



# City Council Meeting

680 Park Avenue  
Idaho Falls, ID 83402

## Minutes - Final

**Thursday, July 28, 2022**

**7:30 PM**

**City Council Chambers**

**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 Forrest Ihler, community resident, to lead those present in the Pledge of Allegiance.

**3. Public Comment.**

Barbara Miller, Idaho Falls resident, appeared. Ms. Miller stated she has watched the budget meetings over the previous two weeks. She commended the city’s concern for committing to a 4% pay increase for the employees and for 'finding' the money for an increase of 4.6-8.2%. Ms. Miller stated she gets the impression that the city thinks it’s a business, and if so, who are the customers. She also stated she didn’t hear a lot of budget conversation about the customers and trying to provide for them, and in the real world there would be no business without the customers. She believes there is a lot of truth in the saying ‘the customer is always right’ because without customers there is no money to pay employees or to stay in business. She indicated, in the city’s case, the customers aren’t mandatory and cannot take their money elsewhere. Ms. Miller requested the city consider when the customer can’t make their mandatory payments, as that’s when the ‘you know what’ will hit the fan. She cautioned to plan for this day as she believes we are in recession, and after a recession comes the depression. She indicated it was stated any justification will be dealt with in the following year. Ms. Miller questioned if the customers were able to increase the payments to their employees, or how their income is doing, or whether they were able to stay in business. She challenged the concept of the city as business owners and are city employees not public servants?She questioned where the obligations lie. Ms. Miller, referring to the homelessness issue, stated a problem cannot be solved until it’s identified. She understands the city thinks it’s compassionate because the government must provide these individuals a place to sleep, although, she questioned why these individuals have no place to sleep. She believes the problem is mental health and addiction, which makes these individuals a danger to themselves and others. She challenged the compassionate belief when these individuals are allowed to continue to practice their addictions and insanity unchecked. She also cautioned these individuals are not in their right mind, and the effect is that the customers, who are paying for the parks, cannot use the parks or they run the risk of being assaulted. She believes that assault will happen.

**4. Consent Agenda.**

**A. Idaho Falls Power**

- 1) IFP 22-23 Circuit Breaker Purchase

This purchase is for materials to upgrade the York Substation. The 15kv breakers meet the needs of IFP for this upgrade. However, IFP recommends rejecting the 161kv SF6 breakers bid by General Pacific as the technical specifications do not meet the need for the upgrade. IFP will clarify the technical specifications and rebid the 161kv breakers in the near future.

## **B. Municipal Services**

### **1) Minutes from Council Meetings**

July 11, 2022 City Council Work Session; and July 14, 2022 City Council Meeting

### **2) License Applications, all carrying the required approvals**

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 Freeman, Radford, Burtenshaw, Francis, Dingman, Hally. Nay - none.

## **5. Regular Agenda.**

### **A. Municipal Services**

#### **1) Tentative Approval of the 2022/23 Fiscal Year Budget**

Pursuant to Idaho Code §50-1002, authorization is requested to publish the Notice of Public Hearing of the 2022/23 fiscal year budget with publication dates set for July 31, 2022, and August 7, 2022. The Public Hearing is scheduled for 7:30 pm, Thursday, August 11, 2022, in the Council Chambers of the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

Mayor Casper stated the budget process begins in early spring and continues into summer. She also stated the meetings culminated in the previous week, and the fiscal year takes effect October 1, 2022, through September 30, 2023. She noted a public hearing must occur prior to a final vote. Municipal Services Director Pamela Alexander appeared. She stated the tentative not to exceed amount is \$333,416,302, with a public hearing to occur August 11, 2022. She highlighted the tentative budget including fee increases greater than 5%; the 3% statutory property tax levy, new growth and construction dollar amount; council direction for employee compensation; ongoing operating and capital budget requests; and 1% of the forgone to be used in future years. She noted the forgone notice has also been advertised. Council President Dingman believes the budget provides resources to many departments that serve the citizens and taxpayers and includes the vision to adjust the employee salaries to compensate their hard work. She also believes the city employees are the lifeblood of the city and the quality of employee correlates to the benefit of the residents. She expressed her appreciation to the council and staff for their many hours on this budget. Councilor Freeman stated this is a cap on spending, noting it's rare that the full amount is used. He reiterated the amount is a not to exceed amount. Councilor Hally stated the budget includes all fees for electric, sewer, and water which is used more as the community grows. He also stated revenue streams must be considered, noting a formula from the State legislature has been exempted for online sales tax, which is money not received. Councilor Hally stated depreciation has an interest rate and the expense to take care of depreciation increases over time, such as roads. He also stated there is a correlation between expenses to operate a city and an increase in valuation. Councilor Burtenshaw commended the Public Works Department for their lead with impact fees which has the ability to offset future budgets. She stated, referring to impact

fees, two years' worth of work will come to fruition this year. Councilor Radford believes it's critical to hear from citizens, he encouraged individuals to attend the public hearing. He believes the assessed value of homes is on everyone's mind, however, the levy rate is not yet known. He stated it could be possible to have reductions in the levy. Director Alexander indicated valuation numbers are approximately \$430,000. Mayor Casper stated as valuation grows, the base grows, which creates more stakeholders to share the expenses.

It was moved by Council President Ziel-Dingman, seconded by Councilor Radford, to tentatively approve the 2022/23 fiscal year budget and give approval to publish the Notice of Public Hearing of the 2022/23 fiscal year budget for a not to exceed amount of \$333,416,302. The publication dates are set for Sunday, July 31, 2022, and Sunday, August 7, 2022 and with a public hearing scheduled for Thursday, August 11, 2022. The motion carried by the following vote: Aye - Councilors Hally, Radford, Francis, Dingman, Burtenshaw, Freeman. Nay - none.

**2) Municipal Equipment Replacement Fund (MERF) Resolution Fund Exemptions from City General Fund Policy**

This resolution exempts Public Works Department Enterprise Funds; City Airport Department Funds; and Idaho Falls Power Enterprise Funds established by Resolution No. 2017-04.

Director Alexander appeared. She stated all departments participated in MERF although Enterprise Funds have built up reserves. She also stated this item was discussed at the July 19, 2022, Council Budget Session. Council President Dingman believes it makes sense to exempt departments that are self-sustaining.

It was moved by Council President Ziel-Dingman, seconded by Councilor Freeman, to approve the resolution exempting Public Works Enterprise Funds, Airport Funds, and Idaho Falls Power Enterprise Funds from the city general fund policy applicable to the Municipal Equipment Replacement Fund (MERF) 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.

**RESOLUTION NO. 2022-22**

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, EXEMPTING FROM CITY GENERAL FUND POLICY APPLICABLE TO THE MUNICIPAL EQUIPMENT REPLACEMENT FUND (MERF), PUBLIC WORKS DEPARTMENT ENTERPRISE FUNDS; THE CITY AIRPORT DEPARTMENT; AND IDAHO FALLS POWER ENTERPRISE FUNDS; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

**3) Purchase of Approximately 7 Acres for Future Fire Station**

With the current and projected area population growth and call volume, the Fire Department recommends the purchase of approximately 7 acres on the corner of Spitfire and Boeing Streets for building a fire station in response to future growth. A total of \$10,000 was authorized by City Council as earnest money for the purchase. A total of \$890,000 will be due at closing.

Director Alexander appeared. She recognized the collaboration with Fire Chief Duane Nelson. She stated this item was discussed at the April 11, 2022, Council Work Session. She also stated the project was prioritized with ARPA (American Rescue Plan Act of 2021) along with sale of city property on 8th Street. Councilor Hally stated the city needs fire coverage in the north and the south as the city grows,

and the first step is to purchase the land. Per Councilor Francis, Chief Nelson confirmed this location is mainly for response to the north of the city. He stated the Fire Department is trying to meet the national standard of a four-minute response time and a five-minute response time of engines. He also stated a training facility would be in coordination with the Idaho Falls Regional Airport (IDA). Chief Nelson indicated a small training facility would be placed on a different location.

It was moved by Council President Ziel-Dingman, seconded by Councilor Freeman, to approve the purchase of 7 acres of vacant land on the corner of Spitfire and Boeing Streets in Idaho Falls, Idaho for a total of \$900,000. The motion carried by the following vote: Aye - Councilors Freeman, Francis, Hally, Radford, Burtenshaw, Dingman. Nay - none.

## **B. Public Works**

### **1) State Local Design/Construction Agreement and Resolution with the Idaho Transportation Department (ITD) for the Westside Path Connections Project**

Attached for consideration is a State Local Agreement with ITD for design and construction to build pathway improvements on the westside of Idaho Falls. Proposed work includes the installation of pathway along Grizzly Avenue, Old Butte Road and Pancheri Drive.

Public Works Director Chris Fredericksen appeared. He described the pathway connections, stating this project would also address pedestrian pathway/sidewalk. He stated the anticipated cost is \$536,000 with a city match of \$39,342. Councilor Radford believes a barrier between roadways and pedestrian pathways is important. Brief discussion followed regarding the School District and the preference of the trees. Councilor Radford prefers to advocate for a jersey barrier. Councilor Freeman believes this area is a large improvement from approximately six years ago. Mayor Casper stated Director Fredericksen has personally worked very hard to have a safe route for the school students. She expressed her gratitude to him. Councilor Radford agreed. He believes the 7% grant makes this very affordable. Councilor Francis believes this connection will add access and safety. He noted this pathway will carry on from the recent Pancheri annexation. Councilor Burtenshaw stated this project also includes crossings on Woodruff and 1st Street and is a project for 2024. Councilor Hally believes connectivity has been important for many councils throughout the years.

It was moved by Councilor Hally, seconded by Councilor Burtenshaw, for approval of the State Local Agreement and Resolution with ITD for the Westside Path Connections project and authorize the Mayor and City Clerk to sign the documents. The motion carried by the following vote: Aye - Councilors Dingman, Radford, Francis, Burtenshaw, Hally, Freeman. Nay - none.

#### **RESOLUTION NO. 2022-23**

WHEREAS, THE IDAHO TRANSPORTATION DEPARTMENT, HEREAFTER CALLED THE STATE, HAS SUBMITTED AN AGREEMENT STATING OBLIGATIONS TO THE STATE AND THE CITY OF IDAHO FALLS, HEREAFTER CALLED THE CITY, FOR DEVELOPMENT AND CONSTRUCTION OF WESTSIDE PATH CONNECTIONS.

### **2) State Local Design/Construction Agreement and Resolution with the Idaho Transportation Department (ITD) for the Meppen Canal Trail Project**

Attached for consideration is a State Local Agreement and Resolution with ITD for design and construction to build pathway improvements along the Meppen Canal from the Idaho Canal to 25th East (Hitt Road). Proposed improvements include the construction of two bridges and nearly 2.2 miles

of pathway.

Director Fredericksen appeared. He stated this is a continuation of canals. He also stated the anticipated cost is \$1.7M with a city match of \$78,685. He clarified the packet includes the correct checklist.

It was moved by Councilor Burtenshaw, seconded by Councilor Hally, that council approve the State Local Agreement and Resolution with ITD for the Meppen Canal Trail project and authorize the Mayor and City Clerk to sign the documents. The motion carried by the following vote: Aye - Councilors Radford, Freeman, Burtenshaw, Francis, Dingman, Hally. Nay - none.

**RESOLUTION NO. 2022-24**

WHEREAS, THE IDAHO TRANSPORTATION DEPARTMENT, HEREAFTER CALLED THE STATE, HAS SUBMITTED AN AGREEMENT STATING OBLIGATIONS TO THE STATE AND THE CITY OF IDAHO FALLS, HEREAFTER CALLED THE CITY, FOR DEVELOPMENT AND CONSTRUCTION OF MEPPEN CANAL TRAIL, IDAHO CANAL TO 25TH EAST.

**C. Community Development Services**

**1) Security Bond for Site Improvements Agreement for Rising Sun Townhomes**

For public improvements for new development, the Subdivision Ordinance includes a section which allows for security bonds to ensure the improvements will be completed. These securities are typically used when construction needs to take place before the public improvement can be completed. There is currently no such option for private improvements for site plans governed by the Zoning Ordinance. Staff has recognized the need for such an option and is currently preparing an ordinance to present to the City Council for consideration. However, there is a development which has asked for a bonding agreement for amenities within a PUD due to their phasing of buildings adjacent to the amenity. The attached agreement will allow them to receive the temporary certificate of occupancy on one building provided they post a bond for the amenity improvements and surrounding landscaping. The agreement limits the timeframe for completion to 90 days. This will allow the developer to finish a building which is next to the amenity and then install the improvements. Staff has coordinated the agreement with the City Attorney and the developer and requests Council approval.

Community Development Services Director Brad Cramer appeared. He stated the department is trying to incorporate this into the zoning code to allow landscaping to be completed in all seasons. Councilor Francis expressed his concern for setting precedence. Director Cramer does not believe a precedence is being set. Per Councilor Francis, Director Cramer stated the funds would be available if the project is not completed, noting there is a financial incentive to the developer as they're posting 150% of the costs of these improvements in the event the city must complete the project. He confirmed this is residential development.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Security Bond for Site Improvements for Rising Sun Townhomes and give authorization for the Mayor and City Clerk to execute the documents. The motion carried by the following vote: Aye - Councilors Hally, Burtenshaw, Dingman, Freeman, Francis, Radford. Nay - none.

**2) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, CCW Express Broadway Subdivision.**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for CCW Express Broadway Subdivision. The Planning and Zoning Commission considered this item at its April 19, 2022, meeting and unanimously voted to recommend approval of the final plat as presented. Staff concurs with this recommendation.

There was no discussion.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Development Agreement for the Final Plat for CCW Express Broadway Subdivision and give authorization for the Mayor and City Clerk to sign said agreement. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Radford, Dingman, Freeman, Francis. Nay - none.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to accept the Final Plat for CCW Express Broadway Subdivision 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 Dingman, Burtenshaw, Francis, Freeman, Hally, Radford. Nay - none.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for CCW Express Broadway Subdivision and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Hally, Radford, Burtenshaw. Nay - none.

**3) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Taylorview Homes Division No. 1.**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Taylorview Homes Division No. 1. The Planning and Zoning Commission considered this item at its August 4, 2020, meeting and recommended approval by a vote of 4-3.

The plat was due to expire, and the applicant asked for an extension. On June 21, 2022, the Planning and Zoning Commission moved to approve the Extension Request for Taylorview Homes Division No. 1, and it passed unanimously.

Councilor Burtenshaw noted this development agreement will include the first impact fee reimbursement. Councilor Francis questioned the move of an irrigation ditch. Director Cramer stated water issues are dealt with regularly, this is to ensure water rights are not affected. Per Councilor Freeman, Director Cramer stated there were numerous delays for this plat due to various issues.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Development Agreement for the Final Plat for Taylorview Homes Division No. 1 and give authorization for the Mayor and City Clerk to sign said agreement. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Dingman, Radford, Freeman, Francis. Nay - none.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to accept the Final Plat for Taylorview Homes Division No. 1 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 Hally, Francis, Radford, Dingman, Burtenshaw, Freeman. Nay - none.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Taylorview Homes Division No. 1 and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Freeman, Radford, Burtenshaw, Francis, Dingman, Hally. Nay - none.

- 4) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Aspen Point Townhomes.

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Aspen Point Townhomes. The Planning and Zoning Commission considered this item at its February 16, 2021, meeting and unanimously voted to recommend approval as presented. Staff concurs with this recommendation.

Councilor Radford questioned the removal of trees included in the development agreement. Director Cramer stated the master agreement addresses the removal of trees, and the development agreement includes the developer providing access across the property. He also stated an original path was shown as a private amenity, however, following discussions with the city, the path was moved to the canal for a public amenity. He noted additional trees were added to the Planned Unit Development (PUD) per the councils' request.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Development Agreement for the Final Plat for Aspen Point Townhomes and give authorization for the Mayor and City Clerk to sign said agreement. The motion carried by the following vote: Aye - Councilors Hally, Francis, Dingman, Burtenshaw, Freeman. Nay - Councilor Radford.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to accept the Final Plat for Aspen Point Townhomes 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 Francis, Dingman, Freeman, Hally, Burtenshaw. Nay - Councilor Radford.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Aspen Point Townhomes and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Freeman, Francis, Hally, Burtenshaw, Dingman. Nay - Councilor Radford.

- 5) Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 11.524 acres of the East ½, Southwest ¼ of Section 15, Township 2 North, Range 37 East.

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of R2, Mixed Residential which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 11.524 acres of the East ½, Southwest ¼ of Section 15, Township 2 North, Range 37 East. The Planning and Zoning Commission considered this item at its November 9, 2021, meeting and unanimously voted to recommended approval of the annexation with an initial zoning of R2. Staff concurs with this recommendation.

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

Karen Lansing, Idaho Falls resident and Executive Director of Habitat for Humanity Idaho Falls (HFHIF),

appeared. Ms. Lansing stated HFH's focus is to provide affordable housing for those who can't find housing in any other way, noting the recent change in affordability of homes has become really difficult for the majority of individuals living in Idaho Falls. She also stated more than 50% of residents are now what United Way calls ALICE (Asset Limited, Income Constrained, Employed). Ms. Lansing stated 11.5 acres is needed for HFHIF to continue the program, and the requested zone is the R2 designation which allows 17 units per acre, noting they do not intend to build to that density, but it would be more dense than R1. She also stated HFHIF hopes to plat and serve affordable housing needs for up to 100 individuals/families. Ms. Lansing stated the property is adjacent to the city property off of West Broadway and is easily developable for HFHIF purposes, and there are no other properties uniquely suited to HFH purposes.

Mayor Casper requested staff presentation.

Director Cramer appeared. He presented the following:

Slide 1 - Property under consideration

Director Cramer stated the property is on the north side of Broadway, and west of Old Butte Road. He identified the surrounding zones.

Slide 2 - Comprehensive Plan Future Land Use Map from 2013

Director Cramer stated this application was submitted under the old Comprehensive Plan and applications are typically reviewed under the standards that existed at that time, however, the proposed ordinance must reference the current Comprehensive Plan. He identified the surrounding zones in 2013.

Slide 3 - Current Comprehensive Plan Future Land Use Map

Director Cramer stated this area is shown as a mix of Natural and Open Space and is right against Mixed Use Centers and Corridors. He reminded the council that Comprehensive Plans do not follow property lines, they are an idea of what could happen roughly in the area, therefore, it's not inappropriate to look at what's adjacent and happening in the area. He noted there are policies and statements in the Comprehensive Plan that helped develop the map. He also noted this property is on an arterial on Broadway and is adjacent to Ernest Drive which will be a future residential collector. He believes this is a perfect place for an R2 zone based on the principles of the Comprehensive Plan.

Slide 4 - Aerial photo of property under consideration

Director Cramer stated for the most part the land is undeveloped.

Slide 5 - Aerial photo of utilities

Director Cramer stated utilities are available in the immediate area, they have been extended to Ernest Drive, and they will need to be extended to this property.

Slide 6 - Airport Overlay map

Director Cramer stated residential is allowed with some restrictions.

Slide 7 - Photos of the property

Director Cramer identified the city property as well as the ag property.

Slide 8 - Photo of the property  
Director Cramer identified the ag use on the site.

Councilor Francis expressed his concern with the Natural and Open Space included in the Reasoned Statement of Relevant Criteria and Standards. Director Cramer stated any adjustment to the Reasoned Statement would also require adjustment to the ordinance. Per Councilor Francis, Director Cramer does not believe it's important to make that designation in the Reasoned Statement because the full record is being looked at. He referenced Line 1 of the Reasoned Statement that includes the previous statements. Per Council President Dingman, Director Cramer confirmed the Reasoned Statement states a fact per the council's decision. Council President Dingman does not believe this statement should be modified/removed. Director Cramer stated additional statements could be added to the Reasoned Statement. Councilor Francis believes having the approval being consistent with the principles of the Comprehensive Plan should be included in the Reasoned Statement. He indicated this statement has been seen in other Reasoned Statements. Director Cramer reiterated an additional statement could be added to the Reasoned Statement. Mayor Casper clarified this would not require an ordinance change.

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

Councilor Burtenshaw believes it makes sense to put R2 in this area and to let higher density have access to the adjacent park. Councilor Francis noted the connection to the recent pathway.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the ordinance annexing 11.524 acres of the East ½, Southwest ¼ of Section 15, 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 Dingman, Radford, Francis, Burtenshaw, Hally, Freeman. Nay - none.

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

ORDINANCE NO. 3475

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 11.524 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 Francis, seconded by Councilor Burtenshaw, that council approve the Reasoned Statement of Relevant Criteria and Standards with the added note that the application is consistent with the principles of the Imagine IF Comprehensive Plan for the annexation of 11.524 acres of the East ½, Southwest ¼ of Section 15, 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 Radford, Freeman, Burtenshaw, Francis, Dingman, Hally. Nay - none.

- 6) Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of R2, Mixed Residential with Limited Development Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 11.524 acres of the East ½ of the Southwest ¼ of Section 15, Township 2 North, Range 37 East.

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of R2, Mixed Residential with Limited Development Airport Overlay Zone, which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 11.524 acres of the East ½ of the Southwest ¼ of Section 15, Township 2 North, Range 37 East. The Planning and Zoning Commission considered this item at its November 9, 2021, meeting and recommended approval of R2 with Limited Development Overlay Zones by a unanimous vote. Staff concurs with this recommendation.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, that council assign a Comprehensive Plan Designation of "Natural and Open Space, with Mixed-Use Centers and Corridors" and approve the Ordinance establishing the initial zoning for R2, Mixed Residential with Limited Development 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 Hally, Burtenshaw, Dingman, Freeman, Francis, Radford. Nay - none.

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

ORDINANCE NO. 3476

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 11.524 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R2, MIXED RESIDENTIAL AND LIMITED DEVELOPMENT AIRPORT OVERLAY ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, that council approve the Reasoned Statement of Relevant Criteria and Standards with the additional note that the application is consistent with the principles of the Imagine IF Comprehensive Plan for the initial zoning of R2, Mixed Residential with Limited Development Airport Overlay Zone, and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Burtenshaw, Hally, Radford, Dingman, Freeman, Francis. Nay - none.

Mayor Casper noted this property was a grant that Congressman Mike Simpson helped HFH qualify for.

- 7) Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.982 acres for part of the SE ¼ of Section 6, Township 2 North, Range 38 East.

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of I&M, Industrial and Manufacturing with Controlled Development Airport Overlay Zones which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.982 acres for part of the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 21, 2022, meeting and unanimously voted to recommend approval of the annexation with an initial zoning of I&M, Industrial and Manufacturing with Controlled Development Airport Overlay Zones. Staff concurs with this recommendation.

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

Steve Ellsworth, appeared. He stated the property, located on 33rd North, is owned by Kevin and Nita Bloxham, who also owns the current property to the west that has been annexed as I&M. He also stated the requested zone of I&M is to be consistent with the current property which would be more developable in the I&M zone as 4.77 acres rather than the current 2.7 acres. Per Councilor Radford, Mr. Ellsworth believes the property would back up to Willow Creek. Councilor Radford questioned the water shed and use of the space. Mr. Fife clarified this item is for annexation, not development. Mayor Casper believes the question is relative to the impact of the natural environment. Mr. Fife stated the city exercises jurisdiction not necessarily based upon the impacts to the environment although the city has a role in determining if it wants to be a responsible steward and director. He does not believe the ordinance contains any environmental impact criteria for annexation. Councilor Radford confirmed Mayor Casper's question was his concern. He believes there should be intention with the water sheds during annexations. Mayor Casper reiterated those considerations are not built into the ordinances. Mr. Ellsworth believes Willow Creek is protected, there would be no impacts to the creek, and there would be setbacks that would not impact the development.

Mayor Casper requested staff presentation.

Director Cramer appeared. He presented the following:

Slide 1 - Property under consideration

Director Cramer reiterated this property has the same ownership to the west.

Slide 2 - Comprehensive Plan Future Land Use Map

Director Cramer stated this is shown as General Urban with Mixed Use Centers and Corridors in the immediate area. He also stated there is a special use to the north for the existing hatch pit, noting this is normally not a zone found in either of these designations. However, Director Cramer stated the recommendation from staff and Planning and Zoning (P&Z) is because of the unified ownership and each of the two parcels on their own are too small for development.

Slide 3 - Airport Overlay map

Director Cramer stated this would include Airport Overlay for Controlled Development.

Slide 4 - Aerial photo of property under consideration

Slide 5 - Additional aerial photo of property under consideration

Director Cramer identified the location as west of Highway 20 and north of 33rd North.

Slide 6 - Photo looking north from 33rd North

Councilor Francis questioned the setback on the north side of the property. Director Cramer stated I&M does not have rear setback requirements unless it's next to residential. Per Mayor Casper, Director Cramer stated the plat and site plan will address setback issues.

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

Councilor Francis believes the interest of the property owner should be considered, and this will make a more viable economic piece, although, he expressed his same concern as Councilor Radford. He also believes annexation will protect the waterway. Councilor Burtenshaw believes the initial annexation and zoning of the property to west occurred in 1992, noting the area and the Comprehensive Plan have changed since that time and I&M may not match, although, she realizes there are property rights. Councilor Radford agrees there would be more control of the water ways if the property were annexed. He believes the option to protect the natural habitat is an important part of the heritage. Mayor Casper suggested a future water way discussion.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve the ordinance annexing 1.982 acres for part of the SE ¼ of Section 6, Township 2 North, Range 38 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 Dingman, Burtenshaw, Francis, Freeman, Hally, Radford. Nay - none.

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

ORDINANCE NO.3477

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 1.982 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 1.982 acres for part of the SE ¼ of Section 6, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Hally, Radford, Burtenshaw. Nay - none.

- 8)** Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of I&M, Industrial and Manufacturing with Controlled Development Airport Overlay Zones, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 1.982 acres for Part of the SE ¼ of Section 6, Township 2 North, Range 38 East.

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of I&M, Industrial and Manufacturing with Controlled Development Airport Overlay Zones, which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.982 acres for Part of the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 21, 2022, meeting and unanimously voted to recommend approval of I&M with Controlled Development Airport Overlay Zones. Staff concurs with this recommendation.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to assign a Comprehensive Plan Designation of "General Urban" and approve the ordinance establishing the initial zoning of I&M, Industrial and Manufacturing with Controlled Development 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

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Burtenshaw, Hally, Dingman, Radford, Freeman, Francis. Nay - none.

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

ORDINANCE NO. 3478

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 1.982 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS I&M, INDUSTRIAL AND MANUFACTURING AND CONTROLLED DEVELOPMENT AIRPORT OVERLAY ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, that council approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of I&M, Industrial and Manufacturing with Controlled Development Airport Overlay Zones, and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Hally, Francis, Radford, Dingman, Burtenshaw, Freeman. Nay - none.

- 9) Quasi-Judicial Public Hearing - Planned Unit Development (PUD) and Reasoned Statement of Relevant Criteria and Standards, Cassiopeia Townhomes.
- Attached is the application for the PUD and Reasoned Statement of Relevant Criteria and Standards for Cassiopeia Townhomes. On April 5, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the PUD as presented. Staff concurs with Planning and Zoning's recommendation.

Mayor Casper explained a quasi-judicial hearing, stating councilmembers will make their decision based on information presented in the hearing.

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

Barry Bane, Connect Engineering, appeared. He stated the PUD is for property that is 3.01 acres. He identified the location as west of Saturn and east of Skyline, stating this property was recently zoned TN (Traditional Neighborhood) zone. He also stated several plans were looked at including lots that would just face north and lots that would just face south, although, the developers and the city did not feel that would be the best use or safe use of the property due to the driveways coming off of Cassiopeia and Lola. Mr. Bane stated the PUD has a total of 9 buildings; a total of 48 units; 16 units per acre, noting the PUD would allow 17 units per acre; 2 accesses, 1 on the far left and 1 on the far right; all individuals would enter their homes from alleyways or private driveways inside the PUD; and would be platted and individually sold as single-family attached dwellings, noting each lot would be sold individually as two homeowners (townhomes). He also stated the PUD allows units to face a common area in between the units, noting the common area would have a playground area which would be dual purpose with a storm pond with 2 French drains (in the storm pond) to ensure quick drainage. The PUD would have a 25% common space, setback, and lands buffers. Mr. Bane stated the landscape buffer usually requires evergreen trees, however, the power company has strongly discouraged evergreen trees, therefore, evergreen bushes have been proposed as a requested variance on the west and east sides. He also stated there is typically a 20' landscaper buffer from the right-of-way (ROW), although some (landscape buffers) are closer to the ROW so another requested variance is a reduction to 20', which does not add more density. He indicated this variance would allow the buildings to be staggered for aesthetic

purposes. He indicated, because TN has a maximum setback of 20', they are seeking an extended setback on the south side so the townhomes would look like the surrounding homes, which have a 25-30' setback. Mr. Bane stated a sidewalk will be added along Lola Street, and curb, gutter, and sidewalk would be added on the south side of Cassiopeia, noting there is no current curb, gutter, or sidewalk on either side, making Cassiopeia a full width street. He also stated there will be 2 parking stalls per unit, a garage, and any guest parking would be on-street parking on Lola and Cassiopeia. Per Mayor Casper, Mr. Bane confirmed the southern unit setbacks would be 25', and the northern units would have a staggered look. Per Councilor Francis, Mr. Bane confirmed there are no internal guest parking spots. He indicated fire signs will be placed to avoid internal guest parking and the curb will be painted for fire safety.

Mayor Casper requested staff presentation.

Director Cramer appeared. He presented the following:

Slide 1 - Additional PUD Concept

Director Cramer explained the referenced landscaping requirement was not included in the Reasoned Statement, noting the evergreen shrubs as approved by the City Forester will need to be included on the last item in the Reasoned Statement. He stated the south side of the PUD is a variance and yet it is not a variance. He indicated the TN is creating the issue which has a maximum setback of 20', however, the PUD code states the front setback needs to be consistent with the surrounding neighborhood, which was a concern. Director Cramer stated the staff member measured all the setbacks in the neighborhood, which the average is just over 25'. He noted this conflicts with the TN zone, and the PUD was superseded to match the neighborhood, therefore, this is a variance from TN standards but not a variance from the PUD standards. He stated the north end comes within 13' from Cassiopeia, which is truly a variance. He also stated the PUD complies with the PUD ordinance as well as the zone.

Slide 2 - Elevations

Slide 3 - Additional Elevations

Slide 4 - Photo looking south

Slide 5 - Photo looking southwest

Slide 6 - Photo looking northeast

Director Cramer noted this picture is not current. He also noted the elevation change, stating there is a restriction in the PUD code that addresses maximum heights of buildings, which is measured from the ground to the top of the building.

Slide 7 - Photo looking west along Lola

Slide 8 - Photo looking east along Cassiopeia

Director Cramer noted the north side of Cassiopeia does not have home fronts on Cassiopeia, these are rear yards with a number of accesses.

Slide 9 - Photo looking west along Cassiopeia

Councilor Radford questioned the density, and what would have been allowed in a TN versus a PUD. Director Cramer stated density is the same at 17 units per acre. He also stated the most common reason for a PUD is due to the lots being platted, noting the requirement for a residential lot must have frontage on a public street, therefore, the only way to have to buildings front each other in the code is through the PUD. Councilor Freeman questioned road improvements on Cassiopeia. Director Cramer indicated the south side would include curb, gutter, sidewalk, and landscaping, and the north side would include curb and gutter only. Councilor Burtenshaw questioned the TN zone allowing 15 units per acre, and the PUD allowing 17 units per acre although only 16 units per acre are being requested. Director Cramer confirmed the TN zone allows 15 units per acre. Councilor Francis believes guest parking on the streets could cause a snow removal issue. Director Cramer stated cars park on the streets in the standard neighborhoods, and must be moved for snow removal, noting this exists in many parts of the city. He also stated there is no other place for guests to park. Per Councilor Hally, Director Cramer stated parking calculations/analysis are for residents, not for anticipated guests, noting on-street parking is there and usable.

Mayor Casper requested any public comment.

Ruth Byron, Idaho Falls resident, appeared. She stated she is opposed to the proposed PUD. She indicated her family moved into the neighborhood in 1959, and this neighborhood is predominantly single-dwelling residential homes, although over the last few years, there have been additions of several apartment complexes on Skyline, Saturn, Broadway, and Buckboard. Ms. Byron stated in a November 2020 meeting, the developer stated the property would align with the current feel of the neighborhood which is mostly single-family single-story homes. She believes this proposal does not honor that as these Cassiopeia apartments posing as townhomes will greatly change the neighborhood; these townhomes could be easily purchased and turned into rentals; and the high population density housing and the additional traffic created by it will negatively affect the current community, safety, and property values of the existing neighborhood homes. Ms. Byron stated when she voiced a concern about the development of high density plans for Cassiopeia, the response was, "They bought the property, don't you think they have the right to develop it the way they choose". She stated she is required to follow city codes and zoning ordinances, and she cannot do what she wants with her property, yet, out-of-state developers are given privileges with changes in zoning codes which specifically benefits them. Ms. Byron believes the concerns brought by current and long-time residents have not been heard and respected; concerns due to the increased traffic brought by at least 96 additional vehicles have not been acknowledged let alone studied or addressed; the proposed development does not meet the requirements of being aligned with other structures on Cassiopeia; and the developer's plan does not provide for any guest parking and will be relying on the street, which will create crowded and dangerous streets. Ms. Byron stated Cassiopeia is wide at the top but narrows significantly, and individuals who have backyard access could end up having individuals parking in their driveways. She believes multi-family dwellings are too much for this area to handle the traffic and access.

Shaun Valentine, Ray Street, appeared. He expressed his concerns about the traffic with 96 cars on a fairly small street. He believes when Cassiopeia gets too much traffic they will drive right by his home. He stated he doesn't hate the idea of the development, he just doesn't believe the city has done the work to understand the traffic considerations.

Randall Wheeler, Saturn Avenue, appeared. He expressed his appreciation to Councilor Francis' comment regarding snow removal as Cassiopeia is a fairly narrow street and snow is not plowed onto the sidewalk, therefore, Cassiopeia essentially becomes a one-lane road. He agrees with the previous comments regarding traffic, noting traffic is terrible with the current construction. Mr. Wheeler referenced the shared garage parking in the PUD in the Supplemental Standards for TN Zone, 5.F. He believes the number of units exceeds this amount. Mr. Wheeler stated he's opposed to the PUD, noting he would prefer the single-family dwellings as considered by the developer. He recognized the owner has the right to do what they want, although, he believes as residents they have the right to not have this type of facility in the neighborhood.

Forrest Ihler, 10th Street, appeared. He stated there are a lot of townhome developments in the city, and he believes most of these developments look plain and uninviting. He believes this (development) looks attractive and is a very well laid out townhome community. He also likes the walkable sidewalks that intertwine and connect to the local street network for residents and guests. Mr. Ihler stated he lives on a narrow one-way street and has frequent guests, which is not a big deal. He indicated guests are all not there at the same time, noting this is a public street where anyone has a right to park there. He believes, due to the narrow street and parking being scattered, this slows traffic down. He noted there are multiple entry points to this development for traffic, they would not all go on one street all at the same time. He also noted some people might not even leave during the day. Mr. Ihler believes this is a good use of TN, and it fits nicely in the neighborhood. He also believes the city needs more density, the city needs to think about the future, and the snow removal issue could be worked out. Mr. Ihler does not believe the storm retention pond will be used as this is a grassy area with a hill, he requested trees be included, which would also be a buffer.

Ruth Byron reappeared. She stated the traffic issue is getting onto Skyline. She shared personal experiences of traffic issues. She noted this is a 35 MPH (Miles Per Hour) speed limit, although traffic goes well beyond that, there are cars parked on both sides of the road, and it is difficult to see and get out onto Skyline in a safe manner. She believes this would be more difficult if 100 more cars were added.

Mr. Bane reappeared. He does not believe Cassiopeia is currently constructed to a full width road, noting the PUD will require this road to be constructed to a full width road with a ROW. He stated curb cuts for the current accesses to the homeowners onto Cassiopeia will be required, which could be rear access to sheds and backyards. Mr. Bane stated, per the traffic, the zone is TN which will create more traffic as the area is developed. He does not believe there will be significantly more traffic with the three additional units. He also stated the PUD will not have direct access off of Cassiopeia, and he believes the PUD is more beneficial. Mr. Bane explained the shared garage structure, and he stated he would be willing to add trees to the storm pond.

Councilor Burtenshaw questioned the depth/elevation of the storm pond as well as the specific playground as the amenity. She stated she also supports the tree request. Mr. Bane stated the depth won't be known until the full design is completed, although he believes it will be possibly 4'-5' deep. He noted this will be reviewed through the site plan process.

Per Councilor Francis, Mr. Bane confirmed trees will be added in storm pond area and the driveways are to the back of the curb. He stated, per the parking issue, he believes there will be 18 parking spots on the north side of Cassiopeia, 20 spots on the south side of Cassiopeia, and 14 spots on the north side of

Lola. He realizes other parking will occur on Cassiopeia and Lola.

Mayor Casper closed the public hearing.

Councilor Burtenshaw believes the parking within a neighborhood is consistent, she is in favor of the widened road and the controlled access which would add to the safety, and she appreciates the product (townhome for purchase) which is needed. Councilor Francis believes the ROW makes a difference on Cassiopeia, although he believes there could be towing situations in the winter. He stated he supports the trees in the amenity, although he believes the setback on Cassiopeia is short. Councilor Freeman does not believe this will create the anticipated traffic issue, although he expressed his concern for the lack of guest parking, while realizing this is not a requirement. Councilor Radford indicated trees retain water for up to 7 days, which is a benefit in storm retention ponds. He stated he is not in favor of PUD concepts although this development fits in the TN. He believes a PUD is an exception and is unpredictable to homeowners for plowing and maintaining streets. Councilor Hally stated retention ponds vary throughout the city, and trees must be planted carefully. Council President Dingman stated she does not see a legal basis to deny the PUD, however, she believes the traffic will increase and it will be more difficult to get onto Skyline. She stated the variable of a PUD versus a TN is personally insignificant, although she believes this is a needed product in the community.

It was moved by Councilor Burtenshaw, seconded by Councilor Hally, to approve the PUD as presented. It was then moved by Councilor Francis, seconded by Councilor Radford, that the developer be required to appropriately place a set of trees approved by the City Forester in the storm retention pond area. Roll call on the amended motion: Aye – Councilors Radford, Francis, Dingman. Nay – Councilors Freeman, Burtenshaw, Hally. Seeing a tie, Mayor Casper stated given that Mr. Bane was persuaded to include trees, she voted Aye. Roll call on the original motion carried by the following: Aye – Councilors Hally, Dingman, Francis, Burtenshaw, Freeman. Nay – Councilor Radford.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the Reasoned Statement of Relevant Criteria and Standards with the addition of requirement of evergreen shrubs approved by the City Forester in the power easement, and planting of trees as passed in the amended PUD approval. The motion carried by the following vote: Aye - Councilors Hally, Francis, Dingman, Burtenshaw, Freeman. Nay - Councilor Radford.

## 6. Announcements.

Mayor Casper announced National Night Out is being celebrated on August 2, and the War Bonnet Round Up Rodeo will be held August 4-6. Councilor Radford noted volunteers are being requested for the rodeo, and any volunteer can receive a free rodeo ticket.

## 7. Adjournment.

There being no further business, the meeting adjourned at 10:11 p.m.

s/ Kathy Hampton

Kathy Hampton, City Clerk

s/ Rebecca L. Noah Casper

Rebecca L. Noah Casper, Mayor