



**CITY COUNCIL
MEETING AGENDA**

**April 29, 2025
5:30 PM**

Location: 2nd Floor Conference Room, 408 N. Spokane Street, Post Falls, ID 83854

CALL TO ORDER BY MAYOR JACOBSON

ROLL CALL OF CITY COUNCIL MEMBERS

Samantha Steigleder, Aaron Plew, Joe Malloy, Nathan Ziegler, Randy Westlund, Ryan Davis

WORKSHOP – 5:30 pm 2nd Floor Conference Room

- a. Good Governance

ADJOURNMENT

Questions concerning items appearing on this agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 408 N. Spokane Street or call 208-773-3511.

Mayor Ronald G. Jacobson

Councilors: Samantha Steigleder, Aaron Plew, Joe Malloy, Nathan Ziegler, Randy Westlund, Ryan Davis

Mission
Building Community.

CITY OF POST FALLS
AGENDA REPORT
WORKSHOP – 5:30 pm 2nd Floor Conference
Room **MEETING DATE: 4/29/2025**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Warren Wilson, Deputy City Administrator
SUBJECT: Good Governance

ITEM AND RECOMMENDED ACTION:

This workshop is intended to provide training and discussion on topics related to public records, open meetings, governmental ethics, meeting management and other topics related to good governance.

DISCUSSION:

N/A

ITEM / PROJECT PREVIOUSLY REVIEWED BY COUNCIL ON:

N/A

APPROVED OR DIRECTION GIVEN:

N/A

FISCAL IMPACT OR OTHER SOURCE OF FUNDING:

N/A

BUDGET CODE:

N/A

ATTACHMENTS:

1. 2025.04.21 Good Governance - Final



Good Governance: Roles and Responsibilities & Rules of Procedure

Field Herrington
Warren Wilson
April 25, 2025

Topics:

Principals of Good Governance	Effective Use of City Attorney
Separation of Powers and Roles	Rules of Procedure & Meeting Management
Executive Authority	Decorum, Order, and Public Participation
Legislative Authority	Open Meetings & Transparency Laws
Roles and Responsibilities	Ethical Governance

Why Good Governance Matters.

- Promotes **transparency** and **accountability** in decision making.
- Builds Public Trust.
- Averts legal risk and liability for the city.
- Creates a framework for fair and consistent procedures.
- Protects yours and the city's reputation and credibility.

Good Governance Framework

- **Separation of Powers:** Cities, like state and federal government, divide roles among executive, legislative, and judicial branches.
- **Checks & Balances:** Each branch's power is balanced by oversight from the others.
- **Defined Roles:** State law outlines responsibilities for mayors and council members.
- **Importance:** Clear role understanding protects officials and builds public trust in government.

Executive Authority – The Role of the Mayor

- **Statutory Authority (Idaho Code 50-602):** The Mayor is the chief administrative officer, responsible for supervising city operations and enforcing council policies.
- **Responsibilities:** Preside over council meetings, set the order of business, break tie votes, and declare emergencies if needed.
- **Additional Powers:** The Mayor can veto ordinances, appoint members to city boards (subject to council confirmation), and call special council meetings.
- This role emphasizes swift, decisive action while balancing council oversight.

Legislative Authority – Council’s Role as Governing Board

- The council holds legislative authority, crafting laws and policies that protect public health, safety, and welfare.
- **Quasi-Judicial Role:** Council handles decisions on initial zoning, rezones, and other land use matters on appeal, requiring careful adherence to due process.
- **Oversight of the Mayor:** Council confirms mayoral appointments, balances budget allocations, and can override vetoes.
- Council’s function as a governing board ensures that decisions reflect community interests and are vetted through a multi-member body.

Council President's Role

- Council President is selected at the first council meeting each January, following general city elections.
- **Key Responsibilities:** In the Mayor's absence, the Council President presides over meetings and maintains city operations but should avoid major executive actions like hiring or firing without council approval.
- The role ensures continuity and stability in city leadership.

Council and City Attorney Relationship Overview

- An effective working relationship between the council and City Attorney is essential for informed decision-making and legal compliance.
- **Primary Responsibility:** The City Attorney's ethical duty is to the city as a whole, not individual council members. This promotes balanced, objective legal advice across the council.
- **Legal vs. Policy Decisions:** Avoid involving the City Attorney in policy debates. The attorney provides legal guidance, not policy advocacy.

Timely and Complete Legal Consultation

- **Early Engagement:** Engage the City Attorney as soon as possible to allow time for thorough legal analysis.
- **Transparency:** Share all pertinent facts and objectives to enable the attorney to provide accurate, well-informed advice.
- **Council Majority Decisions:** The City Attorney's guidance follows the majority's direction. Respecting this process supports unified council decision-making.
- **Legal Risk Analysis:** The City Attorney will present legal risks objectively, empowering the council to make informed choices even when laws are open to interpretation.

Confidentiality and Privilege

- **City Attorney Privilege:** Attorney-client privilege covers legal advice provided to the whole council. Disclosure requires a council vote.
- **Why Confidentiality Matters:** Confidentiality prevents strategic disadvantages in legal matters, protects city interests, and fosters trust in legal counsel.
- **Best Practice:** Council meetings are not the ideal setting for extensive legal questions, as these discussions may compromise attorney-client privilege or require more in-depth research.

Respect for Staff Time and Resource Allocation

- **Efficient Use of Resources:** Staff time is funded by the taxpayers and must be allocated strategically toward high-priority tasks that serve the community.
- **Alignment with Goals:** Ensure requests align with city objectives, helps maintain operational efficiency, and supports effective governance.

Rules of Procedure - Introduction

- These rules help maintain structure, transparency, and fairness in council proceedings, covering meeting structure, motions, decorum, and public participation.
- Emphasis on order ensures that council operates consistently, allowing each member to voice opinions while adhering to formal processes.

Rules of Procedure – The One Pager

- **Quorum (Idaho Code 50-705):** A majority of council members must be present to proceed with official business.
- **Discussion & Debate:** Motion is not required to begin deliberation. Mayor may open discussion prior to any formal motion.
- **Motions:** Structured motion-making and seconding prevent confusion and ensure council votes on supported actions.
- **Voting:** Most motions require a majority, but certain actions may require a different threshold. This system allows all council members to engage fairly.

Decorum and Order in Meetings

- **Professional Conduct:** All remarks should be directed to the council, focusing on issues, not individuals.
- **Chair's Authority:** The Chair (Mayor) may declare behavior or statements out of order if disruptive or irrelevant to maintain decorum.
- Respectful dialogue upholds the council's professional integrity and encourages a collaborative environment.
- **Citizen Comments:** Residents can speak on non-agenda topics for up to 5 minutes during Citizen Comments.
- **Value of Public Input:** This process allows council to hear community perspectives on diverse issues outside of specific agenda items.

Why this Matters?

- Courts and Legislatures have been scrutinizing the government's handling of disruptive testimony.
- Free Speech Protections exist, but **viewpoint-neutral, conduct-based rules** are enforceable.
- Goal: Orderly, efficient, and productive meetings.

Rules of Decorum

- **Remarks must address issues, not individuals.**
- Disruptive actions like booing, cheering, or interrupting are prohibited.
- Attendees are required to sign in, noting their position and intent to speak.
- Critical comments are allowed—but not if delivered disruptively or disrespectfully

Chair's Authority

- The **Mayor or Chairperson** may:
 - Declare testimony or behavior out of order.
 - Issue verbal warnings (generally twice) before further action.
 - Call a recess to defuse disruptions or consult staff.
- Must distinguish between disruptive **conduct** versus unpopular **ideas** to avoid viewpoint discrimination.

Dealing with Disruptions

- Post Falls Escalation Protocol (per Resolution 22-02)
 1. Warning(s) issued by Chair.
 2. If conduct continues → Meeting is recessed.
 3. Council and Staff exit to ante room.
 4. Police Department engages and removes or de-escalates attendee(s).
 5. Meeting resumes only when situation is safe and decorum is re-established.

Open Meetings Law – Title 74, Chapter 2, Idaho Code

- Meetings are **presumed** to be **open**.
- “Meeting” is broadly defined.
- Public has a right to **attend** and **observe**.
 - Public **participation** is not required (other than hearings).
- Meetings have specific requirements.
- Failure to adhere may be penalized and invalidate action(s).

Open Meetings Law – Presumed Open

- Why? Designed to ensure transparency.
- *“It is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.”*
- *“All meetings of a governing body... shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided...”*

Open Meetings Law – Executive Session

- **Closed meetings** (Executive Session) are limited to listed circumstances.
 - Must be supported by specific exemption under law (i.e. personnel evaluations, pending litigation, land acquisition...)
 - Only by 2/3 vote of the body.
 - No action/final decision may be taken.

Open Meetings Law – What is a “Meeting?”

- *“The convening of a **governing body** to make a **decision** or to **deliberate toward a decision** on any matter.”*
- “Governing body” = quorum of a public agency.
- “Decision” = any determination, action, vote, or final disposition at any meeting in which a quorum is present.
- “Deliberate toward” = the receipt or exchange of information or opinion relating to a decision.
- No formal requirements.

Open Meetings Law – What is a “Meeting?” (cont.)

- What does not qualify?
 - Depends on the substance of the conversation. Informal gatherings may become “meetings” unintentionally.
- Meetings happen when a quorum of the body meeting to decide or deliberate on matters within the “ambit of official business.”
- Telephone & Audio/Visual conferences may qualify.
- Group emails (serial meetings) may qualify.
- **Is there an intent to circumvent the open meeting law?**

Open Meetings Law – What does an “open meeting” mean?

- Public has a right to attend and observe. **Spectator Sport Only.**
- Public does **not** have the right to participate.
- No right to obstruct, distract, delay, or interfere.
- Purpose of the meeting is to conduct the business of the entity.
- Participation only occurs at 1) public comment (by allowance) and 2) public hearings by right.
- Agency may adopt reasonable rule to ensure orderly conduct at meetings.

Open Meetings Law – Technical Requirements

- Meeting notice – time, date, location and name of entity.
- Agenda notice – sets forth the purpose of the meeting and items of business.
 - Action may only be taken on items identified as **Action Items** on Agenda.
 - Labeling as **Action Item** does not require action to be taken.
 - Agendas may be amended.
- Written Minutes required (not a verbatim transcript).
- Discussion and deliberation (including by remote) must be audible to the public and each other.

Open Meetings Law – What if I Don't?

- Failure to adhere may invalidate action(s).
 - *“If an action, or **any** deliberation or decision-making that leads to an action, occurs at **any** meeting, which fails to comply, such action shall be null and void.”*
- Civil penalties for members for inadvertent violations (\$250).
- Enhanced penalties for knowing violations (\$1,500).
- Within 12 months? (\$2,500).
- Private action provided to persons affected by violations to nullify.
- Option to cure violations by self-recognition and redo.

Open Meetings Law – Best Practices

- Avoid unnoticed meetings where city business will be discussed.
- Avoid **appearance** of back-room deals.
- Conduct city business on the record.
- If unclear, seek assistance or clarification.
- Avoids challenges, questions and voiding of council action(s).

Open Meetings Law – Idaho Headlines

- Detective looking into claims of illegal meetings over Downtown Boise stadium - 11/08/17
- ACHD asks Ada prosecutor to look into commissioner's emails - 8/31/18
- Ada County commissioners' actions brush up against Idaho Open Meeting Law once more 8/16/21
- Emails show NIC trustees, lawyer planned meetings in private – 4/21/23
- A civil complaint alleges that more than \$2M in open meeting law violations – 11/2/24
- Did all 3 Canyon County commissioners break Idaho's open meeting law? What prosecutors say - 5/06/24
- Prosecutor: ACHD violated open meetings law in HQ purchase - 6/13/24

Public Records Law – Starting Point

- Presumption that all records are subject to disclosure upon request.
- Public records encompass broad categories of information.
- City is required to respond to requests following specific processes.
- Exemptions to disclosure are narrowly construed.
- Ways to avoid public records issues.

Public Records Law – All Records Presumed Open

- “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.” Idaho Code § 74-102(1).
- “Clearly, the legislature created [IPRA] to allow public access and did not intend to prevent harm caused by public disclosure of private information.” Nation v. State, 144 Idaho 177, 190 (2007).

Public Records Law – What Qualifies

- (13) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics. Provided, however, that personal notes created by a public official solely for his own use shall not be a public record as long as such personal notes are not shared with any other person or entity.
- (17) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

Public Records Law – What Qualifies

- Any information created, used, or retained in relation to public business.
- Letters, memos, invoices, emails, messages, videos, spreadsheets, texts,
 - Social media posts.
 - Metadata?
 - Why not?
- Only exception in Idaho code is for *personal notes* created by a public official for their use - **only if not shared with anyone else.**
- Remember: Statutory presumption that all records are open, unless an exemption applies, and exemptions will be narrowly construed.

Public Records Law – Response Process

- Clock begins running upon receipt of request.
 - Generally, 3 business days but may extend to 10 if voluminous.
- City can't ask what the requester wants the record.
- City retrieves and review records to determine if an exemption applies.
- City may request additional time to review and respond.
- City may charge reasonable fees (if adopted).
- Must provide denial in writing, provide explanation of basis for denial and inform requester of right to have court review.

Public Records Law – Response Process Cont.

- If court finds that the record was wrongfully withheld, it will order the production and can award fees and costs to the requesting party.
- City will usually end up producing the records.
- * Idaho code provides immunity to an agency for any loss or damage based on the release of a public record if the entity was acting in good faith.
- No liability for producing a record.

Public Records Law – Exemptions

- Generally, exempts out personal identifiers such as DOB, SSN, DL...
- Personnel Records (except employment history, salary...)
- Individual medical or financial records
- Investigatory records (with caveats)
- Juvenile records
- Attorney communications
- ...and as otherwise exempt under another law

Public Records Law – Problem Areas

- Be **very careful** with:
 - Cell Phones: Texts & voicemail are potentially public records.
 - Private Email Accounts: If used for public uses, likely a public record.
 - Social Media: Context can make posts/comments into a public record **that must be retained for retention period.**
- Focus is on the message - not the device. Did the message contain information about the conduct or administration of the public's business?
- If so, may be required to capture and submit messages for review to separate out private from public correspondence.

Social Media – While we are on the topic

- Social Media Accounts? Public vs. Private accounts
- *Lindke v. Freed* U.S. S.Ct. 2023- State action only if official had actual authority to speak on entity's behalf and exercised that authority when speaking on social media. (Official blocked and deleted comments on private social media account where they discussed public matters).
- Requires an individual look to categorize conduct complained of.
- Cloaking oneself with authority then acting as individual creates ambiguity.

Public Hearing Procedures: Overview

- **Idaho Code §67-6534** mandates structured public hearing procedures for transparency and due process.
- **Notice Requirements:** Public hearing notices must be timely and provide access to applications and reports to allow informed public testimony.
- Establishing clear public hearing protocols ensures a fair process for all stakeholders.

Public Hearing Procedures: Written Testimony

- **Submission Methods:** Written testimony can be submitted via email, mail, or web form. It must include the name and address of the submitter and be received four business days prior to the hearing.
- **Purpose of Written Testimony:** This allows residents who cannot attend in person to still have their voices included, broadening public engagement.

Public Hearing Procedures: Conduct

- **Sign-In Sheets and Speaker Organization:** Participants must sign in, indicating their stance and intent to speak. This system organizes testimony and allocates time equitably.
- Speakers must address the Council only – not the audience.
- **Rules of Decorum:** Disruptive actions, like cheering or booing, are prohibited to maintain a respectful hearing environment.
- Derogatory or irrelevant testimony may be ruled out of order.

Public Hearing Procedures: Testimony and Time Limits

- **Order of Testimony:**

- Applicant Presentation: 15 minutes
- Support, Neutral, Opposition Testimony: 4 minutes per speaker
- Rebuttal by Applicant: 8 minutes.

- **Brief Written Testimony:** Must be less than 200 words and will be read into the record by the chair.

Public Hearing Procedures: Deliberation and Decision

- After public testimony concludes, questions may be directed to staff for clarification.
- After the public hearing is closed, no further testimony may be received, and council members begin deliberations.
- **Voting and Documentation:** Council votes to approve, deny, or table the issue, and decisions are recorded in a reasoned written document that explains the rationale based on ordinances and comprehensive plans.

Ethics in Local Government

Why It Matters:

- Builds public trust
- Promotes transparency and accountability
- Ensures fair and just governance

Purpose of Presentation:

- Educate council members on ethical standards
- Highlight key responsibilities and risks
- Provide practical guidelines for compliance

Ethics in Local Government

Legal Foundations of Ethics in Government

- **Key Statutes:**

- Bribery and Corruption – Idaho Code Title 18, Chapter 13
- Local Land Use Planning Act – Idaho Code Title 67, Chapter 65
- Idaho Ethics in Government Act – Idaho Code Title 74, Chapter 4
- Prohibition Against Contracts with Officers – Idaho Code Title 74, Chapter 5

- **Enforcement Authorities:**

- You
- City Attorney – Ethics Rules
- County Prosecutor & Idaho Attorney General's Office

- **Why These Matter:**

- They provide rules for ethical behavior.
- Violations can lead to legal and reputational consequences.

Ethics in Local Government

Key Principles

- **Integrity:** Act in the public's interest, not for personal gain.
 - Example: Avoid using your position to advance personal business interests.
- **Transparency:** Conduct government activities openly.
 - Example: Share relevant information with the public unless legally confidential.
- **Accountability:** Be answerable for decisions and actions.
 - Example: Document decisions and their rationale for public record.
- **Fairness:** Treat all constituents equitably.
 - Example: Ensure decisions are made impartially without favoritism.
- **Respect:** Maintain professionalism in interactions.
 - Example: Address colleagues and constituents courteously, even in disagreements.

Ethics – Bribery & Corrupt Practices Act

Applicability:

- Applies to counties, **cities**, school and other special districts, and state and local boards and commissions (including planning and zoning commissions).I.C. 18-1351(3)
- Public servants covered by the act include **elected officials, appointed city officers and employees** (including consultants). (I.C. 18-1351(8)).

Sanctions:

- Title 18 is Idaho's general criminal code. Violations of these standards can result in criminal penalties – in addition to the reputational harm to you and the city.

Ethics – Bribery & Corrupt Practices Act

Bribery: A person is guilty of bribery if they offer:

- A pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant;
- A benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in an administrative proceeding; or
- A benefit as consideration for a violation of a known legal duty as public servant.

Citation & Sanctions:

- I.C. 18-1352.
- Felony, restitution (forfeiting any benefit gained).

Ethics – Bribery & Corrupt Practices Act

Threats & Improper Influence: A person is guilty if they:

- Threatens unlawful harm to a person to influence his decision, opinion, recommendation, vote or other exercise of discretion as a public servant;
- Threatens harm to a public servant with purpose to influence his decision, opinion, recommendation, vote or other exercise of discretion in an administrative proceeding;
- Threatens harm to any public servant or party official with purpose to influence him to violate his known legal duty; or
- Privately addresses a communication to a public servant who has or will have official discretion in an administrative proceeding to influence the outcome **based on considerations other than those authorized by law.**

Citation & Sanctions:

- I.C. 18-1353.
- Misdemeanor or Felony, restitution.

Ethics – Bribery & Corrupt Practices Act

Compensation for Past Official Action: A person is guilty if they:

- Solicits, accepts, or agrees to accept a pecuniary benefit as compensation for giving a decision, opinion, recommendation or vote favorable to another, or for having otherwise exercised discretion in his favor, or for having violated his duty.
- Offers, confers, or agrees to confer, compensation, acceptance of which is prohibited by this section.

Citation & Sanctions:

- I.C. 18-1354.
- Misdemeanor, restitution.

Ethics – Bribery & Corrupt Practices Act

Retaliation for Past Official Action: A person is guilty if they:

- Harm another, by any unlawful acts, in retaliation for anything lawfully done by the latter in the capacity of public servant.

Citation & Sanctions:

- I.C. 18-1355.
- Misdemeanor, restitution.

Ethics – Bribery & Corrupt Practices Act

Gifts to Public Servants: A person is guilty if they offer, solicit, accept, or agree to accept, a pecuniary benefit from anyone:

- Subject to the city's regulatory or law enforcement authority;
- Subject to the discretionary function of the city in awarding contracts, purchases, payments, claims, or pecuniary transactions;
- Interested in the outcome of administrative hearings before the city;
- Interested in legislation, official transaction, or proceeding.

Citation & Sanctions:

- I.C. 18-1356.
- Misdemeanor, restitution.

Ethics – Bribery & Corrupt Practices Act

Gifts to Public Servants - Exceptions:

- Fees prescribed by law to be received by a public servant, or other benefits the recipient is otherwise legally entitled to; or
- Gifts or other benefits given by family or based on personal, professional, or business relationships **independent of the official status of the receiver;** or
- Trivial benefits **not to exceed a value of fifty dollars (\$50.00)** incidental to personal, professional, or business contacts and **involving no substantial risk of undermining official impartiality.**

Citation:

- I.C. 18-1356.

Ethics – Bribery & Corrupt Practices Act

Compensating Public Servants for Assisting Private Matter: A person is guilty if they offer, solicit, accept, or agree to accept, compensation for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction or proposal over which they will exercise official discretion.

Citation & Sanctions:

- I.C. 18-1357.
- Misdemeanor, restitution.

Ethics – Bribery & Corrupt Practices Act

Selling Endorsement or Special Influence: A person is guilty if they offer, solicit, accept, or agree to accept, compensation from a person or political party for:

- Approval or disapproval of an appointment or advancement in public service;
- Approval or disapproval of a person or transaction for any benefit conferred by the city;
- Exerting any special influence on a public servant based on kinship, friendship, or other relationship other than the merits of the transaction.

Citation & Sanctions:

- I.C. 18-1358.
- Misdemeanor, restitution.

Ethics – Bribery & Corrupt Practices Act

Using Position for Personal Gain: A person is guilty if they:

- Use public funds or property to obtain a pecuniary benefit.
- Solicit, accept, or receive a pecuniary benefit as payment for services, advice, assistance in the course of official duties (excludes gifts valued under \$50 incidental to personal/professional/business contacts and with no subs. risk of undermining impartiality).
- Use or disclose confidential information gained because of official's position or activities intending to obtain a pecuniary benefit for themselves or others or to harm the city.
- Are interested in a contract made by them in official capacity or by their board.*
- Appoint, or vote for the appointment, of any person related to them, by blood or marriage, within the 2nd degree to any city employment – directly or indirectly.

Citation & Sanctions:

- I.C. 18-1359 & 1360.
- Misdemeanor, forfeiture of office, restitution.

Ethics – Bribery & Corrupt Practices Act

Self Interested Contracts - Exception:

If there are less than 3 suppliers/vendors within 15-mile radius, it is not a violation for the public servant, or their relative, to contract with the city if:

- The contract is necessary to respond to emergency; **or**
- Contract is competitively bid; and
- Public servant or relative is low bidder; and
- Public servant or relative takes no part in preparing bid specifications; and
- Public servant does not vote on, or otherwise approve, the contract; and
- Public servant makes a written disclosure of the conflict to the council; and
- Neither the public servant nor relative have violated any bidding laws.

Citation:

- I.C. 18-1361.

Ethics – Bribery and Corrupt Practices

CONSANGUINITY CHART

			4 Great Great Grandparent
		4 Great Grand Uncle/Aunt	3 Great Grandparent
	3 Child of Great Uncle/Aunt	3 Great Uncle/ Aunt	2 Grandparent
3 Second Cousin	2 Cousin	2 Uncle/Aunt	1 Parent
3 Cousin's Child	2 Nephew/Niece	1 Sibling	1 Person 'A'
3 Grand Nephew/Niece			1 Child
			2 Grandchild
			3 Great Grandchild

Ethics – Local Land Use Planning Act

Conflict of Interest: A board member, or employee, has a conflict and can't participate in proceeding or decision if:

- The member, or employee, has an **economic interest in the action**; or
- The member's employer, or an employee, business partner/associate, have an economic interest; or
- The member's family member, by blood or marriage within the 2nd degree, has an economic interest.

Citation & Sanctions:

- I.C. 67-6506.
- S Bar Ranch v. Elmore County, 510 P.3d 635 (2022).
- Manookian v. Blaine County, 735 P.2d 1008 (1987).
- Recusal. Knowing violation is a misdemeanor.

Ethics – Local Land Use Planning Act

Conflict of Interest: If you have a conflict:

- Disclose before the hearing begins – Listed on agenda.
- Don't participate.
- Leave dais and go into the ante-room for duration of hearing.

If Questions, Consult Legal Staff As Soon As Possible

Citation & Sanctions:

- I.C. 67-6506.
- Recusal. Knowing violation is a misdemeanor.

Ethics – Constitutional Due Process/Bias

Quasi-Judicial Due Process Requirements: City has a constitutional duty to provide due-process during hearings. Including:

- Notice and opportunity to be heard.
- **An unbiased, neutral, decision maker** (P&Z and Council).
- Opportunity to present, and rebut, evidence.

Ethics – Constitutional Due Process/Bias

Bias: A person is biased when:

- They won't listen to evidence with an open mind;
- They won't apply the existing law/standards;
- Their mind is made up about the facts or the hearing's outcome; or
- They have a personal interest in the outcome.

If biased, one way or the other, don't participate in hearing.

Citation & Sanctions:

- Eacret v. Bonner County, 139 ID 780 (2004).
- Recusal. Violation is a constitutional violation.

Ethics – Ethics in Gov't Act

Purpose: Protect public trust by:

- Protecting integrity of government;
- Assuring independence, impartiality, and honesty of elected officials;
- Inform public of personal interests that may pose a conflict;
- Prevent use of office for personal gain;
- Limit impact of special interests; and
- Assure government functions reflect public interest.

Citation:

- I.C. 74-402.

Ethics – Ethics in Gov't Act

Conflict of Interest: Any official action or decision/recommendation resulting in a private pecuniary benefit for:

- The official;
- A member of the official's household; or
- A business which the official or a member of their household is associated.

Citation:

- I.C. 74-403.

Ethics – Ethics in Gov't Act

Associated Business: Any business, regardless of how formed, where the official, or a member of their household, is a director, officer, owner, partner, **employee**, or holder of stock worth five thousand dollars (\$5,000).

Member of Household: The official's spouse and dependent children and anyone the official is legally obligated to support.

Citation:

- I.C. 74-403.

Ethics – Ethics in Gov't Act

Exceptions: Does not apply if the pecuniary benefit comes from:

- Legally required membership in a business, industry, occupation, or class;
- Any action that would benefit an entire industry, occupation group, or taxpayers to the same extent;

Citation:

- I.C. 74-403.

Ethics – Ethics in Gov't Act

Required Action in Conflicts: Before taking action, the elected official **must**:

- Disclose the nature of any potential conflict; and
- Follow the rules of the body regarding conflicts.

Additional Actions: Additionally, the official may (**should**) take to shield from liability:

- Request to not vote - Decision is up to the body.
- Obtain opinion of City Attorney and follow their advice.

Conflict does not prevent counting the member to establish a quorum.

Citations & Sanctions:

- I.C. 74-404 & 406. Intentional failure civil offense \$500 plus applicable criminal sanctions.
- Council may establish additional penalties.

Ethics – Prohibited Contracts with Officers Act

Contracts with Officers Prohibited: City officers can't be interested in contracts made by them or their body.

Exceptions: Doesn't apply to **disclosed** remote interests:

- Non-salaried officer of a nonprofit corporation; or
- Employee/agent where **all** compensation is a fixed wage or salary; or
- Landlord or tenant of a contracting party; or
- Holder of less than one percent (1%) of corporation shares.

Citations & Sanctions:

- I.C. 74-501, 504 & 506. Misdemeanor. Contract can be voided.

Ethics – Prohibited Contracts with Officers Act

Disclosure & Acting on Remote Interests: Officer must:

- Disclose nature and extent of remote interest;
- Must be noted in minutes prior to approving contract;
- Can't vote on approving contract;
- Can't attempt to influence other members to approve contract.

Citations & Sanctions:

- I.C. 74-502. Misdemeanor.

Ethics – Prohibited Contracts with Officers Act

Can't buy from – or sell to – the City: Officer can't:

- Purchase from the City; or
 - Example: Buying surplus property at auction.
- Sell to the City.
 - Example: Sell good or services to City.

Illegal to pay officer anything other than official's salary.

Citations & Sanctions:

- I.C. 74-503. Misdemeanor.

Ethics – Prohibited Contracts with Officers Act

Influencing Public Bids: Officer can't:

- Influence contract award/denial of contract award;
- Conspire to influence bid; or
- Accept property knowing it doesn't meet bid specifications.

Citations & Sanctions:

- I.C. 74-511, 67-9230, 67-9231. Misdemeanor or Felony.



City is Non-Partisan

- **City Offices are Intended to be Non-Partisan:**
 - Election of officers are held on off-years to separate them from partisan elections.
- **City Functions are Non-Partisan:**
 - City provides police and other services such as streets, wastewater, parks.
 - We are the local government/service provider, for everyone regardless of politics.
 - City can't expend funds or resources on partisan politics (I.C. 74-604).
- **City Functions Best when Partisan Politics are Left at the Door:**
 - Focus should be on providing services in sustainable manner.
 - National, or state, partisan political matters aren't relevant to those functions.
 - The City getting involved in partisan politics risks alienating residents unnecessarily.
- **Officers are Free to Personally Engage in Politics.**

QUESTIONS??