

September 20, 2021 Work Session

The City Council of the City of Idaho Falls met in Council Work Session, Monday, September 20, 2021, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 3:00 p.m.

Call to Order and Roll Call:

There were present:

Mayor Rebecca L. Noah Casper
Council President Michelle Ziel-Dingman (via telephone/WebEx)
Councilor Thomas Hally
Councilor Jim Freeman
Councilor Jim Francis
Councilor Lisa Burtenshaw

Absent:

Councilor John Radford

Also present:

Pamela Alexander, Municipal Services Director
Eric Day, Division Fire Chief
Jon Perry, Deputy Fire Chief
Bill Squires, Police Captain
Michael Kirkham, Assistant City Attorney
Randy Fife, City Attorney
Kathy Hampton, City Clerk

Acceptance and/or Receipt of Minutes:

It was moved by Councilor Francis, seconded by Councilor Freeman, that Council receive the recommendations from the Planning and Zoning Commission meeting of September 7, 2021 pursuant to the Local Land Use Planning Act (LLUPA). Roll call as follows: Aye – Councilors Burtenshaw, Hally, Dingman, Freeman, Francis. Nay – none. Motion carried.

Liaison Reports and Councilmember Concerns:

Council President Dingman had no items to report.

Councilor Hally noted, following a recent trip, all individuals in Hawaii must be masked and show proof of vaccination if dining indoors. He also noted one (1) in every five (5) cases of Coronavirus (COVID-19) is children.

Councilor Burtenshaw had no items to report.

Councilor Freeman had no items to report.

Councilor Francis stated the zoo will be open on weekends beginning in October until the snow flies, the irrigation system has been completed on the front nine (9) holes of Pinecrest Golf Course, the back nine (9) holes will begin soon, and the splash pad is open with a grand opening expected for spring 2022. Councilor Burtenshaw added heavy equipment has been working at Heritage Park. Councilor Francis also stated discussion is occurring with Captain Squires and Mr. Fife regarding business licensing for consistency. He believes this will assist with enforcement. Councilor Freeman noted the daycare ordinance will be used as a template.

Calendars, Announcements, Reports, and Updates:

September 23, Idaho Falls Power Board Meeting and City Council Meeting
October 2, Policeman's Ball

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October 11, Columbus Day, city offices closed
October 12, City Council Work Session
October 14, City Council Meeting
October 25, City Council Work Session
October 28, Idaho Falls Power Board Meeting and City Council Meeting
October 29, Monster's Ball
November 8, City Council Work Session
November 10, City Council Meeting
November 15, Association of Idaho Cities (AIC) Fall Academy
November 22, City Council Work Session
November 23, City Council Meeting
November 24-25, Thanksgiving

Mayor Casper stated due to recent events discussion is occurring regarding increasing employee workplace safety. She noted there are approximately 50 locations of city employees.

COVID-19 – Mayor Casper stated the State has gone into Crisis Standards of Care which will require an assessment of individuals' condition to determine the level of care for hospitalization. She briefly reviewed the number of patients in the surrounding hospitals. Per Councilor Hally, Division Chief Day stated overflow rooms at Eastern Idaho Regional Medical Center (EIRMC) have been converted to assist with Intensive Care Unit (ICU) patients. Mayor Casper believes unvaccinated individuals are mostly affected by COVID.

Discussion: Connecting Us, Sustaining Progress:

Mayor Casper stated the CUSP effort was brought about as a desire to try and identify items as a community that could attract employees. She noted workforce is currently a huge concern. She also noted the CUSP report included recommendations as well as a report from each committee. Mayor Casper stated Juan Alvarez, the CUSP committee chair and Idaho National Laboratory (INL) Deputy Laboratory Director, will begin meetings later in the year to roll out the report in the community. She believes the city should also focus on this effort. Mayor Casper stated she has created a CUSP Committee Report with a councilor assigned to each report. She proposed each councilor become an expert on these report(s) for presentation in the near future. Councilor Freeman suggested those councilmembers that are not currently up for re-election present first. Brief discussion followed regarding CUSP and a Strategic Plan.

Briefing: Acceptance of Opioid Settlement:

Mr. Fife stated the opioid settlement was a collaboration of a series of class action lawsuits. The solicitation was based upon losses that were expected in political jurisdictions. Mr. Fife stated at that time the city declined to join the litigation as the city does not have a county hospital and it was difficult to determine how the city could prove losses, although cities are impacted by the use of available prescription drugs. He also stated, in the meantime, other entities joined in the litigation as an effort to settle with the larger manufacturers. He indicated a settlement has been offered to the State of Idaho if the State decides to settle a case. He noted settling the case would prevent further activity of litigation. Mr. Fife stated the Attorney General's Office has assigned a percentage amount to various entities within the State if they chose to opt into the settlement. He noted if certain parties believe they have a better chance of a better amount they could opt out. He believes it would be difficult for the city to quantify the amount. Therefore, the city would need to decide if the city agrees to the amount and how the money would be spent. Mr. Fife stated the monies would be applied to General Fund and the council would need to decide where the money could be spent, including specific activities related to opioid abuse. Mayor Casper stated, per a letter

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received, the Attorney General is asking the city to join in participation. Director Alexander stated the amount would be \$699,000, and the deadline is January 2, 2022. Mayor Casper realizes going alone may not be a viable option as the city would need to justify its settlement and there is a risk to not get anything. Per Councilor Freeman, Director Alexander stated she is unsure of the amount over the specific timeframe. Also per Councilor Freeman, Captain Squires stated in addition to Narcan (being included in the budget) additional costs for the Idaho Falls Police Department (IFPD) include the amount of labor for investigations, including deaths, and training. Per Mayor Casper, Division Chief Day stated the Idaho Falls Fire Department (IFFD) responds to approximately 100 calls per year where Narcan is administered. He also stated it costs approximately \$77,000-90,000 per year for the IFFD to respond to overdose calls. He believes the IFFD could justify pursuing the money to recoup the costs for EMS response, not including other training or community factors. Councilor Burtenshaw expressed her concern that future litigation could not occur if the city participates in the settlement. Per Council President Dingman, Mr. Fife stated there are risks on both sides. He recommended not to individually litigate as there is not a strong link to drug use and the drug being provided by a licensed medical practitioner. He believes this could be difficult and is complicated, he believes getting something is better than getting nothing as any indirect costs couldn't be made up. He also believes it would be unlikely that the city would be successful in its own litigation. Per Mayor Casper, Mr. Fife believes there are other cases that have not reached litigation at this time. Councilor Francis believes the city should take the money. He questioned if the IFPD and/or IFFD could be proactive with this money similar to the Drug Abuse Resistance Education (DARE) program. Captain Squires stated the IFPD has recently entered a first-time drug user offender treatment program and funding could be limited. He believes the settlement could assist with that funding. Councilor Hally believes the settlement could be better than individual litigation. He also believes allocation of the settlement should be discussed, it should not just be put in the General Fund. Per Mayor Casper, Mr. Kirkham stated he would give the same advice as Mr. Fife. Per Mayor Casper, Division Chief Day stated there would be no shortage of programs to use the money. Also per Mayor Casper, Captain Squires believes opioid use has increased although he does not believe the IFPD has plateaued. General comments followed regarding Narcan. Mayor Casper stated this item will be included on a future City Council Meeting agenda.

Update: Proposed Federal Emergency Temporary Standard under the Occupational Safety and Health Act (OSHA): Mr. Kirkham stated on September 9 President Biden announced that employers with more than 100 federal employees develop a vaccine mandate program. He also stated the executive order directed OSHA to come up with a vaccination plan that employers would have to follow. He indicated the city must follow workplace safety rules set by the Idaho State Department of Industrial Commission, therefore, he believes the OSHA rules will not apply to the city, however, the notice has not yet been published. He also believes the order may apply to the larger employers in the city. Mr. Kirkham stated the executive order also refers to a task force that would implement the rules, noting this too has not yet been published. He indicated he is unsure if this order would apply to the city. He believes the city would not fall under the definition of federal contract employees. He indicated he would determine what rules would be imposed on employers once the order is published. Per Councilor Freeman, Mr. Kirkham stated the State Occupational Safety Provision rules are separate from OSHA. Councilor Francis believes discussion needs to occur regarding city employees versus other businesses that employ 100 employees. Mayor Casper noted data for employee vaccinations is not currently available. Mr. Kirkham stated there is no regulation to track the data at this time. Mr. Fife cautioned against specific employee health data. Councilor Burtenshaw stated she has no appetite for a city mandate although she expressed her appreciation for any update. Mayor Casper clarified the rules have not been published at this point, the city is just preparing for any future federal actions.

Councilor Burtenshaw requested to move the license appeal hearing to the next item on the agenda to accommodate the individual who is present.

License Appeal Hearing:

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Mayor Casper opened the hearing and ordered all items presented be included in the record. Captain Squires stated Ms. Smith applied for a Child Care Worker Certification (CCWC), however, Ms. Smith has a petit theft larceny conviction from December, 2016 on her background investigation. He noted this conviction is included in the lowest level of prohibitions in City Code which identifies a 5-year prohibition from the charge date. He also noted Ms. Smith would be eligible for the CCWC on December 14, 2021. Discussion followed regarding the charge date and the conviction date. Captain Squires believes the charge date would be in Ms. Smith's favor. Mr. Fife believes this date would apply to the finding of the guilt date. Captain Squires clarified that date would then be February 5, 2022. Ms. Smith stated this incident occurred in Oklahoma with some friends. She believes she was 'guilty by association' as she indicated her particular friend was being watched by law enforcement. Ms. Smith stated she performed community service, paid the fine, has since moved back to Idaho, and has not been in trouble in Idaho. She also stated she applied for the CCWC as she is trying to further her education. Per Councilor Freeman, Ms. Smith stated community service was court ordered, and she believes she paid her debt. She reiterated she no longer associates with those individuals. She indicated she has since become more involved with her religion. Per Councilor Burtenshaw, Ms. Smith confirmed this charge did not occur in her youth. Per Councilor Hally, Captain Squires stated the City Statute would apply regardless if the charges were considered withheld judgement. Ms. Smith believes the charges were to be expunged following the community service. Captain Squires read the City Code pertaining to the denial. Per Councilor Francis, Mr. Fife reiterated the applicant would need to re-apply for the license in February. Per Mayor Casper, Ms. Smith explained her reasoning for schooling and child development. Also per Mayor Casper, Ms. Smith believes the occurrence was a lesson learned for her standards and maturity. Per Councilor Burtenshaw, Captain Squires stated a license would be valid for five (5) years. Mayor Casper closed the hearing. Councilor Freeman believes Ms. Smith has paid her debt to society, he sees no reason to delay the license. Councilor Francis believes a lot of work occurred to adjust the ordinance. He believes the law should be enforced, even though that can be really hard. Councilor Burtenshaw agreed the license should have been denied, however, she agrees with the appeal process. Councilor Hally stated he appreciates the appeal process to look at circumstances, he believes the community service was important, he believes the religion is immaterial, and the charges are close to the deadline. Mr. Fife stated the appeal process does not mean the council can waive the requirements of any license that is established. He also stated the reason of the license procedure and requirements is to signal to the public and the applicant what the regulations are. He does not believe the ordinance allows a provision to waive the conditions that prohibit licensure or allows the waiver of the time period of a confirmed disqualifying event. He clarified the appeal procedure does not grant that waiver, the appeal procedure gives the council the opportunity to be made aware of any mistakes made in the process. He also stated the public has the expectation of the rules. Council President Dingman concurred with legal counsel. She believes the council wants to have the opportunity to approve an appeal and have the legal clarity to advise staff to approve a license. She does not see how the council can approve an appeal if staff applied the ordinance appropriately. Councilor Francis believes the application was completed correctly. Mr. Fife agreed. He stated the application was not the disqualification, the disqualification is stated in City Code. Discussion followed regarding applicants' knowing what is included in City Code, the application, City Code being more restrictive than the State, the fee for a background check, changing the ordinance, and timeframe for crimes. It was moved by Councilor Burtenshaw, seconded by Councilor Hally, to deny the appeal and refund all the fees that have been paid. Further discussion followed regarding the charged fees. It was then moved by Councilor Burtenshaw, seconded by Councilor Hally, to amend the motion to deny the license and refund the applicant \$70. Roll call as follows: Aye – Councilors Burtenshaw, Francis, Dingman, Hally. Nay – Councilor Freeman. Motion carried.

Discussion: City Property:

Director Alexander stated there are a variety of city facilities involving long-term agreements. She reviewed the property at 600 S. Boulevard as follows:

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- The city purchased the land and building in 1963 for \$22,000
- The city purchased the parking lot in 1974 for \$7,000
- An appraisal occurred on September 10
- 1982/1983 - leased to AA organization (Serenity Hall)
- December 2006 agreement, 30-day notice for termination
- \$250.00 per month lease
- The city is responsible for utilities, general property maintenance, repairs to building, equipment, and parking lot
- Since acquired, approximately \$92,000 in repairs and upgrades have occurred, including The Americans with Disabilities Act of 1990 (ADA) compliance upgrades for \$53,000 in 2013
- Ongoing maintenance budget inside the building upon request from tenant
- Ongoing maintenance budget outside the building (mow lawn, trim trees, inspect roof)

Director Alexander reviewed upgrades that have occurred to the facility. She indicated there is interest for a sublease agreement between the Senior Center and Serenity Hall for use of the Senior Center, which is also a city-owned building. She believes this is an elegant solution. She stated the lease terms for the Senior Center is \$275.00 per month for three (3) years with options to renew. She also stated the Senior Center agreement was signed in 1980 and expires in 2029. She reviewed the Senior Center costs, city responsibilities, and space available at the facility. Director Alexander noted these two (2) facilities are not used for city business. She also noted costs to renovate and/or update 600 S. Boulevard exceeds the available financial resources to maintain the building long-term. She stated the city could auction the property and deposit the proceeds to the city's building maintenance budget. Discussion followed regarding the monthly costs of both facilities, the utilities, and the city's responsibilities. Mayor Casper noted this sublease would provide some income for the Senior Center. She agreed the sublease is an elegant solution. Director Alexander stated the sublease would be presented to Council in the future for approval.

Discussion: Disposition of Health Insurance Savings:

Mayor Casper reminded the council that previous discussion occurred regarding the savings from moving from Blue Cross to Pacific Source for health benefits. Director Alexander reviewed the following summary from the August 23, 2021 Budget Discussion:

- Total estimated health insurance savings with Pacific Source
 - \$782,000 (year one)
 - \$16,000 (year two)
 - Capped at 7.9% increase
- Savings calculation is based on employee insurance mixture
- Provide one-time disbursement to employees
- Create employee Health Insurance Stabilization Fund
 - Use to offset costs of insurance increases AFTER year 2
 - Use to offset increased costs on other employee benefits
 - Use to establish a fund to maintain the HSA wellness benefit
 - Use to achieve the city/employee ratio of 85/15 (or other %)

Mr. Hagedorn reviewed one-time pre-tax disbursement as follows:

Payout	\$300	\$400	\$500	\$600	\$700	\$800	\$900	\$1,000
Wages & Benefits	\$366	\$488	\$610	\$732	\$854	\$976	\$1,098	\$1,220
Total Savings Allocation	\$188,856	\$251,808	\$314,760	\$377,712	\$440,664	\$503,616	\$566,568	\$629,520

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He stated the savings are not unilaterally all General Fund, each fund stays within the designated fund. A cash transfer would be required if the council chooses to use these savings in a different fund. Per Councilor Burtenshaw, Mr. Hagedorn stated this disbursement would include all benefit-eligible employees, and this does not include union employees. Per Councilor Freeman, Director Tew stated if the city moves to self-insured the medical inflation will continue to occur, and this money may be needed for self-insurance. Discussion followed regarding self-insurance. Mr. Hagedorn stated self-insurance is a program, similar to Workman’s Compensation, it is not a savings tool and the only way to save money is to administer the program. Director Tew stated approximately \$5M has been set aside for potential cost increases for self-insurance. Mr. Hagedorn stated moving to self-insured should not occur if the claims are outpacing the insurance. He also stated any savings now will defray in year three. Councilor Burtenshaw expressed her concern for defraying costs as these costs will eventually catch up. She prefers some savings for self-insured. Councilor Freeman prefers employees receive some money back.

Mr. Hagedorn reviewed ongoing wage percentage increase as follows:

	1%	1.50%	2%	2.5%
Wages & Benefits	\$387,779	\$581,668	\$775,557	\$969,447

He stated the ongoing increase would offset some costs for the employees. Mayor Casper believes wages are increasing in all industries, there may be retention issues if the wages are not keeping pace, and an ongoing increase may put the city in a better workforce position going forward. Councilor Freeman believes employees would prefer the ongoing increase option for the long-term effects. Per Councilor Burtenshaw, Directors Alexander and Tew stated a market study is scheduled for next year. Brief discussion followed regarding a market study. Also per Councilor Burtenshaw, Director Alexander stated funding from one-time projects could be allocated to the ongoing increase for the second year. She also stated discussion would need to occur each year to offset ongoing costs with ongoing money. Mayor Casper noted there could also be savings by delaying any one-time or ongoing increase until January 1. Per Councilor Burtenshaw, Mr. Hagedorn and Director Tew stated a one-time increase as well as an ongoing increase is possible although those employees who received a higher percentage increase was mainly due to longevity. Per Councilor Freeman, Mr. Hagedorn reiterated the one-time or ongoing increase does not include union employees. He clarified this is not an insurance repayment, this is an insurance savings being allocated toward wages. Councilors Freeman and Francis prefer a 1.5% ongoing wage increase. Councilor Burtenshaw prefers a one-time disbursement before year end as she believes the one-time funding would assist with future projects. Mayor Casper noted the ongoing wage increase would assist with the market study. Director Alexander noted funds are not currently set aside for any market study increase. Director Tew believes employees would prefer an ongoing wage increase. Additional discussion followed including current council approval for an ongoing increase with effective date in January.

There being no further business, the meeting adjourned at 6:37 p.m.

s/ Kathy Hampton
Kathy Hampton, City Clerk

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