



## NOTICE OF PUBLIC MEETING

Monday, August 6, 2018  
CITY COUNCIL CHAMBERS  
680 Park Avenue  
Idaho Falls, ID 83402  
3:00 p.m.

*The public is invited to attend. This meeting may be cancelled or recessed to a later time in accordance with law. If you need communication aids or services or other physical accommodations to participate or access this meeting or program of the City of Idaho Falls, you may contact City Clerk Kathy Hampton at 612-8414 or the ADA Coordinator Lisa Farris at 612-8323 as soon as possible and they will accommodate your needs.*

### **SPECIAL MEETING (Council Work Session)**

*Times listed in parentheses are only estimates.*

#### Call to Order and Roll Call

Mayor:

- Acceptance and/or Receipt of Minutes
- Calendar, Announcements and Reports (10)

Council:

- Liaison Reports and Concerns (10)

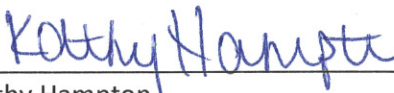
Community Development Services:

- Annexation Law, Procedures and Purposes Discussion (40)

Legal:

- Public Hearing Procedures Discussion (10)

DATED this 3<sup>rd</sup> day of August, 2018

  
\_\_\_\_\_  
Kathy Hampton  
City Clerk

## **Annexation Law, Procedures, and Purposes**

### **Law and Procedures**

Idaho Code Section 50-222 establishes the law and procedures relevant to annexation by cities. The purpose for annexation as described in the statute is, “that cities of the state should be able to annex lands which are reasonably necessary to assure the orderly development of Idaho’s cities in order to allow efficient and economically viable provision of tax-supported and fee supported municipal services, to enable the orderly development of private lands which benefit from the cost effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.”

There are at least 5 purposes of annexation listed in the above statute:

- To assure orderly development
- Allow efficient and economically viable provision of tax and fee supported services
- To enable orderly development of private land with access to services
- To equitably allocate the costs of public services
- Manage development on the urban fringe

*Categories of Annexation.* There are three categories of annexation in Idaho: A, B, and C. Category A is fairly straight forward in terms of when it applies and how the procedure works. However, there are multiple situations in which an annexation could qualify as a B or C. The chart on the following page comes from Givens Pursley’s *Land Use Handbook*. It concisely summarizes the three categories of annexation.

*Required Procedures.* Annexations are a legislative action, not a quasi-judicial action, even though a public hearing may be held. As shown on the chart, Category A annexations only require a straight forward passage of an ordinance. It does not require a public hearing, although the jurisdiction may elect to hold one. This is true whether the annexation is requested by the land owner or initiated by the city. Category B and C annexations, on the other hand, require a public hearing before the Planning and Zoning Commission and the City Council. The hearing must follow the same rules and noticing rules required by the Local Land Use Planning Act as other items such as rezones and conditional use permits. In addition, Category B and C annexations require the preparation of an annexation plan where the city must outline:

1. How the City will provide tax-supported services to the area annexed
2. The changes in taxation and other costs which will result if the property is annexed
3. How the City will provide fee-supported services to the area annexed
4. A brief analysis of how annexation will affect the entities currently providing services to the property
5. The proposed future land use plan and zoning designations for the area annexed

**(b) Summary chart**

**Summary of Annexation Statute (Idaho Code § 50-222)**

This summary omits some details and special exceptions.<sup>64</sup>

The reader should consult the statute in its entirety.

	Category A	Category B	Category C
Definition of category:	All landowners consent. OR Enclaved residential and < 100 parcels.	< 100 parcels regardless of whether landowners consented. OR > 100 parcels and owners of > 50% (based on land) have consented. AND Annexed land is subdivided into lots of 5 acres or less, or Owner has begun to sell land in parcels of 5 acres or less. OR Annexed land is completely surrounded by the city.	> 100 parcels and owners of > 50% (based on land) have not consented at outset.
Requirements and procedures applicable to each category:	All annexed land must be contiguous or adjacent to city (regardless of category).		
	Need not be within area of city impact. Where all landowners consent, must be included in comprehensive plan.	Must be within area of city impact.	
	May be annexed unilaterally by ordinance.	City must prepare detailed annexation plan Requires compliance with procedures for zoning district boundary change; publication and mailing to landowners; hearing; express findings.	
		So long as appropriate findings are made, annexation may proceed over objection of landowners.	After following procedures above, owners are polled again and over 50% must consent.
Judicial Review:	By declaratory action (very deferential).	By IAPA (somewhat deferential).	

## **Purposes of Annexation**

The statutory purposes of annexation are listed above. Cities annex to ensure and enable orderly growth and development. The statute also repeatedly mentions the provision of city fee-supported services as a reason for annexation. Fee supported services are things like sewer, water, and power. Typically, these are services provided by cities, not counties and therefore there it is normal and responsible for urban development to occur in cities. In recent public hearings, however, even property owners receiving those services have asked, “how will I benefit from annexation?” The points below outline the benefits of annexation to Idaho Falls. Please note that some of these benefits are already being derived by the property owners in the County.

- Access to fee-supported services including water, sewer, and power
  - Having those services maintained and operated by the City instead of private services such as wells and septic tanks
- Road maintenance, including snow removal, by the City of Idaho Falls
- Service by the Idaho Falls Police Department
  - Reducing the number of County “island” areas the Sherriff’s Department must serve
- Reduction in fire insurance rates
- Provision and maintenance of Parks and Recreation facilities
  - City residents receive a reduced rate to such facilities that charge fees such as the zoo and golf courses
- Access to Idaho Falls Library (if contract for non-city residents were to go away OR if even with annexation the \$58 annual fee for county residents goes away)
- Street lights
- Storm drainage and management system
- Consistent building, zoning, and code enforcement regulations and enforcement

The higher taxes paid after annexation go mainly towards benefits already being provided either to the property owner or in the immediate area. In conjunction with the City providing more service to these properties, the County, fire district, and other entities don’t have to provide service to these “islands” thereby reducing their overall demand and increasing their overall efficiency.



## MEMORANDUM

---

**TO:** Mayor Casper

**FROM:** Michael Kirkham, Assistant City Attorney

**DATE:** August 3, 2018

**RE:** Idaho Falls Public Hearing Procedures

---

The Legal Department has taken the current public hearing procedures and updated and clarified them so that they are more readable and friendly to Idaho Falls residents.

**RECOMMENDED ACTION:** To adopt the attached public hearing procedures that help update and clarify the existing procedures from time to time by Resolution of the Council.

## IDAHO FALLS PUBLIC HEARING PROCEDURES

### A. Quasi-Judicial Hearing.

*Note: Ex parte contacts, personal investigation, or research are prohibited in this type of hearing.*

#### 1. Preliminary

- a. The Chair announces the agenda item, including the purpose and subject of the hearing.
- b. The Chair should ask if any member wishes to declare a conflict. Members of the body should reveal a conflict, if there is one. That member may either reveal the conflict and participate or they may recuse themselves (and move off the dais) until the next agenda item is considered. A member of the decision-making body with a potential conflict should consult the City Attorney's office before the agenda item is considered. Discussion with the City Attorney regarding potential conflicts will normally insulate the member from legal liability.

#### 2. Hearing

- a. The hearing begins with an announcement to that effect from the Chair and BEFORE the staff presentation.
- b. The staff presents the matter and asks the Chair to accept staff proffered materials as part of the hearing record. The staff presentation and all questions and answers by staff should be "on the record." Members of the body should ask all of their questions to staff prior to public testimony, if possible.
- c. The Chair then gives an opportunity for the applicant and/or the applicant's representative to present the applicant's testimony and supporting materials.
- d. Next, the Chair gives an opportunity for presentation of any supporting opposing, neutral or mixed testimony and materials/evidence (positive or negative).
- e. Finally, the Chair gives the applicant an opportunity to rebut or to respond to or to address matters brought up following the applicant's presentation.
- f. BEFORE the close of the public hearing, the Chair ensures, to the extent possible, that all of the information that needs to be made part of the record and will contribute to the decision, has been presented in the public hearing. This includes questions to City staff, any written or other tangible materials presented, and electronic communications received by the City, such as emails, photos, and the like.
- g. The Chair announces that the public hearing is closed.

### 3. *Deliberation*

- a. Next, the Chair facilitates deliberation based on the only upon testimony, materials, and/or information presented during the public hearing
- b. If there is any discussion or consideration of matters that were not made part of the record, the Chair should stop the discussion.
- c. *Note – Reopening hearing:* The Chair and the decision-making body may decide to reopen the public hearing for the receipt and inclusion of materials and/or data that was not made part of the record (in order to make sure that the consideration of the issue is not based on any non-record data). If the hearing is reopened, the applicant and others should be given the opportunity to comment on the new information before the hearing is closed and deliberations are resumed.

### 4. *Decision*

- a. Following deliberation, the Chair should entertain a motion to decide the question, then a final decision should be made.

## **B. Legislative or Informal Hearing**

*Note: Ex parte contacts are not prohibited in this type of hearing.*

### 1. *Preliminary*

- a. The Chair announces the agenda items, including the purpose and subject of the hearing.

### 2. *Hearing*

- a. The hearing begins with an announcement to that effect from the Chair and BEFORE the staff presentation, if any, and BEFORE any testimony is received.
- b. The Chair accepts any written or other materials received by the City prior to the hearing, as part of the hearing record.
- c. The Chair gives an opportunity for all who wish to give testimony or materials to present. Normally, the order of testimony should be those in favor, those opposed, and then mixed or other comments.
- d. BEFORE the close of the public hearing, the Chair ensures, to the extent possible, that all of the information that needs to be made part of the record and will contribute to the deliberation has been presented in the public hearing. This includes any written or other tangible materials presented (before or during the hearing) and includes electronic communications received, such as emails, photos, and the like.

- e. The Chair announces that the public hearing is closed.

### *3. Deliberation*

- a. The Chair facilitates a deliberation based upon any materials and testimony included in the record of the hearing. Deliberation and discussion is not limited to only materials and testimony presented because the purpose of such a hearing is to give an opportunity for broad and extensive input on and consideration of the topic.

### *4. Decision*

- a. Following deliberation, the Chair should entertain a motion to take legislative action or take other action deemed appropriate.