

**August 9, 2018**

The City Council of the City of Idaho Falls met in Regular City Council Meeting, Thursday, August 9, 2018, in the Council Chambers in the City Annex Building located at 680 Park Avenue, Idaho Falls, Idaho at 7:30 p.m.

**Call to Order:**

There were present:

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

Also present:

All available department directors  
Randy Fife, City Attorney  
Kathy Hampton, City Clerk

**Pledge of Allegiance:**

Mayor Casper requested Council President Thomas Hally to lead those present in the Pledge of Allegiance.

**Public Comment:**

Mayor Casper requested any public comment not related to items currently listed on the agenda or not related to a pending matter. No one appeared.

**Consent Agenda:**

Public Works requested approval of Informal Bid Award – Thermoplastic Citywide - 2018.

The City Clerk requested approval of minutes from the July 12, 2018 Council Budget Session; and, license applications, including a Beer License for 1 Fine Café, 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 Smede, Hally, Radford, Dingman, Freeman, Francis. Nay – none. Motion carried.

**Regular Agenda:**

**Airport**

**Subject: Acceptance of FAA Grant No. 3-16-0018-044-2018**

For consideration is Federal Aviation Administration (FAA) Grant Offer AIP No. 3-16-0018-044-2018 in the amount of \$3,455,367 for the Construction Phase of the N. Terminal Expansion project. This grant represents 93.75% of FAA eligible costs, with the remaining costs funded by Airport budgeted resources.

Airport Director Rick Cloutier briefly reviewed the FAA project. He stated this is phase one of the two-phase project. Councilmember Dingman stated there are requirements to ensure the director is following the policies and procedures to accept the grant. Councilmember Radford commended the work that goes into grants.

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It was moved by Councilmember Dingman, seconded by Councilmember Radford, to accept Federal Aviation Administration (FAA) Grant Offer AIP No. 3-16-0018-044-2018 in the amount of \$3,455,367, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally, Radford. Nay – none. Motion carried.

**Subject: Work Order 18-03 with T-O Engineers for N. Terminal Renovation/Expansion Construction Administration Services – FAA AIP Project No. 3-16-0018-044-2018**

For consideration is Work Order 18-03 under the approved Master Professional Services Agreement between the City of Idaho Falls and T-O Engineers, Inc. for grant construction project 18-03 N. Terminal Renovation/Expansion Construction, in the amount of \$435,488. This project is approved funded through the FAA AIP 44 Grant at 93.75% with the remaining costs covered under Airport budgeted funds.

Councilmember Dingman reviewed the tasks and projects associated with T-O Engineers.

It was moved by Councilmember Dingman, seconded by Councilmember Radford, to approve Work Order 18-03 with T-O Engineers in the amount of \$435,488, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

**Subject: Base Contract with Ormond Builders Inc. for N. Terminal Renovation/Expansion – FAA AIP Project No. 3-16-0018-044-2018**

For consideration is a Base Contract between the City of Idaho Falls and Ormond Builders Inc. for the N. Terminal Renovation/Expansion Project. The project will be funded through the FAA AIP Grant #3-16-0018-044-2018 at 93.75% with the remaining costs covered under the Airports approved budget.

Councilmember Dingman stated Ormond Builders will be working closely with T-O Engineers on this contract.

It was moved by Councilmember Dingman, seconded by Councilmember Radford, to approve the Base Contract with Ormond Builders Inc., 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.

## **Municipal Services**

**Subject: Engagement Letter and Professional Services Agreement with Moss Adams, LLP**

It is the recommendation of the Municipal Services Department to issue an engagement letter and professional services agreement with Moss Adams, LLP to provide comprehensive financial audit services for the fiscal year ending September 30, 2018. The proposed fee for the annual financial audit is estimated at \$135,000. Funds for the professional services agreement have been budgeted in the 2018/19 tentative budget under the Municipal Services Department, Finance Division.

Councilmember Radford stated this agreement will allow the audit to occur in an earlier timeframe.

It was moved by Councilmember Radford, seconded by Councilmember Smede, to approve the Engagement Letter and Professional Services Agreement with Moss Adams, LLP, in the amount of \$135,000, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Radford, Dingman, Smede, Freeman. Nay – none. Motion carried.

## **Legal**

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**Subject: Adoption of Idaho Falls Public Hearing Procedures**

Idaho Code Section 67-6534, requires that the City adopt procedures for the conduct of public hearings under the Local Land Use Planning Act, which, at a minimum provide an opportunity for all affected persons to present and rebut evidence. It is recommended that the Council adopt the Idaho Falls Public Hearing Procedures, along with the Resolution, as official procedures for the conduct of quasi-judicial and legislative public hearings by the respective City decision-making bodies, including but not limited to the Council, Planning and Zoning Commission, and Board of Adjustment.

Councilmember Freeman stated this item was discussed at the August 6 Council Work Session.

It was moved by Councilmember Freeman, seconded by Councilmember Radford, to approve the Resolution which adopts procedures for the conduct of public hearings under the Local Land Use Planning Act, 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. 2018-18

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, TO ADOPT IDAHO FALLS PUBLIC HEARING PROCEDURES; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE.

**Community Development Services**

**Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Linden Trails, Division No. 3**

For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Linden Trails Division No. 3. The Planning and Zoning (P&Z) Commission considered this item at its January 3, 2017 meeting and again at its June 5, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

Councilmember Smede stated the property was adjusted to accommodate a duplex.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement for Linden Trails, Division No. 3, 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 approve the Final Plat for Linden Trails, Division No. 3, 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 Linden Trails, Division No. 3, 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.

**Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Sand Pointe, Division No. 2**

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For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Sand Pointe, Division No. 2. The Planning and Zoning Commission considered this item at its May 1, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

Councilmember Smede stated this property includes 20 single-dwelling unit lots and four (4) common lots. These particular lots will be dedicated to the City to allow a future pathway. The extension of Long Cove Drive is being platted separately as a right-of-way plat.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement for Sand Pointe, Division No. 2, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Radford, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Final Plat for Sand Pointe, Division No. 2, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Radford, Freeman, Smede, Francis, Dingman, Hally. 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 Sand Pointe, Division No. 2, 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.

**Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Silverleaf, Division No. 3**

For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Silverleaf, Division No. 3. The Planning and Zoning Commission considered this item at its April 3, 2018 meeting and recommended approval by an 8-1 vote. Staff concurs with this recommendation.

Councilmember Smede stated the preliminary plat was approved in August 2016. This plat is the third of five phases and includes 54 single-dwelling lots. Councilmember Smede noted there was a minor revision in the Development Agreement changing ‘coring’ to ‘crossing’. Mayor Casper believes the adjacent parcel will become City fields, she expressed her concern for the apparent single access, particularly for the public safety aspect. Community Development Services Director Brad Cramer confirmed the multiple access points. He stated a certain number of access points is required per Fire Code.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement with the revision changing ‘coring’ to ‘crossing’ for Silverleaf, Division No. 3, 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.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Final Plat for Silverleaf, Division No. 3, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally, Radford. 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 Silverleaf, Division No. 3, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

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**Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Snake River Landing Division No. 12**

For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Snake River Landing Division No. 12. The Planning and Zoning Commission considered this item at its May 1, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

Councilmember Smede stated this property was annexed in 2004, with a revised preliminary plat in 2008. The property has not previously been platted. This property contains four (4) buildable lots.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement for Snake River Landing Division No. 12, 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.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Final Plat for Snake River Landing Division No. 12, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Hally, Francis, Radford, Dingman, Smede, Freeman. 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 Snake River Landing Division No. 12, 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.

**Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Snake River Landing Division No. 13**

For consideration is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Snake River Landing Division No. 13. The Planning and Zoning Commission considered this item at its May 1, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

Councilmember Smede stated this property was also annexed in 2004, with a revised preliminary plat in 2008. The property has not previously been platted. This property contains one (1) buildable lot.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Development Agreement for Snake River Landing Division No. 13, 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.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Final Plat for Snake River Landing Division No. 13, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally, Radford, Smede, Dingman. 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 Snake River Landing Division No. 13, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Radford, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

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**Subject: Public Hearing – Resolution and Reasoned Statement of Relevant Criteria and Standards for a Comprehensive Plan Amendment for the Area Located Generally Between the Intersection of Lincoln and Hitt and Lincoln and Woodruff**

For consideration is a Resolution and Reasoned Statement of Relevant Criteria and Standards for a Comprehensive Plan Amendment for the area located generally between the intersection of Lincoln and Hitt and Lincoln and Woodruff. The application is to change the plan map from Low Density, Higher Density, and Highway Related Industrial to Commercial and different areas of Higher Density and Highway Related Industrial. The Planning and Zoning Commission considered this item at its June 19, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

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

Director Cramer appeared. He stated the City is the applicant for this item. He indicated the requested changes relates to the upcoming annexation and also is related to the Area of Impact (AOI) to allow consistency with Bonneville County and existing land uses.

Slide 1 – Aerial photo of property under consideration, 295 acres

Slide 2 – Additional aerial photo of property under consideration

Slide 3 – Future Land Use Map of the Comprehensive Plan

Director Cramer reviewed land uses for the Comprehensive Plan. He stated staff erred with the Comprehensive Plan in this location.

Slide 4 – Bonneville County Comprehensive Plan map and Idaho Falls Comprehensive Plan map

Director Cramer proposed higher density residential which will identify what currently exists. He stated if the City Comprehensive Plan map is amended to match the County Comprehensive Plan map, more than 550 acres would be planned for commercial.

Slide 5 – Aerial photo of commercial properties along the Hitt Road corridor

Slide 6 – Comprehensive Plan staff recommendation

Director Cramer does not believe there is currently a demand for commercial. He stated the staff recommendation differs from the AOI map.

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

Councilmember Smede reiterated the City-initiated annexation and the recent AOI discussion with Bonneville County. She stated there are two (2) Category A annexations being requested in the area.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Resolution amending the Comprehensive Plan for the area located generally between the intersection of Lincoln and Hitt and Lincoln and Woodruff, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Radford, Freeman, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

RESOLUTION NO. 2018-19

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 BETWEEN THE INTERSECTION OF LINCOLN ROAD AND HITT ROAD THE INTERSECTION OF LINCOLN ROAD AND WOODRUFF AVENUE. 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 Resolution amending the Comprehensive Plan for the area located generally between the intersection of Lincoln and Hitt and Lincoln and Woodruff, and give authorization

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for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Smede, Dingman, Freeman, Francis, Radford. Nay – none. Motion carried.

**Subject: Public Hearing – Annexation and Initial Zoning of RMH, R1, P, and HC, Annexation and Zoning Ordinances, Reasoned Statements of Relevant Criteria and Standards, Approximately 89.25 acres, Sections 9 & 16, T 2N, R 38E**

For consideration is the City-initiated application for Annexation and Initial Zoning of RMH, R1, P, and HC, Annexation and Zoning Ordinances, Reasoned Statements of Relevant Criteria and Standards, approximately 89.25 acres, Sections 9 & 16, T 2N, R 38E. The Planning and Zoning Commission considered this item at its June 19, 2018, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

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

Director Cramer appeared. He stated this is a City-initiated Category B annexation with a variety of zoning designations. This annexation is not an enclaved property, therefore, conditions that make this property eligible for annexation include the number of parcels, the property is contiguous or adjacent, the property has been divided or sold into tracts of five (5) acres or less, or, implied consent if the property is receiving a utility prior to 2008.

Slide 1 – Property under consideration in current zoning, including mixed land uses

Director Cramer stated this property is contiguous to existing City boundaries on the southwest corner. Clarification with the Idaho State Tax Commission regarding ‘contiguous’ has occurred.

Slide 2 – Aerial photo of property under consideration

Director Cramer stated this area has been part of the City plan for annexation once it became contiguous. Annexation requests have also been received from adjacent property owners. Director Cramer believes there is demand for development in this area.

Slide 3 – Additional aerial photo of property under consideration

Director Cramer stated at the time of the staff report, staff understood that all property owners within the annexation were receiving City service of some type or were under a contractual agreement with the City to receive services in annexation at some time. Since the P&Z hearing, additional information was received that an agreement for an original 40-acre parcel is no longer valid. Director Cramer stated in 1980, the entire 40-acre area was platted in the County for development with a City agreement to provide water and sewer service. The owner agreed once the City was contiguous, the area would be annexed. Development of the first phase occurred with agreements that as properties connected to water and sewer that the City would collect the connection and frontage fees with reimbursement to the developer. Once the developer requested reimbursement, the City declined as the original agreement required the water line be built across the entire frontage of the 40-acre parcel, which did not occur. This issue was disputed for a number of years, with additional reimbursement requests denied until the water line was completed. Director Cramer stated in 1996, a court case settled the dispute. As part of the settlement, the agreement stated neither party was under obligation to provide service. Therefore, the 40-acre parcel is not being utilized as part of the eligibility requirement for annexation. In 2001, the 40-acre parcel was shown with a new plat in the County and anything not developed was vacated in 2004. In 2004 and in 2007, two (2) additional plats were recorded. Director Cramer reiterated between the 1980’s and 2007, there has been division, laying out, and sale of parcels of five (5) acres or less with intent to develop. He indicated this issue has been reviewed with Legal staff and he is confident Category B annexation requirements are being met. He noted the remaining properties have an agreement, which was not part of the settlement.

Slide 4 – Utility services map in the area under consideration

Director Cramer stated additional City services, including public safety, are also provided in the area.

Slide 5 – Proposed R1, RMH, HC, and P Zones for the area

Director Cramer explained the variety of zones. He stated anything that is currently legal in the County will remain legal in the City once annexed.

Slide 6 – Future Land Use map of the Comprehensive Plan

Slide 7 – Future Land Use map of the Comprehensive Plan staff recommendation

Slide 8 – Photos of Pinewood Estates development

Slide 9 – Photo of storage unit parcel on Applewood Way

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Slide 10 – Photos of frontages along Lincoln Road

Slide 11 – Photos looking north and south at Jonathon Way

Slide 12 – Photos looking at Duchess Drive and Court

Councilmember Freeman questioned the City park located in the County. Director Cramer stated the park is maintained by the Parks and Recreation Department but is not currently annexed. Councilmember Radford questioned the annexation of the roadway. Director Cramer stated the legal description will include a portion of the roadway.

Mayor Casper requested public comment.

Leslie Folsom, landowner of property adjacent to the proposed annexed property, appeared. Ms. Folsom stated several adjacent land owners have expressed interest in this annexation. There is currently a lot of attention to this land, including the sewer and main line for the total expansion. She also stated until these land owners are contiguous, no one can go onto the line. Ms. Folsom believes in City growth although she does not believe the expansion of the sewer line is the proper way to expand the City. She also believes there will be a lot of progression with the annexation as the City has planned on growth to the north. She stated Lincoln Road is a main arterial around the City. She is hopeful for an expandable situation as she believes the annexation is the best thing for the lands and the best thing for the City.

Sherie Hulse, Bonneville County resident, appeared. Ms. Hulse stated the homes in her subdivision are manufactured mobile homes, most of these homes are not on permanent foundations. At the time of development there was no code for permanent foundation, therefore, most homes are not sellable due to the foundation requirement and, these mobile homes have depreciated. Ms. Hulse stated she represents people in the mobile home park as several residents could not attend. She indicated the residents are against the annexation due to the increase of their taxes. This area is low income and several residents are single, senior citizens. Increasing taxes would be an extreme hardship as the taxes would double. There is no ability to sell and move. Ms. Hulse stated the sewer lines, water lines, and lift stations were put in by the developer, not the City. The current homeowners/landowners did not sign the development contract. Ms. Hulse stated the road in front of her property was developed higher than the property, therefore, the rain runs from the road onto her property. Additional roads flood as well. She expressed her concern for placement of vehicles during snow removal as her property does not include a driveway or garage. Ms. Hulse does not believe there is an advantage to the annexation.

Dennis Wilkinson, on behalf of Lloyd and Renee Cox, appeared. Mr. Wilkinson commended the City for the eloquent and thoughtful presentation, however, he disagrees with the legal basis of the annexation. He stated Mr. and Ms. Cox are owners of approximately 30 acres, which includes Lincoln Storage. One (1) parcel is dedicated to Lincoln Storage and two (2) parcels are dedicated to agricultural. Mr. and Ms. Cox are hoping to expand their business. Mr. Wilkinson stated the reasons for not annexing are largely similar to Ms. Hulse regarding the taxes on the property. He also stated there are serious legal issues associated with annexing the Cox property. Mr. Cox is not against development or progress, he is concerned for the impact on his family and his business. Mr. Wilkinson stated, per Idaho Code 50-222, the power of the municipality to annex can occur without consent of the habitants of the property or can occur against their wishes. However, that municipality power is limited by the type of annexation. He indicated, in this particular case, the land is not completely surrounded by the City. Mr. Wilkinson reviewed the parcels/acreage on the Cox property. He stated 20 acres on the property is not platted and is presently being used for agricultural purposes. Mr. Wilkinson reviewed a previous law case referencing five (5) acres or less. He stated it would be inappropriate to annex the Cox property, and there is an issue with the boundary. Mr. Wilkinson believes Idaho law is not well developed in certain areas, including the definition of contiguous or adjacent. Law contemplates that property connected only at a point on a corner is not contiguous or adjacent. There must be a substantial common boundary with the City to qualify as contiguous. He indicated although numerous States have held this case, Idaho has not. Mr. Wilkinson stated the Cox property boundary was reviewed by the County. The City boundary and the Cox property do not touch, therefore, Mr. Wilkinson does not believe this is considered contiguous or adjacent. He indicated this would be legally difficult for the City to overcome.



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Councilmember Dingman questioned the boundary of the recently annexed property with the Cox property. Director Cramer stated per discussion with Legal staff, this property is considered contiguous. He stated the Statute also allows for adjacency, which is 'close to' or 'near'. Councilmember Dingman questioned the Idaho State Tax Commission information. Mr. Fife also clarified adjacent as 'near'. Director Cramer referred to State Statute regarding Category B annexations, the wording of the five (5) acre lots, and the sale of land. He stated, by review of the original property, the plat has been vacated. There also has been demonstration for intent to develop in an urbanized standard. Councilmember Francis questioned the location of the park. Mayor Casper reiterated the City maintenance of the park, which has not been annexed, and that boundary does not grant contiguity. To the response of Councilmember Freeman, Director Cramer reviewed the properties currently receiving City services. Councilmember Francis questioned the storm water drainage issues as addressed. Director Cramer stated current and future maintenance would become the City responsibility. Public Works Director Chris Fredericksen concurred. He noted there are several areas throughout the City that have not been updated to current standards due to insufficient funds, however, there are alternatives for municipalities to address these concerns, generally through Local Improvement Districts (LID). Maintenance funds are allocated yearly to upgrade storm water issues, any new development would pay for development of any new facilities/projects. Director Fredericksen noted snow removal would occur with cooperation with the County. Councilmember Smede questioned the Idaho State Tax Commission information. Mr. Fife believes this refers to the legal description. Director Cramer stated the Idaho State Tax Commission will perform the final review of the legal description.

Mr. Lloyd Cox, Bonneville County resident, appeared. Mr. Cox stated the legal description was provided by the County, indicating there is a 33-foot gap. He inquired the 'shoe string' definition from the Idaho State Tax Commission. He reiterated the tax issue and believes this is an unfair advantage relative to taxation of storage units. He believes the Council could railroad this annexation or the Council could follow State law. Mr. Cox stated his 20 acres have not been divided into parcels and have not been sold. He also stated his property is not adjacent.

Ms. Folsom reappeared. Ms. Folsom questioned separating the section of the storage units out of the annexation, this would still make the property contiguous.

Mr. Cox reappeared. Mr. Cox reiterated the reprieve from the tax issue. He would be in favor of removing the storage units from the annexation. He also would prefer a timeframe for additional annexation.

Ms. Hulse reappeared. Ms. Hulse understands the savings on City services but not believe this will compensate on the level of taxes, including any additional taxes for improvements.

Councilmember Hally requested clarification of the storage units. Director Cramer cautioned against exempting the storage units as he believes exemptions for tax reasons would be a challenge. He understands the tax concerns although he believes future governance may be difficult. Director Cramer indicated the tax issue is always a main concern with annexations although the purpose of annexation is to reduce the number of enclaves and service islands.

Mayor Casper closed the public hearing.

Councilmember Smede stated the annexation would allow for the orderly development and efficient equitable and economical delivery of municipal services which are shared among the City people. This area became contiguous and eligible for annexation in May 2018. Councilmember Smede noted the property owners to the northeast of this area have requested annexation. Councilmember Hally stated, for reasons that have already been discussed, opportunity for growth will discomfort some people. He agrees with the Legal staff interpretation of contiguous. He believes this opens a lot of area that could utilize the utilities and will be a catalyst for growth. He also believes the value of the property will increase. Councilmember Francis believes several difficult issues have been raised, he also believes postponing the annexation will make the situation worst. He indicated being part of the City has tremendous advantages.

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It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance annexing approximately 88.271 acres, Sections 9 & 16, T 2N, R 38E, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Smede, Hally, Radford, Dingman, Freeman, Francis. Nay – none. Motion carried. At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3203

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 88.271 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 Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of approximately 88.271 acres, Sections 9 & 16, T 2N, R 38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally Radford. Nay – none. Motion carried.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to assign a Comprehensive Plan Designation of “Commercial”, “Lower Density Residential”, “Higher Density Residential”, and, “Parks, Recreation” and to approve the ordinance establishing the initial zoning for approximately 89.25 acres, Sections 9 & 16, T 2N, R 38E as R1, RMH, HC, and P Zones, under the suspension of the rules requiring three complete and separate readings and 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. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

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

ORDINANCE NO. 3204

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 88.271 ACRES DESCRIBED IN SECTION 1 AND EXHIBIT A OF THIS ORDINANCE AS R1, RMH, HC AND P ZONE; 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 Initial Zoning of R1, RMH, HC, and P Zones for approximately 89.25 acres, Sections 9 & 16, T 2N, R 38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Radford, Freeman, Francis. Nay – none. Motion carried.

**Subject: Annexation and Initial Zoning of HC, Annexation and Zoning Ordinances, Reasoned Statements of Relevant Criteria and Standards, Approximately 5.702 acres, Section 9, T 2N, R 38E**

For consideration is the City-initiated application for Annexation and Initial Zoning of HC, Annexation and Zoning Ordinances, Reasoned Statements of Relevant Criteria and Standards, Approximately 5.702 acres, Section 9, T 2N, R 38E. The Planning and Zoning Commission considered this item at its June 19, 2018, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation. At the time this item was considered by the Commission, it was part of a larger, 23-acre request for multiple properties. One of those properties found an error

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in its legal description which was not resolved prior to this meeting. It is anticipated to come before the Council in the near future.

Councilmember Smede stated this property includes two (2) parcels. This is a Category A annexation requested by the property owner. Councilmember Freeman noted the previous annexation allowed eligibility for this annexation. It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance annexing approximately 5.702 acres, Section 9, T 2N, R 38E, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Hally, Francis, Radford, Dingman, Smede, Freeman. Nay – none. Motion carried.

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

ORDINANCE NO. 3205

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 5.702 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 Councilmember Smede, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of approximately 5.702 acres, Section 9, T 2N, R 38E, 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.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to assign a Comprehensive Plan Designation of “Commercial” and to approve the ordinance establishing the initial zoning for approximately 5.702 acres, Section 9, T 2N, R 38E as HC Zone, under the suspension of the rules requiring three complete and separate readings and 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. Roll call as follows: Aye – Councilmembers Hally, Radford, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

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

ORDINANCE NO. 3206

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 5.702 ACRES DESCRIBED IN SECTION 1 AND EXHIBIT A OF THIS ORDINANCE AS HC ZONE; 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 Initial Zoning of HC Zone for approximately 5.702 acres, Section 9, T 2N, R 38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Radford, Smede. Nay – none. Motion carried.

**Subject: Public Hearing – Conditional Use Permit and Reasoned Statement of Relevant Criteria and Standards for a Power Substation at Sandy Downs**

For consideration is the application for a Conditional Use Permit (CUP) and Reasoned Statement of Relevant Criteria and Standards for a Power Substation at Sandy Downs. The Planning and Zoning Commission considered

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this item at its July 10, 2018 meeting and recommended approval with a 10-year time frame to complete the project by unanimous vote. Staff concurs with this recommendation.

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

Director Cramer appeared. He stated the P&Z Commission traditionally approves CUPs, however staff erred on the recently approved zoning ordinance. He stated all issues with the archery range in this area have been resolved.

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

Councilmember Smede stated developments have been and are continuing to occur in this area and additional future power service will likely be needed. Councilmember Radford stated a lot of work and cooperation with several individuals have occurred over the course of time to make this CUP happen. Mayor Casper stated Idaho Falls Power (IFP) purchased property for a substation several years ago for anticipated growth. Councilmember Dingman noted the property was acquired in 2009.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Conditional Use Permit for a Power Substation at Sandy Downs. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally, Radford, Smede, Dingman. 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 Conditional Use Permit for a Power Substation at Sandy Downs, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Radford, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

**Subject: Public Hearing – Ordinance Adopting Various Changes to the City Sign Code**

For consideration is an ordinance adopting various changes to the City's sign code. The changes are primarily to make the code consistent with the recent adoption of the new zoning ordinance. There are also small changes to address known issues in the code. These are all summarized in the staff report. The Planning and Zoning Commission considered this item at its June 19, 2018 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

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

Director Cramer appeared. He stated changes to the Sign Code are staff recommended.

Slides 1-5 – Sign Code changes

Director Cramer reviewed changes to zones, definitions, billboard requirements, and reformatted tables. He also noted portable signs are not a requirement to be a licensed Sign Contractor. He indicated these changes will reflect the recent changes in the new zoning ordinance.

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

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance amending Title 9, Chapter 7, adopting various changes to the City's Sign Code, under the suspension of the rules requiring three complete and separate readings and 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. 3207

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AN ORDINANCE AMENDING CHAPTER 9 TO TITLE 7 OF THE IDAHO FALLS CITY CODE, CHANGING SOME DEFINITIONS, REGULATIONS OF PORTABLE SIGNS, ELECTRONIC MESSAGE AND CHANGEABLE COPY SIGNS, AND BILLBOARDS; AND ADJUSTING LOW DENSITY AND MULTI-FAMILY RESIDENTIAL SIGN TABLES; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

**Subject: Public Hearing – Ordinance Amending Sections 7-9-43 and 7-9-48 of the Sign Code Regulating Master Planned Development Signs and Electronic Message Centers**

For consideration is an ordinance adopting changes to Sections 7-9-43 and 7-9-48 of the sign code related to electronic message centers and master planned development signs. The change was originally requested by private parties and has been reviewed and amended by staff prior to being presented to the Planning and Zoning Commission. The changes and rationale are summarized in the staff report. The Planning and Zoning Commission considered this item at its July 10, 2018 meeting and recommended approval with one change as outlined in the staff report and minutes by unanimous vote. Staff concurs with this recommendation.

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

Director Cramer appeared. He stated this item began as a staff error while reviewing a sign permit request. The initial request was initiated by an outside applicant, although a different recommendation was presented by staff.

**Slide 1 – Master Planned Development Signs**

Director Cramer stated Master Planned Development Signs were added to the code several years ago in recognition of large developments where parcels are divided by public streets. He stated standards would have to be met to prevent the overall clutter of signs. Director Cramer stated Electronic Message Centers (EMC), allowed in the Master Planned Development on an arterial streets, cannot exceed 250 square feet. This is the same limitation for any business. In addition, staff has been aware for some time that standards near freeways and highways need to be adjusted for speed, increased visibility, and safe driver decision.

**Slide 2 – Permitted Master Planned Development Signs examples (existing and proposed)**

**Slides 3&4 – Amendment language changes**

Director Cramer stated a formula has been established to determine the size of a sign based on adjacent roadways. Proposed changes will allow a sign within 660 feet of I-15 or US Hwy 20 not to exceed 800 square feet and 80 feet in height. The additional feet or height will comply with the Access Management Plan. Director Cramer stated the EMC requirements have also been clarified. He reviewed the three (3) options for the EMC.

**Slides 5-11 – Photos of sign samples**

Director Cramer stated these changes are only limited to Master Planned Developments only adjacent to I-15 and US Hwy 20. He anticipates a small number overall.

Councilmember Radford questioned additional locations. Director Cramer stated any additional signs will be based on speeds.

Mayor Casper requested any public comment.

Peggy Breski, representing Horrocks Engineers in Idaho Falls, appeared. Ms. Breski stated she is in support of the diligent work by City staff as the individual who requested the change is a client of Horrocks Engineers. She expressed her appreciation for the willingness of City staff's collaboration. She indicated Horrocks Engineers performed research for the City during the collaboration and she believes the City of Idaho Falls sign ordinance is one of the best, thorough, well-written sign ordinances. Ms. Breski reiterated the support of this ordinance as this rectifies an imbalance for master development versus smaller business allowable signage, it provides a safety mechanism for motorists, and is progressive and forward thinking in bringing code current. Mayor Casper questioned the Lady Bird rules which focused on clutter along highway corridors. Ms. Breski was unaware of Lady Bird rules. She stated the highway corridor was a focus point and the U.S. Sign Council was referred to for recommendations.

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Mayor Casper closed the public hearing.

Councilmember Smede concurred with Ms. Breski regarding the extensive research. She stated patterns of variances have previously been granted for a variety of reasons.

Councilmember Hally stated the City has investment in development along the Sunnyside corridor. There is also tremendous investment by many individuals for additional development and he prefers the enhancement of businesses beyond that corridor.

Councilmember Dingman believes the amendment makes sense for development standards of the Access Management Plan and provides equity. She also believes this is essential to building and development.

Mayor Casper commended Community Development Services staff as well as Horrocks Engineers.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve the Ordinance amending Title 9, Chapter 7 of the City's Sign Code related to electronic message centers and master planned development signs, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Hally, Smede, Dingman, Freeman, Francis, Radford. Nay – none. Motion carried.

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

ORDINANCE NO. 3208

AN ORDINANCE AMENDING TITLE 9, CHAPTER 7 OF THE IDAHO FALLS CITY CODE TO ALLOW MASTER PLANNED SIGNS, ELECTRONIC MESSAGE CENTER SIGNS, AND CHANGEABLE COPY SIGNS IN CLOSE PROXIMITY TO I-15 AND U.S. HIGHWAY 20 TO EXCEED THE GENERAL SIZE RESTRICTIONS; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

**Announcements and Adjournment:**

Mayor Casper stated Roaring Youth Jam will be occurring August 9-11, the Farmers Market is continuing, and the Duck Race will be held August 11.

There being no further business, the meeting adjourned at 10:21 p.m.

s/ Kathy Hampton \_\_\_\_\_  
CITY CLERK

s/ Rebecca L. Noah Casper \_\_\_\_\_  
MAYOR