2019 AIC Academy for City Officials
Thanks to Our Sponsors!
Agenda

• About AIC & ICRMP
• Basics of City Government
• Roles & Responsibilities
• Idaho’s Open Meetings Law
• Personnel Management Basics
• Ethics & Conflict of Interest
• Liability Protection for City Officials
• Legislative Issues for 2020
• Idaho’s Open Meetings Law
• Idaho’s Public Records Law
• Installation of Elected Officials
• Protecting Public Health
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
AIC Board of Directors

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- 1st VP Tom Jenkins—Council President, Malad
- 2nd VP Kevin England—Mayor, Chubbuck
- 3rd VP Joe Stear—Mayor, Kuna

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- Dist. 6 First Director Robert “BJ” Berlin—Mayor, Roberts
- Dist. 6 Second Director Rebecca Casper—Mayor, Idaho Falls
AIC Events in 2020

• AIC Water Summit ~ Jan. 22
• City Officials’ Day at the Capitol in Boise ~ Jan. 23
• Spring District Meetings ~ Late April & Early May
• AIC Annual Conference in Boise ~ June 10 - 12
• Idaho City Clerks, Treasurers & Finance Officers Assoc. Institute in Fort Hall ~ Sept. 23 - 25
AIC Staff

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• Dara Von Lossberg, Financial Coordinator — dvonlossberg@idahocities.org
• Payton Grover, Administrative Assistant — pgrover@idahocities.org
• Jerry Mason & Nancy Stricklin, Legal Counsel
Technical Assistance

AIC answers thousands of questions annually on these topics:

- Roles & Responsibilities
- Open Meetings, Public Records, & Ethics
- Budgeting & Taxation
- Purchasing
- Capital Planning & Financing
- Planning & Zoning
- Annexation & Area of City Impact
Manuals & Publications

• Directory of Idaho Govt. Officials
• AIC Insider Newsletter
• Accounting
• Budgeting
• Campaign Finance
• Conflict of Interest & Ethics
• Elections
• Financial Strategies
• Open Meetings
• Ordinances & Resolutions
• Nature & Powers of Cities
• Planning & Zoning
• Public Notification
• Public Records
• Records Retention
• Roles & Responsibilities
Advocacy

• AIC serves as the voice for cities’ interests for the Idaho Legislature, Idaho Governor and executive branch agencies, and Congress.

• AIC Bill Tracker is a helpful resource for keeping up to speed on bills of interest to cities.

• City Officials’ Day at the Capitol is a great opportunity to learn about important issues and meet with policymakers.
AIC Committees & Task Forces

• Legislative Committee
• Municipal Water Users Committee
• Environment Committee
• Youth & Families Task Force
• Drug Task Force
About ICRMP
Idaho Counties Risk Management Program

- Member owned property and casualty insurance pool for over 900 Idaho local governments, including over 170 cities.
- Governed by board of local elected officials, representing various regions of the state.
- Emphasis on risk management.
What is a City?

- Municipal corporation
- Political subdivision
- Body corporate and politic
- Vehicle to deliver urban services
- Vested with police powers by the Idaho Constitution
- A community
Organization of City Government

• Mayor / Council
  ✓ Directly elected mayor
  ✓ Choice of four or six city council members - set by ordinance
  ✓ Election can be at-large, by designated seat or by district

• Council / Manager
  ✓ Management carried out by professional chosen by city council
  ✓ Manager typically serves at the pleasure of the council
  ✓ Mayor is chosen from among councilmembers
  ✓ Mayoral authority diminished compared to Mayor / Council form
Mayoral Authority — Mayor / Council Form

• Presides over city council meetings — but is not a member of the council

• Chief administrative officer — Appoints officers

• Supervises employees of the city

• Authorized to veto ordinances — not other council-approved policies

• May act individually, but often needs council support to implement policies
Council Authority — Mayor / Council Form

• Council has lawmaking authority so long as it is not in conflict with the general laws
• Must act as a single body in an open meeting
• Can override mayoral veto of ordinances
• Establishes council meeting schedule by ordinance
• Carries out responsibilities set by Idaho Code
• Individual councilor has virtually no legal authority
Appointed Officers

• Who are they?
  ✓ City clerk
  ✓ City treasurer
  ✓ City attorney
  ✓ Others designated by official action of the city council

• How selected?
  ✓ Nominated by mayor
  ✓ Confirmed by city council

• How removed? - Unanimous council or mayor + 1/2 + one of council

• Duration of term - until removed
Finances Are Part of Your Job ... Even if Numbers Aren’t Your Friend

• Fiscal Year – 10/1 - 9/30
  ✓ Tax revenues will be capped with the 3% limitation (plus growth and annexation)
  ✓ Treasurer will be required to provide quarterly financial statements and monthly reports
  ✓ With some limited exceptions business must be conducted on a cash basis

• Annual budget process
  ✓ Proposed budget must be subjected to public hearing
  ✓ Budget decisions are implemented by annual appropriation ordinance

• Approval of bill payment
  ✓ Claims against city (including bill payment) require prior council action
Maintaining Financial Responsibility

• Independent audit required

• Establish expectations about specific reports of deviations by city treasurer

• Provide opportunity to review bank statement balances periodically

• Establish policy regarding use of credit cards and other electronic methods of payment

• If you are not a numbers person, force yourself to be engaged
# Understanding Taxes vs. Fees

<table>
<thead>
<tr>
<th>Authorization</th>
<th><strong>Taxes</strong></th>
<th><strong>Fees</strong></th>
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<tbody>
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<td></td>
<td>Must be specifically authorized by state law.</td>
<td>Authorized by state law or incident to legally authorized regulatory authority.</td>
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| 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... | Pays for services used by a particular consumer: water, sewer, sanitation, building permits, animal licenses, etc. |
Roles & Responsibilities

• Three branches of government:
  ✓ Executive,
  ✓ Legislative, &
  ✓ Judicial.

• Separation of Powers
• Checks and Balances
Roles & Responsibilities

• Mayor — Chief Executive — comparable to governor
  • Appoints, supervises, presides, and vetoes

• City Council — legislative branch — comparable to state legislature
  • Ordains, confirms, Establishes policy, carries out state law and can override veto

• Quasi - judicial duties — Both council and mayor
  • Shared responsibility to protect rights of participants in planning and zoning hearings, licensing proceedings and where other private rights are involved
Where Intersections or Collisions May Occur

• Supervision of personnel
  - Establishment of liaisons or oversight committees
  - Willing assignment of duties by mayor

• Establishment of budget priorities — document adequately

• Setting council meeting agendas

• Work with advisory boards and commissions

• Councilmembers acting solo

• Relationships with other units of government
Open Meetings — Confidentiality

• Meeting schedule established by ordinance - Confirm day, time and location

• Open Meeting Law essentials
  ✓ Notice
  ✓ Agenda
  ✓ Minutes
  ✓ Nondiscriminatory place to meet

• Confidentiality - Only allowed (required) in executive session
Meeting Schedule — Regular & Special

- Regular city council meeting — established by ordinance
- Other regular meetings — boards and commissions — five days notice
- Special meetings (not a substitute for regular meetings) - 24 hours notice
- Emergency meetings - as much notice as possible
- Meeting notices and agendas must be posted at meeting location or at main government office, and online
- Agendas must be posted 48 hours in advance of regular meeting — 24 hours for special meeting
Agenda Essentials

• Must include items that will be considered by the governing board
• Must designate action items to be acted on by governing board
• Agenda may be amended to add non-action items, if good-faith reason is provided
• Agenda may be amended to add action items if emergency is documented
• Notices and agendas must be posted both at meeting site and online
Allowable Executive Session Topics / Procedure

- Executive session item must be on agenda
- Roll call vote and two-thirds majority required
- Cannot take final action in executive session

- Common topics include:
  - Personnel selection and evaluation
  - Acquisition of real property
  - Consider confidential records
  - Discuss litigation with attorney
  - Consider claims or potential claims with risk manager or insurer
Governing Board Decisions

• A valid decision is:
  • Made at a posted meeting with quorum present
  • On the agenda
  • Motion made and affirmative vote
  • In the minutes

• A decision is not:
  • “Polling the council”
  • Gathering signatures
  • Made without an agenda topic
Most Common Open Meeting Law Violations

• Late posting of notice / agenda
• Discussing a topic not on the agenda
• Improperly adding a topic to the meeting agenda
• Communication between governing board members outside of public meeting (emails/texts??)
• Discussing a topic in executive session that must be discussed in public meeting
Additional Open Meeting Considerations

• Understand the difference between public meeting and public hearing — spectator vs. participation

• Violations can be cured by do-over

• Can participate from afar by telephone

• Biggest penalty for noncompliance is voiding action

• Worthwhile to appreciate the value of room organization for public meetings
Ordinances

• Local legislative action
• Regulates the community
• Defines unlawful criminal conduct
• Process to adopt set in state law
• Must be published after passage to provide notice
• Must be approved by roll call vote, with each councilor’s vote cast and recorded individually
• Subject to veto by mayor
Resolutions

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

Resolutions may be used to approve:

• Council meeting procedures
• Records retention schedule
• Personnel policy
• Contract with private or public entity
• Schedule of fees (e.g. building permit fees, sewer rates, ...)
• Destruction of city records
• Sale of surplus equipment
Personnel — It’s Different In The Public Sector

- In private sector — largely a matter of contract law
- For local officials — constitution applies
- State law provisions override contrary personnel policy provisions
- Constitutional provisions override historic at-will reputation
- Vital that you contact city attorney or insurer regarding personnel decisions
- Many federal statutes now provide remedies for affected employees
Ethics — Conflicts of Interest

• Ethical standards established by state statute

• Ethics in Government Act (chapter 4, title 74 Idaho Code) - primary focus is disclosure

• Statute prohibits actions to gain private benefit from public service - criminal penalties may attach (chapter 13, title 18 Idaho Code)

• Prohibition against contracting with public agency you serve (chapter 5, title 74 Idaho Code)

• Local Land Use Planning Act (Idaho Code §67-6506) applies to conflict of interest in planning and zoning proceedings
Ethics in Government Act

- **Purpose:** protect integrity while allowing participation

- Governs all Idaho political subdivisions and state itself

- Requires public disclosure before taking action

- Not applicable to uncompensated public official

- Requires disclosure of conflict of interest on the record
Criminal Statutes — Conflicts of Interest

• Prohibits bribery and corrupt influences
• Governs past and future conduct, retaliation or inducement
• Gifts are limited to a maximum of $50 or $0 if potential influence is apparent
• Criminal sanctions for using public position for personal gain
• Fines and imprisonment are potential penalties
Prohibition Against Contracts

• Public officers are prohibited from an interest in contracts with governing agency

• Prohibition includes sales — So if your business has been selling goods or services to your city ...

• Remote interests are an exception — non-salaried employee, fixed wages or salary, landlord or tenant, etc.

• Other board members may be exposed by approving payment

• Prohibition has been in place since territorial days

• Idaho Code title 74, chapter 5
Local Land Use Planning Act Prohibition

• Conflict of interest requires recusal

• Must disclose conflict on the record

• Governs member and family, business associates, employer, etc.

• Restricts participation on any actual or potential conflict of interest

• Can testify (as a citizen) after disclosure so long as not involved with decision in any way

• Recusal does not destroy quorum
Liability as a Part of Public Life

• You may be sued — get used to it

• Idaho Tort Claims Act — allowing suits against government — and against public officials

• Federal civil rights claims

• Duty of the city to defend you and indemnify
Idaho Tort Claims Act

• Originally enacted in 1971

• Replaced sovereign immunity — government could not be sued

• Recognized immunities for uniquely governmental actions — example: arrest by police

• Requires compliance with procedural essentials

• Requires public agencies to defend and indemnify elected officials, employees and volunteers *acting within course and scope of employment*

• Has been revised periodically during the past 48 years
Claim Procedures & Limitations

- Tort claims must be filed within 180 days and prosecuted within two years.
- Maximum damage exposure is $500K per occurrence, irrespective of number of victims (unless purchase more insurance).
- Immunities include slander, libel, assault and battery, etc.
- Only responsible for actual degree of fault.
- Allows purchase of insurance to cover public agency, employees and volunteers.
- Can act in cooperation with other units of government — ICRMP
Federal Statutes

• Civil Rights Act of 1871 — Anti-Ku Klux Klan Act
• Americans with Disabilities Act
• Civil Rights Act of 1964, as amended
• Fair Labor Standards Act

• Federal statutes regarding veterans’ benefits and hiring preference
• Family Medical Leave Act
• Pregnancy protection
• Etc.
Municipal Purchasing

• Statutes designed to foster competition and accountability
• Chapter 28, title 67, Idaho Code governs purchasing for all political subdivisions
• Important to set purchasing thresholds for mayoral approval and requirements for council consideration
• If large purchases are contemplated in a budget, identify them in city records
• General rule is requirement to purchase that which costs the least
Exclusions From Competitive Bidding

- Purchases under $50K
- Piggybacking on other competitive bids (more later)
- Personal and professional services
- Interests in real property
- Procurement of insurance
- Participation in joint powers agreements with other units of government
Public Works Construction Licensing

• When modifying the land or building structures upon the land, must use licensed public works contractor

• Public works contractors do not have special skills, only evidence of financial capability at time of licensure

• Requirement for payment bonds and performance bonds replace lien rights

• State-issued public works contractors license is necessary to bid on public works jobs

• Work under $50K in total does not require licensed public works contractor
Simplified Purchasing Procedures

• For smaller purchases simplified procedures are allowed

• Dollar limits are $100K for personal property and $200K for public works construction

• Below statutory thresholds full plans are not required and solicitations can be limited to three qualified contractors

• Bids must be submitted in writing; electronic means allowed

• City must take the lowest bid that meets project requirements
Competitive Bidding — Formal Process

• For purchases that exceed the bidding threshold full competitive bidding is required $100K / $200K

• Notice of bidding must be published in the official newspaper

• Bids must be submitted in writing in sealed envelopes

• Opening must be at a publicly announced time and place

• Low bidder who complies with bidding requirements and has proper license is presumed to prevail

• Any intent to award to other than the low bidder requires a hearing to allow the apparent low bidder an opportunity to be heard
Alternative Purchasing Procedures

• Request for proposals — problem-solving procedure
• Piggybacking
• Cooperative purchasing arrangements
• Sole-source procedures allow purchase from one vendor if others are notified
• Numerous specific categories of exceptions from low price requirement
• Can purchase at auction with governing board approval
Public Records

- “Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business

- "Writing" includes, ... every means of recording, including letters, words, pictures, sounds or symbols ...

- Public has right to examine – not just seek copies

- Public agency has duty to protect records

- Computer record-keeping adds new challenges

- Records available unless exempt by statute
Public Officials — Electronic Records

• Conventional records
  ✓ Designate records keeper
  ✓ Establish policies for those seeking records (costs, pre-payment)
  ✓ No fee for 100 pages or two hours of oversight
  ✓ Protection if following attorney’s advice
  ✓ Destruction of records – require council action

• E-mails sent to personal addresses
• Text messages regarding public business
• Sorting out the trash – we all get overwhelmed
• Nothing is truly gone – set retention requirements in policy
Planning & Zoning

• Charting a future for your community and your city government

• A world unto itself – opens responsibility to protect personal rights of all participants in quasi-judicial proceedings

• Comprehensive plan – establishes policy foundation for land use policy and development regulation

• Community planning ties closely to annexation policy in rapidly growing cities

• Planning & Zoning Commission is available to help — or not

• Primary source of public hearings
Implementation Tools

- **Zoning Ordinance** — separate incompatible uses and match uses with infrastructure

- **Subdivision Ordinance** — provide procedures whereby new developments meet future maintenance standards

- **Standards Ordinance** — Establishes norms to see that public facilities conform to community requirements

- **Hearing Procedures Resolution** (request a copy) — Outlines standard practices for legislative and quasi-judicial public hearings

- All such ordinances require hearing for adoption
Sustainable Public Utilities

• An operating principle — leave things better than you found them
• Typically funded by system revenues — share costs of newcomers
• Maintain rates that fund system operation in the long run
• Recognize depreciation as an actual component of system costs
• Wastewater disposal is highly regulated by state and federal officials — set rates that allow professional support for system design and operation
• Utility facilities are often invisible — underground or not seen by the public — don’t allow them to degrade on your watch
Roads & Bridges

- A costly part of municipal life
- Cities share in state-collected highway user funds
- Dedicated funds must be accounted for separately — if not, funds will be withheld
- Need to consider both depreciation of street improvements and maintenance equipment
- Grants can be a source of funding for capital items — as can impact fees — Local Highway Technical Assistance Council (LHTAC)
- Pedestrian convenience and safety is also a concern
• Multiple ways to provide policing — city department, contract with neighboring city, contract with county (sheriff), do nothing.

• Fire service can be provided by: paid department, volunteer department or combination

• Be aware of interface with neighboring fire districts — may be potential for cost-saving — try not to be joint owners

• Firefighters are the only municipal employees entitled to collective bargaining rights by statute

• Take care to see volunteers comply with city policy
Intergovernmental Relations

• Joint powers statute (Idaho Code §67-2328, et seq) allows units of local government to do jointly that which they can do separately

• Can work together by shared effort or form new public entity

• New entity requires policies, employees, etc.

• Better to document working relationships to avoid misunderstanding

• Agency and cooperating partner typically has same insurer and Idaho Tort Claims Act limitations

• Costs of public agency cooperation are not subject to competitive bidding requirements
Installation of Elected Officials
Installation of Elected Officials

• Mayors and Councilors are installed in office at the first council meeting in January following their election or re-election
Installation of Elected Officials

• Incumbent mayor and councilors convene meeting, approve minutes, and authorize payment of bills.

• Those elected or re-elected at the Nov. 5, 2019 election stand, verbally swear to the oath of office, and sign the oath of office form, which is kept by the city.

• Those elected or re-elected at the Nov. 5, 2019 election each receive a Certificate of Election, signed by the mayor and countersigned by the city clerk.
Installation of Elected Officials

• Then the newly elected officials take their seats.

• The council elects its president at some point during the remainder of the meeting.

• Any vacancies remaining after the election may be filled by the normal process of appointment.
Text of Oath of Office

Do you solemnly swear (or affirm) that you will support the Constitution of the United States, and the Constitution of the State of Idaho, and that you will faithfully discharge the duties of (Councilor or Mayor) of the City of __________ according to the best of your ability?
Taking the Oath of Office

• Can have the elected official recite every word of the oath, but this can be nerve wracking in a public setting of such importance.

• It is easier to have the person administering the oath—generally the mayor or city clerk—recite the entire oath “Do you solemnly swear...” At the end of the oath the elected official responds “I do,” or “I will.”
Who Can Administer Oath of Office?

• City Clerk

• Mayor—NOTE a newly elected or re-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
2020 Census Resources

Main Page: [https://2020census.gov/](https://2020census.gov/)


In the main page:

- CCC guides PDFs
- How to respond
- Tribal Resources
- Fliers

COMPASS Web Site
[https://www.treasurevalleycensus.com/?fbclid=IwAR2JCCSlVmGOejMxK-TSvwOSjtNewCYaGlizJSQ55EHSTcmagWKChf6Lmzl](https://www.treasurevalleycensus.com/?fbclid=IwAR2JCCSlVmGOejMxK-TSvwOSjtNewCYaGlizJSQ55EHSTcmagWKChf6Lmzl)

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**Local Highway Technical Assistance Council & T2 Center**
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idahot2@lhtac.org
LHTAC.org
Ph: (800) 259-6841 or
(208) 344-0565
Fax: (208) 344-0789
Protecting Public Health

CITY STEWARDSHIP IN ACTION
Powers of Idaho Cities

• Police Power—ID Constitution Art. XII, Sec. 2
  Fundamental power of cities to enact laws for the promotion and protection of the public health, safety, and welfare

• Governmental Powers of Cities

• Cities as Municipal Utility Service Providers (drinking water, sewage, solid waste disposal, electricity, etc.)
Public Works* that Work for Your Public

• streets and drainage (a.k.a. stormwater)
• drinking water
• sewage treatment
• parks
• trash collection

* These are the services that underpin our economy and quality of life, while protecting the environment.
AIC Environmental Policy Development

• Environment Committee

• Municipal Water Users Oversight Group

• Task Force(s): ReUse, Stormwater, IPDES (sewage treatment), Federal Water Quality Coalition
  • 2017 Idaho Municipal Utility Survey
  • 2018 Water Academies & Utility Evaluations
  • drinking water and sewage treatment permitting, funding, negotiated rulemaking

• Building Code Adoption and Implementation Coordination

Contact: Johanna Bell - AIC Policy Analyst, Environment
AIC Environment Committee

• Elaine Clegg, Boise Council Pro Tem (CHAIR)
  ✓ 18 Elected Officials, representing 17 Idaho cities
  ✓ 15 Technical Staff/Directors, representing 14 Idaho cities

• 2019/2020 Topics:
  ✓ Urban/Wildland Fire (prevention/planning)
  ✓ Urban Fish Enhancement with Trout Unlimited
  ✓ Electric Vehicle Infrastructure (alternate fuel transition planning)
AIC Municipal Water Users Group (2019)

Region 1 (AIC Dist. 1 & 2):
- Councilor Gina Taruscio, Moscow
- Councilor Shannon Williamson, Sandpoint

Region 2 (AIC Dist. 3 & 3A):
- Mayor Nathan Leigh, Parma
- Councilor Sandi Levi, Nampa

Region 3 (AIC Dist. 4):
- Councilor Bob Culver, Jerome; CHAIR
- Councilor Jon Anderson, Burley

Region 4 (AIC Dist. 5 & 6):
- Councilor Terry Larson, Preston
- Mayor Rebecca Casper, Idaho Falls

At Large: Mayor Craig Sturman, Ucon
AIC Municipal Water Users:
4th Annual AIC Water Summit – January 22, 2020*

• Water Supply / Quality / ReUse Updates
• Environmental DNA
• Hot Topics and Coalition Opportunities
• Idaho and National Litigation Update
• Governor’s Salmon Recovery
• Regional Reports
• Representative Confirmations

*In Boise, just before the City Officials’ Day at the Capitol @ January 23, 2020
AIC Municipal Water Users: December Regional Water Issue Webinars

Save these dates and plan to attend!

• AIC Dist. #1 & #2: Dec. 6, 2019 @ 9:30/10:30 AM
• AIC Dist. #3 & #3A: Dec. 13, 2019 @ 9:30/10:30 AM
• AIC Dist. #4: Dec. 16, 2019 @ 9:30/10:30 AM
• AIC Dist. #5 & #6: Dec. 17, 2019 @ 1:30/2:30 PM
Evaluating Your City’s Water Utilities: Managerial

• utility rules, regulations, and ordinances
• future capital needs (strategic facility plan)
• emergency plans & county all-hazards reports
• secure and accessible system and billing records
• source protection & community protection plans
• regular communication with customers

* These are the services that underpin our economy and quality of life, while protecting the environment.
Evaluating Your City’s Water Utilities: Financial

- formal water system budget
- rate and fee structure that fully meets expenses
- capital reserve and depreciation fund
- asset inventory and replacement program
- current rate study
- affordability analysis and special customer programs

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Evaluating Your City’s Water Utilities: Technical

- anticipated water supply needs (secure rights)
- system treatment, distribution, connection controls or plans
- certified operators and backup operators (apprenticeship opportunities)
- operations and maintenance manuals
- as-built plans and distribution map
- water loss or infiltration accounting
- tracking customer usage

* These are the services that underpin our economy and quality of life, while protecting the environment.
Evaluating Your City’s Water Utilities: Compliance

• Dig Line membership and right-of-way encroachment ordinance
• Idaho-issued permits: check for significant system or service deficiencies or outstanding violations/compliance orders
• complaint lab testing facilities & chain-of-command protocols
• public notices: consumer confidence, boil orders, etc.

* These are the services that underpin our economy and quality of life, while protecting the environment.
Thanks for your time and attention!