramer stated the parking is first come, first served basis. He stated an entity could not reserve stalls for its employees although the tenant could individually request a stall. Of the available stalls, all but ten (10) are available to lease. The remaining ten (10) are open to the public and are available on an hourly or daily basis. He noted after 6:00 p.m. and on weekends, the stalls are available to anyone and are not guaranteed for the leasing tenants. Councilmember Freeman questioned the maintenance of the plaza. Director Cramer clarified maintenance would fall to the City. Councilmember Dingman questioned the financial impact of maintenance of the plaza. Mayor Casper stated there is revenue to be gained as a public amenity and a public gathering place. She noted Parks and Recreation has been included in the discussion of this planning process. Director Cramer stated parking maintenance will be the responsibility of the Idaho Falls Downtown Development Corporation (IFDDC).

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Transfer Agreement for The Broadway Project and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Radford, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

Resolution Adopting a Statement of Annexation Principles

For consideration is a resolution adopting a Statement of Annexation Principles. The principles have been reviewed at two (2) Work Sessions and represent the City’s general approach to annexation of all types. It outlines procedures for each type of annexation and how properties will generally be considered for City-initiated annexations.

Councilmember Smede stated this resolution is an effort to encourage collaboration with the County government to improve long-term planning coordination, economic-development, and, overall relations as well as implement a long-term planning process. She indicated this is an example of supporting governmental decision making with timely and accurate short-term and long-range analysis. Councilmember Francis clarified a typo on the final page of the document.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Resolution approving the Statement of Annexation Principles and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

RESOLUTION 2019-08

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, APPROVING A STATEMENT OF CITY ANNEXATION PRINCIPLES; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Announcements and Adjournment:

May 9, 2019

Mayor Casper stated the College of Eastern Idaho commencement was held on May 9; Clean and Green is occurring; School District 91 Master Planning Meeting will be held May 15, individuals can also participate online; Peace Officer Memorial will be held May 15; and, the I-15/US20 connector study will be held May 16. Councilmember Freeman stated Public Works will be holding an open house on May 15.

There being no further business, the meeting adjourned at 10:31 p.m.

s/ Kathy Hampton _____
CITY CLERK

s/ Rebecca L. Noah Casper _____
MAYOR