



2015 Academy for City Officials

Agenda

- About AIC, ICRMP & LHTAC
- The Basics of City Government
- Roles & Responsibilities
- Idaho's Open Meetings Law
- Following Your Moral Compass
- Public Purchasing Basics
- Installation of Elected Officials
- Planning and Zoning Basics
- Keeping Citizen Comment Periods from Going Off the Rails
- Annexation & Area of City Impact
- Idaho's Public Records Law
- Liability Protection for City Officials



About
AIC

Association of Idaho Cities

Mission:

To promote excellence in and advocate for city governance, community leadership, and services to citizens in order to strengthen Idaho cities.

Advocacy + Training + Technical Assistance

Opportunities to Get Involved:

Legislative Committee ~ Economic Development Committee

Environment Committee ~ Transportation Committee

Youth & Families Task Force ~ Drug Task Force



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2nd VP Jeri DeLange — Council, Hayden
3rd VP Elaine Clegg — Council, Boise
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Past Pres. (2003-04) Garret Nancolas — Mayor, Caldwell

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Suzanne Hawkins — Council, Twin Falls
District 5: Tom Jenkins — Council, Malad
Kevin England — Mayor, Chubbuck
District 6: Tom Jewell — Mayor, Island Park
Rebecca Casper — Mayor, Idaho Falls

AIC Events in 2016

- City Officials' Day at the Capital in Boise ~ January 28
- Spring Regional Academies ~ April (Dates TBD)
- AIC Annual Conference in Boise ~ June 22 - 24
- Idaho City Clerks, Treasurers & Finance Officers Assn. Institute in Idaho Falls ~ Sept. 21 - 23



Idaho Counties Risk Management Program

- Founded in 1985.
- Member owned property and casualty insurance pool for 931 Idaho local governments.
- Governed by board of local elected officials, representing various regions of the state.
- Emphasis on risk management.





lhtact2

Scout Mountain
South of Pocatello

Local Highway Technical Assistance Council

HISTORY

- 1994 Formation of LHTAC
- 2001 Federal-aid Incentive Rural/Urban Program
- 2003 Federal-aid Bridge Program
- 2004 Local Rural Highway Investment Program (LRHIP)
- 2009 Local Highway Inventory (LHI) Program
Merger of the Idaho Technology Transfer (T2) Center
American Recovery and Reinvestment Act of 2009 Stimulus (ARRA)
Governors Discretionary Local Projects
Construction Engineering & Inspection (CE&I) of Local Projects
- 2010 Accept Partial Responsibility for Revised Road & Street Financial Report
- 2011 Federal-aid Local Emergency Relief
- 2013 Local Highway Safety Improvement Program (LHSIP)
- 2014 LHTAC Celebrates 20 Years of Service



ADVOCATE. SUPPORT. TRAIN.



Federal-aid STP Rural

Total Projects*	190
Total Funds*	\$173.4M
FY14 Projects	4
FY14 Funds	\$8.5M

Federal-aid STP Urban

Total Projects*	60
Total Funds*	\$76.3M
FY14 Projects	1
FY14 Funds	\$2.0M

Federal-aid Bridge

Total Projects*	79
Total Funds*	\$77.0M
FY14 Projects	7
FY14 Funds	\$11.7M

Rural and Urban Projects Selected/Awarded by Council

*Totals are cumulative numbers since the program's inception with LHTAC through FY14.

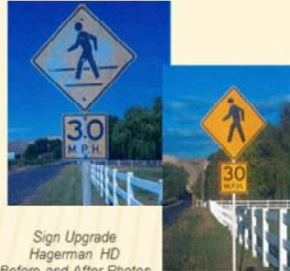


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Local Rural Highway Investment Program

Total Projects*	443
Total Funds*	\$28M
FY14 Projects	36
FY14 Funds	\$2.8M

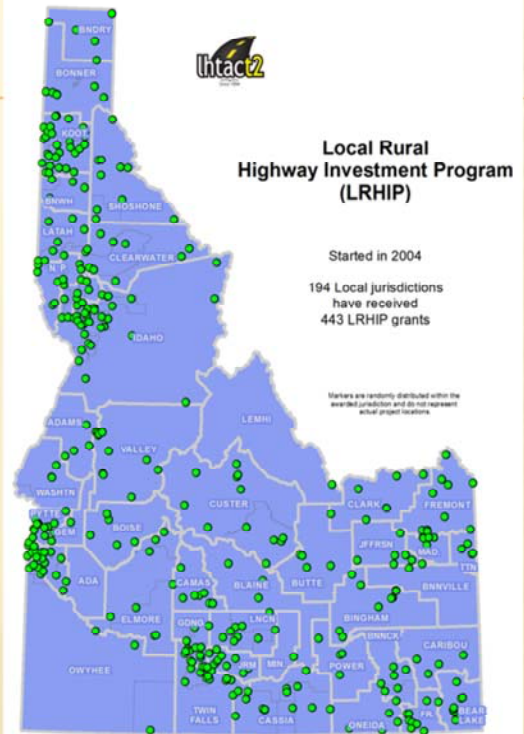
LRHIP Projects Selected/Awarded by Council



Sign Upgrade
Hagerman HD
Before and After Photos



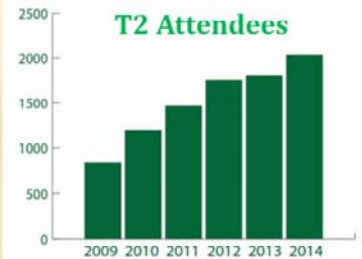
High Street
City of Priest River
Before and After Photos



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T2 Center Training & Technical Assistance FY14 Totals

Courses	92
Class Hours	15,643
Participants	2033
Videos/DVDs/CD Views	933



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Provide the best and most efficient assistance to
every local highway jurisdiction in Idaho

lhtac@lhtac.org

www.LHTAC.org

3330 Grace Street, Boise, ID 83703





The Basics of City Government

The Basics of City Government

- Form of Government
 - Mayor-Council
 - Council-Manager
- Size of Council: 4 or 6 members
- Cities' Creation and Powers Defined by State Constitution & Laws.
- No Classes of Cities in Idaho.

Most Idaho cities operate under the Mayor-Council form of government, with a mayor and four or six councilmembers.

Twin Falls, McCall and Lewiston operate under the Council-Manager form of government:

- An elected council, with the mayor elected by the council from among its members, and
- A professional city manager serving at the pleasure of the council.

Cities are created by their inhabitants to provide urban services desired by the community.

The structure of city government, as well as the powers and limitations of cities are defined by the Idaho Constitution and state law.

Many other states have systems classifying cities based on population size. In Idaho all cities—from the largest to the smallest—operate under the same laws and are called cities.

Powers of Idaho Cities

- Police Power—ID Constitution Art. XII, Sec. 2.
- Governmental Powers of Cities
 - Law-making
 - Taxation
 - Eminent domain
 - Annexation
- Cities as Municipal Service Providers
 - Water
 - Sewer
 - Streets
 - Public Safety: Police & Fire Protection
 - Etc.

The fundamental power of cities to enact laws for the promotion and protection of the public health, safety, and welfare is known as the Police Power.

Police Power is granted to cities by Article XII, Section 2 of the Idaho Constitution: “Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws.”

Other examples of governmental powers include:

- Taxation,
- Eminent domain, and
- Annexation.

Cities are also granted authority under state law to provide certain urban services, including:

- Water,
- Sewer,
- Police,
- Fire protection and EMS,
- Solid waste collection,
- Streets,
- Parks,
- Airports,
- Libraries,
- Etc.

State & Federal Supremacy

- Powers of cities defined by state and federal laws and constitutional provisions.
- Preemption of local authority.
- Examples of policy areas where cities are preempted.
- Unfunded mandates.

The powers of cities are defined and limited by state and federal laws and constitutional provisions.

Local laws or policies that conflict with state or federal laws and/or constitutional provisions can be struck down by the courts.

A few examples of policy areas where the state has expressly prohibited city regulation include:

- Registration and licensing of automobiles;
- Ownership, possession or transportation of firearms; and
- Regulation of obscene material or conduct.

Unfunded mandates: local governments are forced to comply with costly state or federal requirements without receiving additional revenue to offset the increased costs. The most visible area of unfunded mandates are federal water quality regulations, which impose hundreds of millions of dollars of increased costs on cities without any increased financial assistance to help implement the regulations.

Roles of Cities, Counties & Special Districts

- Cities created by their inhabitants to provide urban services.
- Counties created by the state to perform mix of mandated and discretionary functions.
- Special districts are created by citizens to provide a desired service in a specific area.
- City & County Police Power: Who Governs Where?
- All city property taxpayers are also county property taxpayers.

Cities are created by their inhabitants to enhance services to citizens and provide better and more livable communities.

Counties are created by the state to perform a mix of state mandated and discretionary functions.

- Counties are empowered by Art. XII, Sec. 2 of the Idaho Constitution to adopt ordinances to protect public health, safety and welfare.
- Counties serve as an arm of the state in administering the property tax system, courts, law enforcement, jails, disaster planning and preparedness, and elections at the local level.
- Other state mandated county services include: indigent medical care, public defenders for indigent criminal defendants, juvenile corrections, planning and zoning, roads and bridges, landfills, and weed control.
- County discretionary functions include: airports, ambulance service, hospitals, parks and recreation, fairs, ag extension, and historical society/museum.

Special districts—highway, cemetery, water/sewer, recreation, library, etc.—are formed by citizen petition to provide desired/necessary services in a specific geographic area and have no regulatory authority.

County ordinances apply only to the area outside of cities; cities have sole regulatory authority within city limits.

Interacting with State Agencies



- Cities interact with numerous state departments and agencies, including:
 - Idaho Dept. of Environmental Quality (water & sewer)
 - Idaho Transportation Dept. (roads)
 - Idaho Tax Commission (property taxes)
 - Secretary of State (elections)
 - Public Employee Retirement System of Idaho (PERSI)
 - Dept. of Water Resources (water rights)

Understanding Taxes vs. Fees

	Taxes	Fees
Authorization	Must be specifically authorized by state law.	May be authorized by state law or incident to legally authorized regulatory authority.
Who Pays?	Levied on property owners based on property value.	Levied upon the users of a particular service.
How Much Do You Pay?	Bears no relationship to the services used by a particular taxpayer.	Must be reasonably related to the cost of providing the service.
What Does it Pay For?	Used to pay for services provided to the public at large: govt. administration, streets, libraries, parks, etc.	Pays for services used by a particular consumer: water, sewer, sanitation, building permits, animal licenses, etc.

Ordinances & Resolutions

Ordinance

- ▶ Local legislative action
- ▶ Regulates the community
- ▶ Required when defining criminal conduct
- ▶ Process to adopt set in state law
- ▶ Must be published to provide notice
- ▶ Subject to veto by mayor

Resolution

- ▶ Policy statement by city council
- ▶ Governs internal operations of city
- ▶ No state law procedural requirements
- ▶ Equivalent to a motion
- ▶ Not subject to veto
- ▶ Can be superseded by motion

Ordinances are formal legislative acts of the council and should be used whenever the council intends to pass a regulatory measure, especially when it provides a penalty for violation. The following are examples of when to use an ordinance:

- To regulate people (e.g. disturbing the peace)
- To regulate property (e.g. zoning)
- To grant franchises
- To authorize bond issues
- To adopt the annual appropriation

A resolution is a binding decision of the council and is used for more administrative matters. Unlike the adoption of an ordinance, there are no reading and notice requirements. Examples of actions that may be best accomplished by resolution include:

- Adoption of council meeting procedures
- Adopting a records retention schedule
- Adopting a personnel policy
- Authorizing the mayor to sign a contract on behalf of the city
- Authorizing a schedules of fees (e.g. building permit fees, sewer rates, ...)
- Authorizing the destruction of records
- Authorizing the sale of surplus equipment

Ordinances must be read on three separate days, with one reading in full; however, the council may suspend the reading requirement by majority vote of the full council. Ordinances must be passed by roll call vote, with each councilmember's vote recorded individually in the minutes. Every ordinance must be published as a legal notice, either in full or by summary, within 30 days after passage.



Roles & Responsibilities

Roles & Responsibilities

- Three branches of government:
 - Executive,
 - Legislative and
 - Judicial.
- Separation of Powers
- Checks and Balances

Like government at the state and federal levels, city government is separated into three branches: executive, legislative, and judicial (there are no city courts—Idaho has a unified system of state courts).

Our system of government diffuses power among the various branches and then forces those branches to interact. This serves to prevent any one branch from becoming too powerful.

Collegiality and cooperation are the grease that keep the gears of our political system turning. No collegiality or cooperation means things grind to a halt, just like they have in D.C.



Why are there three branches of government?

"...The evolution in modern times of three major procedures of government reflected the importance attached to three dominant values in the Western world: efficiency, democracy, and justice."
M.J.C. Vile

Strengths of the Executive, Legislative & Judicial Branches

Executive Branch Strengths	Legislative Branch Strengths	Judicial Branch Strengths
<ul style="list-style-type: none">• Moving quickly• Decisive action• Holding people accountable• Clearly articulating a vision for the community	<ul style="list-style-type: none">• Vetting and debating policies• Representing diverse communities• Balancing a multitude of interests• Crafting political compromises	<ul style="list-style-type: none">• Ensuring a fair process• Decisions based on evidence• Protecting rights of individuals• Protecting rights of minorities

The Mayor

- Mayor is chief executive and administrative official.
- Mayoral powers and responsibilities.
 - Hiring, firing, appointing
 - Enforcing ordinances
 - Breaking ties

The mayor is the chief executive and administrative officer of the city.

The mayor's powers and responsibilities include the following.

- Hiring, firing, and supervising city employees.
- Appointment and removal of appointed officers—city clerk, treasurer, attorney & any other officials designated by local policy. A majority of the full council **must confirm** the mayor's appointment or removal of an appointed officer.
- Appointments to fill council vacancies and vacancies on city boards, commissions and committees, both subject to council confirmation.
- Presiding over city council meetings and calling special council meetings.
- Ensuring local laws—ordinances—are enforced.
- May break tie votes of council. There are certain situations where approval is required by a majority of the full council where the mayor's tie breaking authority is not effective, including confirmation of the mayor's nomination for an appointed office, confirmation of the mayor's removal of an appointed officer, or suspension of reading requirements for ordinances.
- May veto ordinances passed by the council. The mayor's veto may be overridden by a majority of the full council.
- Signing documents on behalf of the city and administering oaths, e.g. oath of office.

The Council

- The council is the legislative branch.
- Council powers and responsibilities.
 - Passing laws and policies
 - Approving budget & tax levy
 - Financial oversight, including approving payables

The council is the legislative body of the city and its powers and responsibilities include the following.

- Passes laws and policies that must not conflict with state or federal law or constitutional provisions.
- Approves annual budget and property tax levy.
- Approves payment of all city bills.
- Receives monthly report on city finances from city treasurer.
- Provides for audit of city's financial statements. Establishes by ordinance the place(s) of deposit for city funds. Approves by resolution investment of city funds.
- Determining services that will be provided by the city, the fees charged for such services, and whether a service will be provided by the city itself or by contract with private or public entity.
- Adopting a comprehensive plan, and zoning and subdivision ordinances. Quasi-judicial decisions on rezones, conditional use permits, variances and subdivision preliminary plats.
- Confirmation of mayor's appointments to fill council vacancies and vacancies on city boards, commissions and committees. Confirmation of mayor's appointment or removal of appointed officers, which requires a majority of the full council. Filling a mayoral vacancy (from within or without the council).
- May establish, by ordinance, city boards, commissions and committees and define their membership, responsibilities, duties and authority.

The Council as a Body



The council **ONLY** exercises its authority as a single body, operating in public meetings preceded by posted notice and agenda.

An individual councilmember has no authority to supervise, discipline or fire city employees.

The Courts

- Idaho's unified state court system.
- Powers of the judicial branch.
 - Adjudicating cases involving violation of city ordinances
 - Adjudicating cases challenging the validity of local laws & policies
 - Adjudicating tort claims
 - Planning & Zoning appeals

Idaho has a unified state court system comprised of four levels:

- Magistrate Division,
- District Court,
- Court of Appeals, and
- Supreme Court.

The courts have the following powers and responsibilities relative to cities.

- Adjudicating cases challenging the validity of local ordinances and policies, including compliance with state and federal laws and constitutional provisions.
- Adjudicating cases and sentencing for violation of city ordinances.
- Adjudicating tort claims—civil actions for wrongdoing by a local government, elected official, employee or volunteer—and determination of compensable damages.
- Appeals concerning rezones, conditional use permits, variances, subdivision preliminary plats and other site specific land use matters.
- Enforcement of Idaho's Open Meetings Law and Public Records Law.
- Judicial confirmation of the legality of multi-year indebtedness or financial obligations.
- Determination of just compensation for private property owners in eminent domain cases.

City Appointed Officers

- Appointed Officers:
 - Clerk,
 - Treasurer,
 - Attorney, &
 - Others designated by local policy.
- Process for appointment & removal.

Three appointed officers are legally required for each city:

- Clerk,
- Treasurer, and
- Attorney.

The council may designate additional appointed officers.

Appointment Process: Mayor nominates a person, who must be confirmed by a majority of the full council.

Removal Process (Two Options):

- Removal by the mayor, which must be confirmed by a majority of the full council.
- Removal by the council, which must be by unanimous vote of the council (mayor's approval not required).

City Clerk

- Records custodian
- Issues licenses
- Point of contact for public and media
- Meeting notices, agendas, packets, minutes
- Candidate filing
- May be risk manager

The city clerk's responsibilities include:

- Custodian of city records and fulfilling public records requests.
- Issuing licenses for sale of alcohol, business and occupational licenses, and animal licenses as provided by local ordinance.
- Publication of legal notices.
- Filing and publication of annual city Street Finance Report with State Controller's office.
- Serving as primary point of contact for citizen and media inquiries.
- Preparation and posting of council and other meeting notices and agendas. Preparation and dissemination of council meeting packets.
- Ensuring accurate minutes are taken at council meetings.
- Assisting candidates for mayor and council with filing to run for office.
- May serve as the city's risk manager and receive tort claims filed against the city.

City Treasurer

- Oversees accounting, financial reporting, & investments
- Publishes quarterly financial report
- Monthly report on city finances to council

The city treasurer's responsibilities include the following.

- Custodian of city revenues, which are kept at the place(s) of deposit designated by ordinance.
- Investment of city funds as authorized by council resolution.
- Overseeing the city's accounting and financial reporting.
- Signing or authorizing checks, along with the mayor, issued by the city to pay for goods or services.
- Monthly report to council on city finances, including statement of all receipts and disbursements.
- Publication of quarterly financial statement as a legal notice.
- Coordinating the city's financial audit.
- Administering bonds and local improvement districts.
- Supervising billing and administration of municipal irrigation systems.
- Collecting special assessments.

City Attorney

- Legal advisor to city
- Drafts and reviews ordinances, resolutions, policies, and legal notices
- Prosecution often done by contract

The City Attorney's primary responsibilities include:

- Legal advisor to the city.
- May represent the city in judicial proceedings.
- Interpreting federal, state and local laws and policies.
- Often responsible for drafting or reviewing ordinances, resolutions, policies and legal notices.
- Approves summaries of adopted ordinances for publication as local notices.
- Cities may employ additional counsel as necessary.
- Prosecuting violations of city ordinances, state traffic infractions, and state misdemeanors committed within city limits (often done by contract counsel or contract with county prosecutor).
- Signing off on city records proposed for destruction.
- Working with city clerk on public records requests.

Personnel

- Role of mayor
- Role of council
- City appointed officials are nonpartisan professionals
- Give yourself time to figure out who is performing and who isn't
- Need to follow your city's personnel policy
- Need for honest timesheets (FLSA constraints).
- ICRMP is a resource

The mayor is responsible for hiring, firing, and supervising city employees.

The mayor is also responsible for appointment and removal of appointed officers—city clerk, treasurer, attorney and any other officials designated by local policy. A majority of the full council must confirm the mayor's appointment or removal of an appointed officer.

The council does not have authority to oversee, hire or fire employees. The council does have authority to confirm the mayor's appointment or removal of appointed officers, which requires a majority of the full council.

The council's responsibilities are limited strictly to policy issues: setting the budget (including the number of positions authorized for each department); approving a personnel policy; and approving policies on vehicle use, computer use, travel, etc.

City Boards, Commissions & Committees



Advantages of city boards, commissions and committees:

- These groups can take an in-depth look at city issues.
- People with the right mix of knowledge and expertise can be selected to serve on these groups.
- Elected officials can develop more detailed policy knowledge in certain areas.

These groups need to be carefully considered and closely supervised.

- These groups are subject to the Idaho Open Meetings Law, and advance posting of notice and agenda is required for their meetings, as well as minutes. Each group needs staff support and training to make this happen.
- Need to keep mayor and council informed about what the committee is doing and vice versa.
- Need to clearly communicate the group's responsibilities, goals, expectations of elected officials, etc.
- Council committees allow members to specialize in certain policy areas, which can be good and bad. It can lead to those who don't serve on a particular committee being reluctant to debate and engage on these issues. All councilmembers' views need to be expressed and considered, even those who don't serve on the particular committee.
- Councilmembers serving on public works, public safety and other committees have no role in supervising, hiring or firing city staff.

Idaho's Open Meetings Law: Why Should I Care?

MAGICVALLEY.COM
powered by Times-News

Prosecutor: Transportation Group Broke Open Meeting Laws for 25 Years



SEPTEMBER 20, 2015 7:00 PM • NATHAN BROWN

NBROWN@MAGICVALLEY.COM

TWIN FALLS • A transportation committee may have been breaking open meeting laws for the past 25 years, the Twin Falls Prosecuting Attorney's Office says.

A running tally of Idaho open meeting law violation accusations

OCTOBER 1, 2015

MELISSADAVLIN

LEAVE A COMMENT

There have been quite a few accusations of government entities big and small violating Idaho's open meeting laws recently. That's not a trend journalists like to see.

So I'm keeping a running tally of such accusations throughout the state, starting retroactively in September. I'll update with new

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WEST ADA BOARD TO REVIEW IF IT VIOLATED OPEN-MEETING LAWS

JENNIFER SWINDELL / SEPTEMBER 16, 2015

The West Ada School District trustees voted Tuesday night to proceed with a self-evaluation to determine if it violated open meeting laws, an action that could impact the renewal of Superintendent Linda Clark's contract.

SEARCH

The Idaho Open Meetings Law requires that “all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting, except as otherwise provided by this act.”

The Open Meetings Law applies to:

- The city council;
- City boards, commissions and committees; and
- Independent entities such as housing authorities and urban renewal agencies.

Idaho's Open Meetings Law

- Regular vs. Special Council Meetings
- Meeting Notice & Agenda Must be Posted at City Hall
 - Regular Meetings:
 - Meeting Notice: Regular meeting day/time/place posted permanently
 - Agenda: 48 hours before meeting
 - Special Meetings
 - Meeting notice & agenda posted 24 hours in advance of meeting
- Quorum = Majority of full council

Notice and agenda for upcoming meetings must be posted in a prominent place at the city's principal office.

Regular Council Meetings: Held each month on the day, time and place established by ordinance.

- **Meeting Notice:** Day, time and place of regular meetings is posted permanently.
- **Agenda:** Must be posted at least 48 hours prior to the meeting.

Special Council Meetings: Called either by mayor or majority of full council. Held on dates and times other than regular council meetings. Generally held to deal with issues that need resolved before next regular meeting, or when a regular meeting is rescheduled due to holiday, lack of quorum, etc.

- **Meeting Notice & Agenda:** Must be posted at least 24 hours prior to the special meeting (except in emergencies threatening life or property).

A majority of the full council is required for a quorum to convene a council meeting. Council vacancies do not reduce the number required for a quorum. The mayor is not counted for quorum purposes.

Councilmembers may participate in meetings by speakerphone just as if they were present in person at the meeting (they are counted for quorum purposes).

Developing the Agenda

- City Clerk compiles and posts at city hall.
- Requests for agenda items should be accepted from the mayor, councilmembers, and city staff.
- Setting the agenda is a shared responsibility and requires cooperation between the mayor and council.

It is the city clerk's responsibility to assemble the agenda for council meetings, collecting suggestions from the mayor, councilmembers, and city staff.

The mayor presides at council meetings and determines the order of business "subject to such rules as the council may prescribe..."

It is important to remember these are council meetings: councilmembers should be able to request items be included on the agenda, with the exception of repetitive or abusive requests.

Setting the agenda is a shared responsibility and takes cooperation between the mayor and councilmembers.

When drafting the agenda it is important to avoid using:

- Acronyms,
- Jargon, and
- Terminology that is impossible for the general public to understand.

Catchall agenda items like New Business, Old Business and Public Works Director's Report do not provide sufficient detail for citizens to know what will be discussed.

Voting

- Most issues may be decided by voice vote.
- Certain actions require each councilmember's vote be cast individually and recorded individually in the minutes:
 - Passage of ordinances,
 - Approval of contracts, and
 - Motions to go into executive session.
- No voting by secret ballot.

Minutes

- City Clerk is responsible for ensuring accurate minutes are taken.
- City Clerk does not have to personally prepare the minutes.
- Minutes must be available within “reasonable time after the meeting.”

The city clerk is responsible for ensuring that accurate minutes are taken of every council meeting.

The city clerk is not required to personally prepare the minutes.

Minutes must also be prepared for meetings of city boards, commissions and committees.

The governing body should approve the minutes by motion, noting any desired changes.

After approval, the minutes should be signed by the city clerk or the person responsible for taking minutes for a city board, commission or committee.

The Open Meetings Law provides that minutes must be “available to the public within a reasonable time after the meeting” and must include:

- The date, time and place of the meeting;
- The members of the governing body in attendance;
- All motions, resolutions, orders, or ordinances proposed and their disposition; and
- The results of all votes, and upon the request of a member, the vote of each member by name.

Executive Session

- Certain topics authorized by Idaho law may be discussed in closed executive session.
- The motion to go into executive session must be decided by roll call vote recorded in the minutes by individual vote.
- The motion must pass by two-thirds vote.
- The motion and the minutes must state the specific subsection(s) of Idaho Code 74-206(1) that authorizes the executive session.

Executive Session Topics under Idaho Code 74-206(1)

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

Subsections (g) and (h) are not relevant for cities.

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 67-2345A [74-206A](1)(a) and (b), Idaho Code.

Penalty for Violation of Idaho Open Meetings Law

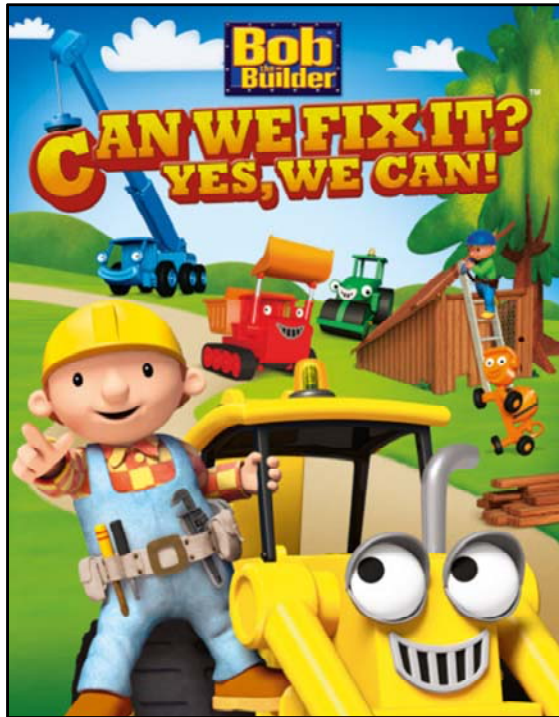


Any action, or any deliberation or decision making that leads to an action, that occurs at a meeting held in violation of the Open Meetings Law is void.

There are also fines for members of the governing body for violating the Open Meetings Law. These fines are paid personally by the members of the governing body, not the city.

- A \$250 civil fine for an initial violation.
- A \$1,500 civil fine for a knowing violation of the Open Meetings Law.
- A \$2,500 civil fine for repeated knowing violations of the Open Meetings Law within 12 months.

Undergoing the cure process (discussed below) protects members of the governing body from the \$250 civil fine, but does not protect them from liability for knowing violations.



Can We Fix an
Open Meeting
Violation?

Yes, We Can!

The cure process allows the governing body to acknowledge an Open Meetings Law violation, declare the original action void, and proceed in compliance with the law.

A violation may either be recognized by the governing body itself, or brought forward by a written complaint.

If a written complaint is filed, the governing body has 14 days to respond publicly and:

- Acknowledge the violation and state an intent to cure it, or
- Respond that the governing body has determined there is no violation and no cure is necessary.

After acknowledgement that a violation has occurred, the governing body has 14 days to declare the action occurring at or resulting from the unlawful meeting void.

Governing body may proceed to reenact the decision in compliance with the Open Meetings Law.



Your legacy as a public servant is defined by the integrity and values you demonstrate while in office.

The public servants who leave the most indelible legacy are those who are principle-driven, compassionate and follow their moral compass.

Idaho's Ethics in Govt. Act

- Applies to all city officials: elected, appointed and staff.
- Requires disclosure of conflicts of interest.
- Conflict of interest = private financial benefit to the city official, member of their household, or business.
- Seek advice from city attorney.

The act prohibits city officials—elected, appointed or staff—from taking any official action or making a decision or recommendation on any matter where the official has a conflict of interest **and** has failed to disclose the conflict of interest.

What is a conflict of interest? Any official action, decision or recommendation by a city official that would be to the private financial benefit of:

- The city official,
- A member of their household, or
- A business with which the city official or a member of their household is associated.

Who is a Member of My Household?

- Your spouse,
- Your dependent children, and
- Persons you are legally obligated to support.

Exceptions:

- Any membership that is required by law to hold the office—e.g. city attorney's membership in state bar.
- Any time the city official is impacted in the same way as others in the same industry or profession—e.g. a councilmember who is a building contractor could vote on a building code ordinance because the councilmember is affected in the same way as other building contractors.
- Tax or spending decisions when the city official is affected the same way as the general public.

What to do in case of a conflict?

- Seek advice from city attorney.
- If city attorney decides a real or potential conflict exists, then disclose.
- Decide whether to participate and vote on the matter.
- More stringent requirements for P&Z and urban renewal conflicts of interest.

If you believe there is the possibility of a conflict of interest, seek advice from the city attorney.

If the city attorney advises that a real or potential conflict exists, then:

- Elected officials must disclose conflict on record at a council meeting before acting on the matter.
- Appointed officials & staff must disclose in writing to mayor and council.
- Subject to city rules on conflict of interest and must take all action required by the rules, which may include nonparticipation.

Penalty for Violation of Ethics in Govt. Act

- Public officials who intentionally fail to disclose conflicts of interest may be fined up to \$500.
- Cities may prescribe additional penalties.

Prohibition on Contracts with Officers

- City officials are prohibited from benefitting financially from any contract to provide goods or services for the city.
- Elected officials cannot:
 - Be paid to work for the city over and above their salary as an elected official, or
 - Sell goods or services to the city.

Idaho Code 74-501 provides:

“Members of the legislature, state, county, city, district and precinct officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.”

Violation is a misdemeanor punishable by a fine of up to \$1,000 and up to one year in jail.

Disclosure, as required by the Ethics in Government Act, does not protect you from criminal penalties.

There are certain exceptions to the prohibition on contracts with officers for remote interests, including:

- A nonsalaried officer of a nonprofit corporation.
- An employee/agent paid fixed wages or salary.
- Landlord or tenant of the contracting party.
- Holder of less than 1% of the contracting party's shares.

The process for disclosing a remote interest is as follows.

- Must disclose the remote interest on the record at a council meeting before the contract is approved.
- The official cannot vote on the contract, and cannot influence councilmembers to vote on the contract.
- The disclosure must be noted in the minutes.

Gifts

- Gifts to city officials are prohibited, with the following exceptions:
 - Fees that a public servant is legally entitled to receive;
 - Gifts from family, friends, or business acquaintances; or
 - Trivial gifts under \$50 in value.

City officials are prohibited from accepting gifts with the following exceptions:

- Fees prescribed by law to be received by a public servant or other benefits for which the recipient gives legitimate consideration or is legally entitled;
- Gifts from family, friends, or business acquaintances conferred on account of kinship or other personal, professional or business relationship independent of the official status of the receiver; or
- Trivial gifts under \$50 in value involving no risk of undermining official impartiality.

Bribery & Corrupt Practices Act

- Bribery, Threats & Improper Influence;
- Compensation or Retaliation for Past Actions;
- Compensating Public Servants;
- Buying or Selling Political Endorsement or Influence;
- Using city funds or property for financial benefit without specific authorization from the city; and
- Using or disclosing confidential information for economic gain.

Violation of the Bribery & Corrupt Practices Act is a misdemeanor, punishable by a fine up to \$1,000 and up to one year in the county jail.

Also may be required to forfeit office and make restitution to city.

Nepotism

No person related to a mayor or councilmember by blood or marriage within the 2nd degree can be paid to work for the city.

Exception for those already working for the city when a relative is elected.

Great Grandparent 3 rd degree	Great Uncle / Aunt 3 rd degree	Second Cousin 3 rd degree	
Grandparent 2 nd degree	Aunt/Uncle 2 nd degree	Cousin 2 nd degree	Cousin's Child 3 rd degree
Parent 1 st degree	Sibling 1 st degree	Nephew / Niece 2 nd degree	Grand Nephew/Niece 3 rd degree
Person 1 st degree	Child 1 st degree	Grandchild 2 nd degree	Great Grandchild 3 rd degree

No person related to a mayor or councilmember by blood or marriage within the 2nd degree can be paid to work for the city.

A person currently employed with the city when a relative is elected retains their position and may receive cost of living increases, bonuses and promotions.

Planning & Zoning Conflicts of Interest

- Strict prohibition on participating in P&Z matters when you have a conflict of interest.
- Seek advice from city attorney.
- Disclosure and nonparticipation required.
- Knowing violation is a misdemeanor.

There is a strict prohibition on participation by councilmembers, planning and zoning commissioners and staff when the person; their employer, business partner or associate; or any relative by blood or marriage within the 2nd degree has an economic interest in the action or proceeding.

Any actual or potential conflict of interest on a planning and zoning matter must be disclosed at a meeting on the record before the proceedings begin.

The decision whether to participate is made by the individual with the assistance of the city attorney.

Knowing violation is a misdemeanor punishable by a fine of up to \$1,000 and 6 months imprisonment.

Urban Renewal Conflicts of Interest

- Strict prohibition on city and urban renewal agency officials from voluntarily acquiring any direct or indirect personal interest in an urban renewal project, in property affected by an urban renewal project, or any contract associated with an urban renewal project.
- Consult city attorney.
- Disclosure required.
- Violation constitutes misconduct in office.

Idaho's urban renewal law specifically prohibits city and urban renewal agency officials (including elected officials, urban renewal commissioners, and staff of the city and urban renewal agency) from voluntarily acquiring any direct or indirect personal interest in an urban renewal project or property included or planned to be included in an urban renewal project, or in any contract or proposed contract in connection with an urban renewal project.

The law requires disclosure of conflicts of interest relating to urban renewal projects.

- Where the person involuntarily acquires an interest in property that would be affected by an urban renewal project, the person must disclose the interest in writing to the urban renewal agency board and the disclosure is entered in the meeting minutes.
- If any person owns or controls, or owned or controlled within the preceding two years, any direct or indirect interest in any property that is known to be included or planned to be included in an urban renewal project, the interest must be disclosed in writing to the urban renewal agency board and entered in the meeting minutes. The law requires the person to not participate in any action by the city or urban renewal agency affecting the property.

Any violation of the provisions of Idaho Code 50-2017 constitutes misconduct in office.

Public Purchasing Basics

- Exceptions from Competitive Bidding
- Licensed Public Works Contractors over \$10K
- Any purchase over \$25K must be bid.
- Procurement of Public Works Construction
- Purchasing Equipment & Services

The general rule in public purchasing is that the low bid prevails, although there is some flexibility for smaller purchases. The following are examples of situations where competitive bidding is not required.

- Piggybacking on Federal/State/Local Bids for equipment or services.
- Personal or professional services (legal, accounting, auditing, appraisal, realtor, computer/software maintenance, etc.).
- Acquiring an interest in real property.
- Procurement of insurance.
- Joint powers participation.

Licensed public works contractors are required for public works construction projects over \$10,000.

Procurement of Public Works Construction:

- **Projects under \$25,000:** Council may select the contractor at its discretion—state law does not require a competitive selection process.
- **Projects from \$25,000 to \$100,000:** Use semi-formal selection process—take low bid from at least 3 public works contractors selected by the city.
- **Purchases over \$100,000:** Full competitive bidding or prequalified competitive bidding—must take low bid.

Purchasing Equipment & Services

- Remember Piggybacking!
- **Under \$25,000:** Purchase in open market in best interest of city.
- **\$25,000 to \$50,000:** (Note upper limit difference) Use semi-formal selection process—take low bid from at least 3 vendors selected by the city.
- **Over \$50,000:** Full competitive bidding—must take low bid.



Installation of Elected Officials

First Council Meeting in January

- Process for conducting the meeting
- Installation of elected officials
- Oath of Office (reciting vs. affirming)
- Certificate of Election

Process for First Meeting in January

- Incumbent mayor and councilmembers convene meeting, approve minutes, and authorize payment of bills.
- Those elected at the November 3, 2015 election stand, swear to the oath of office, and sign the oath.
- Those elected at the November 3, 2015 election each receive a Certificate of Election, signed by the mayor and city clerk.
- Then the newly elected officials take their seats.
- The council elects its president.
- Any vacancies remaining after the election may be filled by the normal process of appointment.

Text of Oath of Office: I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of _____ of the City of _____ according to the best of my ability.

Instead of the elected official reciting the oath, the clerk can read the entire oath (Do you solemnly swear...) and the elected official can say "I do" at the end.

Who Can Administer Oath of Office?

- City Clerk.
- Mayor—NOTE a newly elected Mayor must swear to the oath BEFORE administering the oath to others.
- An Idaho judge or Idaho Supreme Court justice.
- The Idaho Secretary of State.
- County elected officials.



Basics of Planning & Zoning

Basics of Planning & Zoning

- The Role of the Comprehensive Plan
- Fundamentals of Zoning Ordinances
- Fundamentals of Subdivision Ordinances

The Role of the Comprehensive Plan:

- Developed with citizen input.
- Foundation for future growth & development.
- Implemented through zoning & subdivision ordinances.
- State law sets forth required components.
- Future land use map.

Fundamentals of Zoning Ordinances:

- Separate land uses to minimize conflict.
- Coordinate private land uses and public facilities.
- Must comply with comprehensive plan.
- Public hearing requirements.
- Ordinance changes.
- Permits on specific sites.

Fundamentals of Subdivision Ordinances:

- Shaping physical development of community.
- Require developers to install public improvements.
- Adopt improvement standards.
- Provide assurance of construction.
- Most important – improve before file subdivision plat.

Public Hearings

- Legislative vs. Quasi-Judicial
- Procedural Requirements for Quasi-Judicial Hearings
- Unique Aspects of Quasi-Judicial Hearings
- Public Hearing Order of Business

Legislative Hearings are used in situations where a law or policy is proposed that applies broadly to property owners throughout the community, such as:

- Adopting a new comprehensive plan, or
- Amending the uses permitted in certain zoning districts.

Quasi-Judicial Hearings are used to consider an application for site specific land use and evaluate whether the proposed land use conforms to local laws and policies. Site specific land use applications include:

- Rezones,
- Conditional use permits,
- Variances, and
- Preliminary subdivision plats.

Quasi-Judicial Hearings are subject to important procedural requirements.

- Notice: usually published and mailed.
- Public Hearing: opportunity to present and rebut evidence.
- Preparation of written reasoned decision outlining rationale for decision.
- Audio recording of the proceedings.

Unique Aspects of Quasi-Judicial Hearings:

- People who want to participate need to testify at the hearing or submit written testimony—can't lobby decision makers outside of the public hearing.
- Failure to comply with the procedural requirements means a court may reverse your decision.
- Must strictly adhere to the order of business at the public hearing.

Quasi-Judicial Hearing Order of Business:

- Presentation by applicant and questions from governing board.
- Staff presentation.
- Written correspondence.
- Testimony by those in support of the application.
- Testimony by those neutral on the application.
- Testimony by those opposed to the application.
- Rebuttal by the applicant.
- Close the public hearing and begin deliberating toward decision.

Decision Criteria in Land Use Ordinances

- Are the bases for decisions stated clearly in zoning and subdivision ordinances?
- What must applicant prove?
- Can be basis of judicial review
- Decisions are subject to request for reconsideration (may call for hearing or not)
- Criteria are instrumental in making defensible decisions

Idaho law requires decisions on land use applications to include the specific standards and criteria from local ordinances that formed the basis for the decision. Failure to state these standards/criteria can result in a court overturning the decision.

It is critical to examine your land use ordinances to ensure that standards and criteria are as clear as they can be.

If an applicant is aggrieved by a decision, they can request reconsideration within 14 days. The request for reconsideration must state the specific deficiencies in the decision. The decision may be affirmed, reversed or modified—if reversed or modified, a public hearing should be held. The reconsideration determination must be complete within 60 days, otherwise it is deemed denied. The applicant must request reconsideration prior to moving forward with a judicial appeal.



Keeping Citizen Comment Periods from Going Off the Rails

The public has the right to attend meetings (except executive sessions). Opportunities for the public to speak are generally limited to:

- Designated public comment periods, and
- Public hearings.

While public comment periods provide an important opportunity to hear from the public, there should also be reasonable sideboards:

- Issues must be relevant to city government,
- No repetitive or abusive comments,
- Complaints about city staff must be made outside of the meeting to the mayor,
- Time is limited to 3-5 minutes per speaker, and
- Any issue requiring council action must be put on the agenda of a future council meeting.

Area of City Impact & Annexation

- Area of City Impact:
 - Area for future urbanization
 - Negotiated with county
 - Area surrounding city
 - Map and land use regulations
- Annexation:
 - Incorporation of new land into city
 - Usually requested by property owner
 - Facilitates cost-efficient provision of urban services and infrastructure

The Area of City Impact (ACI) is the area surrounding the city that is designated for urban growth and will eventually be annexed into the city. Cities have a strong interest in ensuring that development and infrastructure in these areas meets basic urban standards; however, the area within the ACI is governed by the county until land is annexed into the city. The agreement is negotiated with the county commissioners and any close neighboring cities. The ACI includes a map and the land use regulations that will apply to the area. The ACI must be reviewed at least every 10 years.

Annexation is the process of incorporating areas adjacent to city limits into the city. Allowing cities to grow helps to protect their health and vitality, as well as ensure the cost-efficient delivery of urban services and infrastructure. The vast majority of annexations are requested by property owners who need city utility services to develop their land.

Idaho's Public Records Law: Why Should I Care?

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Times-News Sues Gooding School District over Public Records Request



Comstock.

FEBRUARY 14, 2014 3:00 AM • BY
ALISON GENE SMITH
ALISMITHEMAGICVALLEY.COM

GOODING, Idaho • After two public records requests were rebuffed, the *Times-News* filed a lawsuit against the Gooding County School District, saying the district improperly denied requests for copies of separation agreements for Superintendent Heather Williams and Gooding High School Principal Chris

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Public record lawsuit results in legal victory in Blackfoot

By Nate Sunderland

The Post Register's recent legal victory against Blackfoot School District 55 was a tribute to the strength of Idaho's sunshine laws and transparency in government. At the heart of the story was a nearly \$220,000 payout from District 55 to former Superintendent Scott Crane - a deal struck during an illegal executive session.

What is a Public Record?

- Must relate to city government, and
- Must be prepared, owned, used or retained by city officials—elected, appointed or staff.
- What matters is content, not the format used to record or transmit the information.
- Email and text messages are public records, even when sent using personal devices.

What is a Public Record? “Any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any [state or local government agency] regardless of physical form or characteristics.”

Are public records limited to paper documents? No. Public records include much more than paper documents. The definition of public records includes any recorded information relating to the business of city government, regardless of the medium used to convey that information.

Public records include:

- Electronic files and documents,
- Email,
- Text messages,
- Audio and video recordings,
- Maps, plats, building plans, etc.

Public Records Requests

- Right to *examine and/or receive copies*
- Requests may be required in writing
- Request made to records custodian
- Can't ask why they want it

“Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.”

City policy may require public records requests to be submitted on a written form, including the requester's contact information:

- Name,
- Mailing address,
- Email address and
- Telephone number.

The records custodian—the person having custody and control of the specific records—is responsible for responding to public records requests.

The records custodians are usually the city clerk and police records custodian.

The city cannot ask why the requester wants the records.

Examples of Exempt Records

- Presumption all records are public unless specifically provided by state or federal law
- Examples of exempt records include:
 - Certain law enforcement investigatory records
 - Trade secrets provided by businesses in RFPs or bids
 - Certain records concerning assistance to businesses looking to locate, invest in or expand operations in Idaho
 - Certain personnel records—there is personnel info that is public and must be disclosed

There is a presumption that all records are public unless specifically provided by state or federal law. Examples of exempt records are provided below.

- Certain law enforcement investigatory records.
- Records relating to building/facility plans when the disclosure of such information would jeopardize the safety of persons or the public safety.
- Trade secrets provided by businesses in response to public agency requests for proposal.
- Records gathered for the specific purpose of assisting a business to locate, maintain, invest in, or expand operations in the State of Idaho.
- Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency.
- Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.
- Personnel records of a current or former public official are exempt from disclosure—however, the following information concerning a public official is public record and **must be disclosed**:
 - ✓ Public service or employment history,
 - ✓ Classification,
 - ✓ Pay grade and step,
 - ✓ Longevity,
 - ✓ Gross salary and salary history,
 - ✓ Status,
 - ✓ Workplace, and
 - ✓ Employing agency.

Responding to a Public Records Request

- Must grant or deny within 3 working days after receipt.
- May respond in writing to notify requester of extension for locating/retrieving/copying. Records must be provided within 10 working days after receipt of request.
- If city requires advance payment of fees, the 10 working day countdown starts when payment is made by requester.

The city must grant or deny a person's request within 3 working days of the date that the request was received by the city.

If a longer time is needed to locate, retrieve or copy the records, the city must notify the requester in writing (by email or mail), and the records must be provided within 10 working days of the date that the request was received.

If the city requires advance payment of fees, the 10 working day countdown starts at the time payment is made by the requester.

If the city does not respond, the request is deemed to be denied within 10 working days following the date that the request was received by the city.

Denial of a Public Records Request

- Must be done in writing.
- City Attorney must be involved.
- Must state the specific provision of law exempting the records from disclosure.
- Must also state the requester's right to appeal and the timeframe for appealing.

Full or partial denial of a public records request must be done in writing by the mayor/city manager or records custodian, and must include the following information.

- That the city's legal counsel has reviewed the request **OR** that the city has had an opportunity to consult with its legal counsel concerning the request and has chosen not to do so (**always consult the city attorney**).
- The provision(s) of Idaho Code authorizing the denial of the records request.
- The requester's right to appeal the denial and the timeframes for appealing. Any requester who wishes to appeal the denial of a public records request must file a lawsuit in the District Court of the county where the records are located within 180 calendar days from the date the city mailed the notice of denial or partial denial.

Charges for Public Records Requests

- First 100 copies and first 2 hours of labor for each request are free.
- City may recover actual labor and copying costs where:
 - Request is over 100 pages,
 - Labor will be over 2 hours, or
 - Nonpublic info must be redacted by an attorney.
- City may adopt copy fee resolution.

The first two hours of labor in responding to a public records request, as well as the first 100 pages of copies of paper records must be provided free of charge to the requester. The city may charge to recover actual labor and copying costs associated with locating and copying documents for requests:

- Involving more than 100 pages of paper records,
- Where nonpublic information must be redacted from records, or
- Where the actual labor exceeds two person hours.

The city council may adopt a copying fee schedule by resolution, and fees may not exceed the actual cost of copying the record. Things to include in the copy fee schedule:

- Per page cost for B&W and color paper copies (first 100 pages of B&W copies are free);
- Maps, plans & oversize copies;
- CDs/DVDs/computer disks;
- Cassettes;
- Microfilm/microfiche; and
- Actual costs for conversion of electronic documents.

Charges to recover labor costs must comply with the following requirements.

- Charges “shall not exceed reasonable labor costs necessarily incurred in responding to a public records request.”
- Charges must “reflect the personnel and quantity of time that are reasonably necessary to process a request.”
- The hourly rate charged “shall be... the per hour pay rate of the lowest paid administrative staff employee or public official... who is necessary and qualified to process the request.”

Charges to recover costs for legal counsel to redact nonpublic information must meet these requirements.

- If the city has one or more attorneys on staff, “the rate charged shall be no more than the per hour rate of the lowest paid attorney within the [city]... who is necessary and qualified to process the public records request.”
- If the city has contract legal counsel, “the rate shall be no more than the usual and customary rate of the attorney who is retained by the [city]... for that purpose.”

Waiver of Charges

- Charges must be waived when request meets all these criteria:
 - Contribute significantly to public's understanding of government;
 - Request is in the public interest, not the individual interest of requester; and
 - Requester lacks financial resources to pay the charges.

The law provides that fees for public records requests must be waived when the requester shows they meet **ALL** of the following criteria.

- The request “is likely to contribute significantly to the public's understanding of the operations or activities of the government.”
- The request “is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party.”
- The request “will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.”

Itemized Fee Statement

- City must provide a statement when fees are charged showing:
 - Per page costs for copies & number of pages; and
 - Number of hours for each employee and/or attorney in responding to the request, and hourly rate charged for each.

When fees are charged, the city must provide an itemized statement to the requester showing the following.

- The per page costs for copies and the number of pages copied (remember, the first 100 pages of paper copies are free).
- The number of hours that each employee and/or attorney worked in responding to the request, and the hourly rates charged for each employee and attorney (remember, the first two hours of labor are free).

Advance Payment of Fees

- City may require advance payment of fees.
- Estimate of copying and labor charges.

The city may require advance payment of fees.

The city estimates copying and labor charges and the requester must pay **BEFORE** the custodian begins fulfilling the request.

If the advance payment turns out to be in excess of the actual costs, then the excess must be refunded to the requester.

If the actual costs exceed the amount that the requester paid in advance, the requester may be required to pay the difference.



Penalty for Violation of Idaho Public Records Law

Any public official who is found to have “deliberately and in bad faith improperly refused a legitimate” public records request may be fined up to \$1,000.

This fine is payable by the official personally, not the public agency.

Liability Protections for City Officials

- Idaho Tort Claims Act.
- You are not personally liable when acting within course & scope of your duties as a city official.
- City must provide you a defense and pay any claims.
- Governing vs. Operations.
- Submitting a claim.

What is a tort? Any wrongdoing for which a civil action for damages may be brought.

Idaho Tort Claims Act provides that claims may be filed against local governments, elected officials, employees, and volunteers.

The act extends liability to public entities and officials only to the extent that private persons would be liable under Idaho law.

The city is obliged to provide a defense for city officials and indemnify them against claims when acting within the course and scope of employment.

The only way you are personally liable is if you go outside the course and scope of your duties as a city official.

Policy decisions and actions are immune from liability under Tort Claims Act. Routine, everyday activities that do not involve policy decisions are subject to liability under Tort Claims Act.

What to do if a Claim is Filed?

- Submit claim online at: http://icrmp.org/Claims/submit_claim.aspx
- Claims manager reviews for assignment & coverage.
- Claims personnel usually begin investigation within 24 hours.
- City will be contacted with ICRMP's recommendation for handling the claim.

AIC Contact Info & Staff

3100 S. Vista Ave. Suite 201
Boise, ID 83705
Ph: (800) 344-8594 or (208) 344-8594
Fax: (208) 344-8677
www.idahocities.org

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Thanks for
your time
and
attention!