City Council Meeting

March 18, 2009

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CITY OF REXBURG
America's Family Community

March 18, 2009

Mayor Shawn Larsen
Council Members:
Christopher Mann – Council President
Rex Erickson Randy Schwendiman
Bart Stevens Richard Woodland
Adam Stout

City Staff:
Stephen Zollinger – City Attorney
Richard Horner – Finance Officer
Public Works Director Millar
Val Christensen – Building Official
Blair Kay – City Clerk

7:00 P.M. City Hall – Pledge to the Flag

Council President Mann asked the Boy Scouts to introduce themselves.

Roll Call of Council Members:

Attending: Council President Mann; Council Member Erickson; Council Member Stevens; Council Member Stout; and Council Member Woodland.

Excused: Mayor Larsen and Council Member Schwendiman.

Public Comment: on issues not scheduled on the agenda (limit 3 minutes)

Presentations:
Council President Mann presented the Girls Scouts with a Proclamation from Mayor Larsen regarding the 97th anniversary of the Girls Scouts of the USA.

PROCLAMATION
No. 2009 – 02

WHEREAS, March 12, 2009, marks the 97th anniversary of Girl Scouts of the USA, founded by Juliette Gordon Low in 1912 in Savannah, Georgia; and,

WHEREAS, throughout its distinguished history, Girl Scouting has inspired millions of girls and women with courage, confidence, and character to make the world a better place; and,

WHEREAS, through the Girl Scout Leadership Experience girls develop the skills and lessons that will serve them throughout their lives so that they may contribute to their communities; and,

WHEREAS, Girl Scouting takes an active role in increasing girls' awareness of the opportunities in math, science, sports, technology, and many fields of interest that can expand their horizons; and,

WHEREAS, more than three million current Girl Scout members nationwide will be celebrating this American tradition, and welcome girls from every background to join;

NOW, THEREFORE, I Mayor Shawn Larsen, by virtue of the authority vested in me as mayor of the City of Rexburg, do hereby applaud the commitment Girl Scouting has made to support the leadership development of America's girls and proudly proclaim the week of March 8, 2009 as Girl Scout Week.

DATED: March 18, 2009

ATTEST: _____
Shawn Larsen, Mayor

_____
Blair D. Kay, City Clerk

Council President Mann reviewed a petition from home owners and residents on the south block of College Avenue concerning the removal of "no parking" signs restricting parking from 9:00 A.M. to 10:30 A.M. on College Avenue. The petition was signed by 16 people.

The City Council discussed parking signs on College Avenue. The residents asked to allow permitted parking instead of the 9:00 A.M. to 10:30 A.M. restricted parking. The parking restriction does not work for the residents at this time. City Attorney Zollinger explained every property would have to be treated equally concerning permits from single family houses to apartments. The plan is to bring a parking plan before City Council for approval in the near future which will address parking issues around the University and parking lots.

Council Member Erickson reviewed a discussion on the matter with Red (Richard) Taylor who is opposed to the current "No Parking" signage.

Council Member Stout said Dennis Taylor supported the proposed parking plan.

City Attorney Zollinger said the plan will be presented by ordinance on April 15th. It will be a parking policy for the city. In reference to parking tickets being thrown in the gutter; the tickets are sent to collections if they are not paid. Police Officer Chuck Kunsaitis explained the Police Department will monitor the area for compliance.

Council Member Stevens said the matter discussed in the petition is under consideration until the parking policy is rolled out.

The City Clerk will respond by letter to the petition and invite them to the April 15th City Council meeting.

Council Member Stout asked if the residents and apartment owners are on the same page. The petition is signed by both property owners and residents.

Cynthia McCurdy's letter requesting relief for utility billings for the "Olive Tree", a non-profit organization working as a residential eating disorder treatment facility was discussed. The City Council asked to have the request on the April 01, 2009 agenda for consideration.

Council Member Erickson reviewed the property on the overhead screen. City Attorney Zollinger explained the Federal ADA code allows for treatment centers in residential zones. The water bill has been running $400 to $500 through the summer months. Council Member Stevens asked to have the applicant come before City Council to provide a presentation. The lot is 1.7 acres of grass.

<u>Committee Liaison Assignments for 2008:</u>

A. Council Member Chris Mann *Museum Committee · Beautification Committee · Emergency Services Board*

Council Member Mann did not have a report.

B. Council Member Rex Erickson *Golf Board · Planning & Zoning · Rexburg Redevelopment Agency*

Council Member Erickson did not have a report; however, the Planning and Zoning Commission recommended four items for approval on this agenda.

C. Council Member Bart Stevens *Airport Board · Romance Theatre Committee · MYAB · School Board*

Council Member Stevens reported the Mayor's Youth Advisory Board met tonight for a planning session for a pride day event April 24th.

D. Council Member Randy Schwendiman *Parks & Recreation · Traffic & Safety Committee*

E. Council Member Richard Woodland *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*

Council Member Woodland reported on a recent Jon Schmidt Concert sponsored by the Arts Council which made $2400. They are making money and they feel like they should make money for the Arts Council. They are working on several grant applications.

F. Council Member Adam Stout *Legacy Flight Museum · Trails of Madison County*

Council Member Stout reported on the upcoming Legacy Flight Museum Air Show is being planned.

Public Hearings:

A. 8:00 P.M. Amend the city's Master Fee List –Richard Horner

Finance Officer Horner explained golf fee changes, waste water fee changes, and water main line fees were added to the list since the last meeting.

Council President Mann opened the public hearing on amending the city's master fee list:

Those in favor of the proposal: None
Those neutral to the proposal: None
Those opposed to the proposal: None

Council Member Stevens said some of the city fees went down.

Council Member Mann closed the public testimony and turned the discussion over to the City Council.

Council Member Woodland said he has reviewed the proposed changes to the fees and he sees no problem with the fee increases. He suggested passage of the fee adjustments.

Council Member Stout was satisfied with explanations.

Finance Officer Horner said the front footage fees have not been increased for awhile.

Council Member Erickson was concerned with the Tabernacle and Westwood Theatre fees. He said we raise the fees and then we waive the fees for some events. Council Member Stevens mentioned the schools use the city buildings and the city uses the schools' buildings. He wanted to help the school district if they want to use the buildings. The city does not charge when the city uses the facilities. Council Member Woodland said the fees are for profit on commercial events. Finance Officer Horner clarified that the fees are for profit and non profit. Council Member Stout reviewed the fees withheld for cleaning the buildings. A $250 deposit has $100 held out for cleaning. Council Member Woodland said the fees are reasonable. Council Member Erickson reviewed the cleaning deposit.

Council Member Woodland moved to approve the amended city's Master Fee List; Council Member Erickson seconded the motion; all vote aye. **The motion carried.**

New Business:

A. **Rezone 264 East Main St.** from LDR2 to Residential Business District – Joshua Fullmer

Johnny Watson from JRW & Associates representing Dr. Joshua Fullmer presented a proposal for a zone change for a Doctor's office at 264 East Main Street. This property is sandwiched between a doctor's office (Packer) and a home hospices business which is the lot zoned as a Residential Business Zone. During the day time hours it will function as a Doctor's office. The Professional Plaza has a professional overlay in a residential zone including Doctor Packer's office which lies just west of this property. The intent is to have the building appear as a residential dwelling. There will be some minor remodeling to the home.

Council Member Stevens asked if parking is adequate. The proposal needs to have 10 parking stalls which will be in the rear of the building. Mr. Watson said the codes specifically states no parking is allowed in the front or side of the home.

Council Member Erickson said all issues were resolved in Planning and Zoning. The only question was the parking which is disallowed in the front and side yard. They have plenty of parking in the back of the house. People from the Second East and East Main Street Neighborhood Association were at the meeting in force that night and they supported the proposal. He

recommended approval of the proposal. Council Member Woodland asked if there were some concerns over lighting. City Attorney Zollinger explained the property next door has some lighting issues under review at this time. Council Member Erickson said the other issue is the proposed sign which will be addressed through Planning and Zoning.

Council Member Stevens moved to approve the Rezone of 264 East Main St. from LDR2 to Residential Business District as recommended by Planning and Zoning with conditions as discussed. Council Member Woodland seconded the motion as long as the lighting issues are resolved; all voted aye. **The motion carried.**

B. Rezone properties between Harvard Avenue and S. 2nd East (between E. 1st South and E. 2nd South) from LDR2 to LDR3 – Ralph M. Kern & Others

Ralph Kern reviewed the property on the overhead screen. They are asking for a higher density which requires a conditional use permit. The LDR3 Zone would change an 8,000 sq. ft. requirement to a 6,000 sq. ft. requirement. He explained the request will allow some of the rental properties to come into compliance.

Planning and Zoning Administrator Leikness explained the Planning Commission recommended approval.

Council Member Erickson said this proposal will help clean up a blighted area in part of the acreage. This will clean up an area needing some attention for years. The lots can have additional density with the change from 8 units per acre.

Council Member Stevens asked to review the planning minutes.

Council Member Erickson said there was full support. The East Main Neighborhood Association supported the proposal. There was not any opposition from neighbors. It maintains the residential nature of the neighborhood. They did not want a commercial atmosphere. It is not going to be University housing.

LDR2 Code insert:
3.5.030. Lot Area
The minimum area of any lot or parcel of land in the LDR2 zone is eight thousand (8,000) sq. ft. plus two thousand (2,000) for each additional dwelling.

LDR3 Code insert:
3.6.030. Lot Area.
The minimum lot area on any parcel of land in the LDR3 zone is six thousand (6,000) sq. ft.

Council Member Erickson moved to approve the rezone of properties between Harvard Avenue and S. 2nd East (between E. 1st South and E. 2nd South) from LDR2 to LDR3; Council Member Stout seconded the motion; all voted aye. **The motion carried**.

C. Rezone 232 South 3rd West, 323 & 339 West 2nd South (including parcel number RPR00SE0060174) from MDR1 to MDR2 – Kerry Schneider

Kurt Rowland from Schiess and Associates representing Kerry Schneider reviewed the proposal on the overhead screen.

Council Member Erickson asked to see the properties on 3rd West and 1st South on the overhead screen. Access is available on 4th West and 2nd South to the proposed development. The proposal will make the neighborhood look really nice. Planning and Zoning Administrator Leikness explained the staff report to the City Council. He read from the Planning and Zoning Commission's minutes stating Amy Hanks, located south of the property, is against the proposal. She was the only testimony opposed to the proposal. Some were neutral to the proposal and some were in favor of the proposal. He read the motion recommending approval from the Planning and Zoning minutes. The Planning and Zoning Commissioners were not opposed to the proposal.

Discussion: **Council President Mann** was concerned with jumping the density across the street west of Porter Park. Do we want Porter Park surrounded by student housing?

Council Member Erickson said the proposal supports the city's desire to support infill. Council Member Stevens said infill could be accomplished with the current zoning; however, there has not been any proposal to infill this property with the current zone. Planning and Zoning Administrator

Leikness explained the density with each zone. Council Member Erickson explained the CUP portion of this request was tabled due to a lack of the site plan in the Planning and Zoning meeting. **Council Member Stevens** was concerned to change the zone without any guarantee the development will move forward.

Council Member Stout said it is a step in the direction of affordable housing for the community. It's something we need to do. Council Member Erickson said it was impressive to know they have done their homework with the University. Council Member Stevens agreed with Council Member Stout with the need to provide additional affordable housing for the community.

Council Member Stout asked if the site plan would be townhouses or apartments. It is multiple apartment units which are allowed in the zone up to 24 units per acre. The developer is planning two 12 plexes and one six plex.

Council Member Stout moved to approve the rezone request of 232 South 3rd West, 323 & 339 West 2nd South (including parcel number RPR00SE0060174) from MDR1 to MDR2 minus two lots shown on the overhead screen; Council Member Woodland seconded the motion; all voted aye. **The motion carried.**

D. Intergovernmental Agreement for Roles and Responsibilities under Idaho Code Sections 50-2018(18) and 50-2906 – Richard Horner

City Attorney Zollinger explained the agreement is to correct an oversight in a prior agreement for seven parcels outside the city limits. As these parcels develop they will be annexed. Urban Renewal attorneys authored the documents. It will come before the county on Monday's agenda. Some of the parcels are owned by the city. The retention pond is on one of the parcels. Discussion followed about which parcels were within and without city limits.

Council Member Stevens moved to adopt Res 2009-05 as presented for the Intergovernmental Agreement for Roles and Responsibilities; Council Member Stout seconded the motion; Discussion: concerning getting the documents before the meeting. Some of the documents were emailed to the City Council and some documents were presented at the meeting. Council President Mann called for a vote:

Those voting aye	Those voting nay
Council Member Mann	Council Member Woodland
Council Member Erickson	
Council Member Stevens	
Council Member Stout	

The motion carried.

Council Member Stout clarified the property boundaries on the proposal.

Discussion: There was City Council consensus to have the packets for the meetings prepared by Monday at 4:00 P.M. Finance Officer Horner said the bills will be made available for approval one day before the meeting. The Planning and Zoning minutes will be provided in the City Council packets.

E. Beer and Wine license for Winger's at 469 N. 2nd E. – Staff

The City Council discussed the fact this was a new permit request from an existing business. They discussed the process for licensing a business in Rexburg to sell beer and wine. The new beer and wine permit requests will be added to the list of existing beer and wine licenses in the city. These licenses are up for annual renewal every December.

Council Member Erickson moved to approve the beer and wine licenses for Winger's at 469 N. 2nd E; Council Member Mann seconded the motion; discussion: Council Member Stout was concerned to sell any beer or wine in the community. City Attorney Zollinger said it is allowed by state law. Distilled alcohol is not allowed in Rexburg. Licenses for beer (malted) and wine (fermented) alcohol is allowed. If the city allows the sale of these drinks, they must be allowed across the board. The city can review location and business practices in the approval process. If the applicant meets the criteria you can't restrict the permit. The state statute does distinguish between the sale and consumption of alcohol on and off premise. Location and business practices are reviewable, for example, they have to have bathrooms, segregated areas, a server must be 19 years of

age to deliver an alcoholic beverage (beer or wine) to the table in a restaurant; also, the business can't be close to schools or churches. The open container laws are a different set of code to follow if the alcoholic beverage is taken off premise. You can't buy an on premise alcoholic beverage in a restaurant and carry the drink across the parking lot to another business. Council Member Erickson explained the open container law restricts consumption being taken off premise. City Attorney Zollinger said the sale of beer in Rexburg as a village or a city has never been restricted. Distilled liquor is the only form of alcohol that is not allowed in Rexburg.

Council Member Erickson said if the City Council wants to restrict the sale of beer and wine in restaurants; he would recommend putting the issue to a public vote instead of basing the city policy on personal opinions of the City Council. Council Member Woodland said it was a safety issue for discussion because a person can become intoxicated on wine.

Council Member Mann asked for a vote:

Those voting aye	Those voting nay
Council Member Mann	Council Member Woodland
Council Member Erickson	Council Member Stout
Council Member Stevens	

The motion carried.

Police Officer Kunsaitis was asked if alcohol related arrests from drinks in restaurants were comparable to other alcohol related arrests. He said it was negligible verses alcohol related arrests from the sale of alcohol from stores.

Staff Reports:

A. **Public Works:** Public Works Director Millar
   1. Report on Project

Public Works Director Millar reported nothing new for snow or other issues.

a. Just a minor flooding issue on Monday.
b. Two bridges under construction.
c. Pioneer road realignment. The Green family agrees on all terms for deed transfer.
d. Meeting with the owner of Comfort Inn tomorrow.
e. All other projects are moving forward.
f. New dump truck is very nice. It should last 20 years. It was purchased in Florida and it is the best truck available for the money.
g. Sweeper purchase is moving forward tomorrow with ITD grant approval. The city's old trucks are 25 years old.

Council Member Stevens asked to have the trash cleaned off the University Blvd fence north of the new Spring Hill Suites hotel. He suggested installing a trash fence closer to the construction site.

Council Member Erickson asked about the property east of Pioneer Road that was recently cleared. Public Works Director Millar said it will be planted into orchard type grass. Council Member Erickson said it had room for another soccer field similar to Evergreen Park.

B. **Finance Department:** – Richard Horner
   1. Monthly Budget Report

Finance Officer Horner provided the City Council with a monthly budget packet. He explained the new balance for the General Fund Contingency is $421,500. The General Fund Contingency started at $197,000. The increase in the General Fund Contingency came from department cut backs and budgeted fuel reductions. Any requests for funds over $10,000 will come before the City Council for approval.

Calendared Bills and Tabled Items:

A. **BILL Introductions**: - NONE
B. **First Reading**: Those items which are being introduced for first reading. - NONE

C. **Second Reading**: Those items which have been first read.
   1. **BILL 1019** for Sidewalk Access - Staff

Discussion: Council Member Stout reviewed the "snow emergency clause" for sidewalks. He asked if it should be controlled by number of inches of snow. It could be discretionary in nature. He asked to add a clause stating "assessments can be appealed to City Council". City Attorney Zollinger offered additional language "in accordance with the then existing policies of the city". The City Council could establish a policy for the declaration process. If two inches of snow does not work, the policy could be changed to four inches of snow, etc. The policy could be established by resolution by City Council as a safety check. Council Member Mann wanted to use caution with the policy due to the snow melt timing based on the temperature. Later in March or April the snow fall may melt in the afternoon hours; thus eliminating the need to declare a snow emergency. If the snow fall is in December, it will need to be removed because it will be on the ground for a long time.

Council Member Woodland struggles with city plowing snow on sidewalks and then billing residents for snow removal. If the city loads snow on the sidewalk, then the city should clean it. City Attorney Zollinger indicated the city could clean some sidewalks if a snow emergency is declared.

Council Member Erickson was opposed to the misdemeanor language. He did approve of the sidewalk specification section. He said we live in an area where the snow does not melt in 24 hours. City Attorney Zollinger explained the city's Compliance Officer visits to property owners has been a tool to encourage snow removal on some sidewalks including Main Street. There have not been any citations issued for snow removal.

Discussion of the codification process to bring all sidewalk code into one location. It will add clarity to sidewalk issues that insurance companies encounter. Council Member Stout said his complex does not clean the snow off the sidewalks and it is on a route to a local school. The children have to walk on the street.

Council Member Stout moved to consider BILL 1019 for Sidewalk Access seconded read with the addition of a clause "assessments can be appealed to City Council"; allowing for an appeal before City Council; Council Member Stevens seconded the motion; Discussion:

Those voting aye	Those voting nay
Council Member Mann	Council Member Woodland
Council Member Stout	Council Member Erickson
Council Member Stevens	

The motion carried.

D. **Third Reading**: Those items which have been second read:
   1. **BILL 1017** for Bicycle Operation – Staff

Council Member Stevens moved to third read and approve BILL 1017 for Bicycle Operation; Council Member Stout seconded the motion; Discussion: Council Member Woodland asked for reflective material on the side of the bike. Add two square inches of reflectors on the sides of the front and rear wheels consistent with quality of the rear reflector. Council Member Stevens was agreeable to amend the motion to include the side wheel reflectors and Council Member Stout concurred with his second to the motion. All voted aye. **The motion carried.**

Tabled Items: Those items which have been the subject of an affirmative vote to a motion to table:

A. **BILL 1014 Amending Ordinance 911** for "Towing and Parking Enforcement"

Old Business:

Mayor's Report:

A. **Approve new phone system bid** – Steve Christenson

IT Director Steve Christenson reported a bid was obtained for a new phone system for the new city hall. The bid came in at $98,121. The expected bid was $80,000. The additional scope and capacity added to the request for bid provided for additional functionality. The additional functionality included adding other city buildings into the same phone system. Questions: Council Member Stevens reported most of the cost was added to bring in other buildings into the same system. There are enough excess contingency funds in the project to cover the added cost. The warranty will be validated if a qualified vendor is the installer. Council Member Erickson asked who evaluated the needs for the project. IT Director Steve Christenson was the evaluator. Council Member Erickson was happy with the process.

Council Member Stevens was involved in the bid process. Council Member Erickson asked how many bids. IT Director Steve Christenson said the city was able to use the bids obtained from the City of Meridian for their new phone system. IT Director Steve Christenson said other vendors were used for price quotes. City Attorney Zollinger said Meridian did go through the formal RFP bid process with up to seven bidders. This was the lowest bidder in Meridian for a quarter of a million dollar system. The City of Rexburg is taking the same formal bids used by Meridian.

IT Director Steve Christenson had four vendors provide written bids; however, Meridian did do a formal bid and Rexburg was able to use the same bid as Meridian. The vendor did phone systems in Idaho Falls, Meridian, Ammon, and Post Falls.

Council Member Erickson wanted a vendor close to Rexburg for needed service. The vendor can respond within four hours to a critical problem. The phone system has a standard one year warranty. The Flood Museum, Westwood Theatre and the Tabernacle are not connected.

Council Member Stout moved to accept the low bid on the new phone system; Council Member Erickson seconded the motion; all voted aye. **The motion carried.**

Consent Calendar: The consent calendar includes items which require formal City Council action, however they are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar for discussion in greater detail. Explanatory information is included in the City Council's agenda packet regarding these items.

Minutes:
A. March 04, 2009 meeting
B. Approve the City of Rexburg Bills

City Council Members reviewed several billings including:

1. Utility billings for Intermountain Gas ($37,000) and Rocky Mountain Power ($14,000). Council Member Mann encouraged the City Council to adopt a city policy to reduce energy consumption by 5% in city buildings. Public Works Director Millar said the big power users in the city (motors, etc.) are not flexible.
2. Basement carpet for $198 in the community development building.
3. Survey billing from the county for Aspen Village's plat. (Surveyor Jeff Williams from Idaho Falls is the county plat reviewer). Finance Officer Horner explained the survey fee is paid by the developer.
4. Slip joint pliers and a four inch crescent wrench.
5. Electric tubing supplies and plumbing supplies.
6. Hepatitis shots for waste water employees.
7. Tire chains.

Some of these items were purchased from McMaster-Carr, an out of area supplier: *(McMaster-Carr is a supplier to industrial and large commercial facilities worldwide specializing in quick and accurate delivery of maintenance materials and supplies).*

Finance Officer Horner said the city policy is to purchase locally if under $5,000.

The City Council was concerned with paying freight costs and they directed staff to eliminate purchases from drive up vendors. Public Works Director Millar explained his employees are required to get department approval for items over $1,000.

Council Member Woodland moved to approve the Consent Calendar; Council Member Erickson seconded the motion; all voted aye. **The motion carried.**

Calendar:

Council President Mann asked City Council members to schedule some time for a budget meeting May 20, 2009.

Discussion concerning the entire City Council being at budget meetings formerly attended by the City Council Oversight Team members. Some City Council members felt the city department's budgets should have a review process attended by all of the City Council members (i.e. Street Department, Utilities, etc.)

Executive Session pursuant to State Statute 67-2345 (F) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for a contract;

Council Member Erickson moved to go into Executive Session; Council Member Stout seconded the motion; roll call vote:

Those voting aye	Those voting nay
Council Member Mann	None
Council Member Erickson	
Council Member Stevens	
Council Member Woodland	
Council Member Stout	

The motion carried.

Executive Session
Executive Session ended.

Adjournment

Attest:

Christopher Mann
Council President

Blair D. Kay
City Clerk