

# Customer Support Services

## City Council Minutes

12 North Center  
Rexburg, ID 83440

blairk@rexburg.org  
www.rexburg.org

Phone: 208.359.3020 x313  
Fax: 208.359.3022



CITY OF  
**REXBURG**  
America's Family Community

### June 21, 2006

Mayor Shawn Larsen

**Council Members:**

Donna Benfield – Council President  
Farrell Young    Christopher Mann  
Rex Erickson    Randy Schwendiman  
Bart Stevens

**City Staff :**

Stephen Zollinger — City Attorney  
Richard Horner – Finance Officer  
John Millar — Public Works Director  
Val Christensen – Building Official  
Kurt Hibbert — Planning & Zoning Administrator  
Blair Kay — City Clerk

### 6:00 P.M. Work Meeting

The City Council reviewed the letters of concern from the residents concerning their participation in the LID with City Engineer Keith Davidson. Financial Officer Horner explained the procedure the city will follow to prepare the LID. Engineer Keith Davidson explained the status of the properties in the LID after the Engineering Department took a second review of the properties. The properties coded in a pink color on the report were removed from the LID. Engineer Keith Davidson presented another list of properties to the City Council where the amount was modified after a second review of the property with the resident. He reviewed the Resolution 1994 - 04 (sidewalk specifications) with the City Council. Public Works Director Millar explained one of the criteria requiring a sidewalk is the sale of the property. From the middle of the 1960's to the middle of the 1990's the Subdivision Ordinance required a fifty foot right of way with sidewalks on the curb; now the right-of-way is required to be sixty eight feet with a seven foot green strip and a five foot sidewalk. Engineer Keith Davidson explained there were certain properties in the city selected for the LID this year due to a street project or some other criteria.

**Engineer Keith Davidson** reviewed some overhead slides on the proposed intersection at Millhollow Road and Shoshone Avenue. Council Member Erickson was in favor of keeping Shoshone Avenue as a through street with Millhollow Road entering into Shoshone Avenue. Public Works Director Millar did not anticipate either street would be a high traffic area. Council Member Stevens suggested allowing Shoshone Avenue to have one lane of traffic going south through the intersection, similar to its present design. He recommended cleaning up the intersection and the island.

### 7:00 P.M. – Pledge to the Flag

#### Roll Call of Council Members:

**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.

- A. Minutes from June 07, 2006 meeting
- B. Approve the City of Rexburg Bills

**Council Member Young** moved to approve the Consent Calendar; Council Member Mann seconded the motion; all voted aye, none opposed. **The motion carried.**

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

**Jill Anderson** at 419 Morgan Drive asked about the traffic study for the Madison Memorial Hospital's new development. She asked the City Council if they were concerned with the traffic study. Public Works Director Millar said the result was an eleven to fifteen percent net increase of added traffic. This would not impact the existing streets. Most of the traffic will come to the Madison Memorial Hospital off Main Street. The Idaho Transportation Department indicated the additional traffic flow was acceptable for the new addition to the Madison Memorial Hospital. There will be a new plan for landscaping at the buffer strip. Some of the trees will be mature trees. The buffer strip will be resolved before occupancy is given to the Madison Memorial Hospital.

**Phillip Cronin** at 233 West 2<sup>nd</sup> South, Creed Cardon at 371 Harvard Avenue #2, and Zack proposed a "Tax Free Dental Clinic" on August 19, 2006, at 10:00 a.m. They are planning three races: one mile, 5 k, and 10 k. Their objective is to inform the community of the clinic, raise funds, and involve the community to promote a healthy life style. It was noted the City's Triathlon is the same day.

**Council Member Young** asked where they would start and stop the races. They would utilize the area behind K-Mart on a dead-end road and use 1<sup>st</sup> and 2<sup>nd</sup> North.

**Council Member Mann** moved to support the event with the date being changed to avoid a conflict with the Triathlon; Council Member Benfield seconded the motion; all voted aye, none opposed. **The motion carried.**

**Presentations:** NONE

**Committee Liaison Assignments for 2006:**

A. **Council Member Chris Mann** *Parks & Recreation· Museum Committee· Romance Theatre Committee*

**Council Member Mann** reported the Romance Committee is continuing to meet on a regular basis. Mayor Larsen explained the results of the Teton Dam Marathon. The Teton Dam Marathon Committee will be functioning year around. There were hundreds of volunteers.

B. **Council Member Donna Benfield** *Beautification Committee· Police Department*

**Council Member Benfield** reported the Police Department Graduation for Reserve Officers. There are three or four reserve officers. Other counties participated in the training program. The Beautification Committee had a project at the end of Main Street to plant flowers.

C. **Council Member Rex Erickson** *Airport Board· Planning & Zoning*

**Council Member Erickson** did not have a report from the two committees.

D. **Council Member Randy Schwendiman** *Golf Board· Traffic & Safety· Emergency Services Board*

**Council Member Schwendiman** did not have a report on the committees.

F. **Council Member Farrell Young** *Tabernacle Committee· Rexburg Arts Council*

**Council Member Young** reported there is a musical program every Wednesday night this summer at the Tabernacle. Martel Grover gave a presentation on rate changes for the Tabernacle. They are asking for a 20% across the board increase in fees. The costs for stage lighting and the sound system are increasing. He asked to have the new rates effective in the next fiscal year. The sound technician is there for about four to seven hours each performance. Mayor Larsen asked for the possibility of patrons accessing the sound system without a sound technician. There is a need to have a technician available to turn on the lights, sound system (setting up speakers) and to have minor adjustments made in the system during the performance.

**Council Member Erickson** asked who was doing the technical work. Kent Arnold is the technician for all events. Mayor Larsen asked if a lower rate was possible if the sound technician did not stay for the entire event. The City Council discussed the possibility of having the technician open the venue and close the venue without staying for the entire performance.

**Martel Grover** explained public feedback to the committee has received for upgrades to the Tabernacle: windows on the south side, twenty four spot lights are worn out (the proposal is to change 1/3 of the lights over the next three years. The lights cost about \$470.00 each with an annual expense of \$3,800.00. Other improvement items are to remove the fire engine building and replace it with a sign, add ceiling fans, dressing rooms, new carpet in 2009, handicap restrooms, and a centennial celebration for the Tabernacle in 2011. Mayor Larsen asked the committee to review the Tabernacle Budget and schedule these items in the budget. The handicap ramp is scheduled on this year's budget. A public hearing will be scheduled to review the fees.

**G. Council Member Bart Stevens** *Trails of Madison County· IBC Committee*

**Council Member Stevens** did not have a committee report.

**H. Mayor Larsen** *Mayor's Youth Advisory Board· Legacy Flight Museum*

**Mayor Larsen** did not have a committee report.

**Public Hearings:**

**A. 7:30 P.M. Annexation** of land west of 12<sup>th</sup> West and north to Hwy 33  
(Weimer, school district, Beck, DeBow)

**Mayor Larsen** explained the process for a Public Hearing. The City Council acts in a quasi-judicial manner. They will take testimony from the public and then deliberate the issue. This is a land use issue that has come to the City Council from the Planning and Zoning Commission. The City Council will hear testimony in favor, neutral, or in opposition to the proposal. After receiving the public testimony, the City Council will deliberate amongst themselves to determine how to act on the issue. Mayor Larsen asked Planning and Zoning Administrator Kurt Hibbert to present the proposal on the annexation request.

**Planning and Zoning Administrator Kurt Hibbert** presented the proposal to the City Council. The proposal is to annex four tracks of land. A large portion of the property is in the City's Impact Area. Some of the property is outside the City's Impact Area in Madison County. Water and sewer facilities are available on 12<sup>th</sup> West. The Planning and Zoning Commission recommended this property for annexation into the City of Rexburg. Council Member Young noted two little narrow sections of property that extended to 3000 West. They are part of the Weimer Farm.

**Mayor Larsen** opened the Public Hearing:

**Mayor Larsen** asked the petitioners for the annexation to present their proposal.

**Brad Stauffer** at 3456 East 17<sup>th</sup> Street, Idaho Falls, representing Kartchner Homes, explained they are asking for annexation into the city for future development. The project (over 250 acres) is not fully planned out at this time. They would like a Mixed Use community that has a good presentation for residential housing. They are seeking a Master Planner for the project.

**Mayor Larsen** asked for public testimony.

**Those in favor of the proposal:**

**Attorney Greg Moeller** at 1302 Meadowview Avenue representing Madison school district for Property No. 4 in this proposal. Madison School District is in favor of the annexation and they

appreciate the Planning and Zoning recommendation in this regard. If this annexation is approved, it will greatly improve the value of the property for the patrons. It will allow access to city services. It will decrease the cost for the school district's improvements to the property. The high school facilities have been available to the city residents for the recreation program in the past. They plan to continue sharing resources for the City Recreation Programs in the future. The school district offices and the current high school are in the city. The school district is happy with that arrangement and hope to continue the arrangement in the future.

**Debbie Thompson** at 34 South 3000 West borders Property No. 1 on the proposal. She is not opposed to this development. They (group of home owners) are working with Kartchners and a group of citizens on the proposal. It benefits their homes as well as what is being planned. She noted part of the property is outside the City of Rexburg's Impact Area. She noted some concerns with adjoining neighbors concerning the location of the future Impact Area. There is a dairy farm and a cattle ranch across the road. She wanted City Council to consider these farms when they plan the future Impact Area for Rexburg. Her neighborhood will be adjacent to this development on 3000 West. She asked the City Council to consider annexing their properties into the city at some point.

**Those neutral to the proposal:**

**Thaine Robinson** at 390 Maple Drive spoke as a private citizen, not as a member of the Planning and Zoning Commission. He is not in favor of annexing (Area #1) property outside the Impact Area. He was absent from the Planning and Zoning Commission's Public Hearing on this annexation proposal. He asked City Council to do things in an orderly fashion. The city should increase the City's Impact Area before annexing outside the Impact Area. This will be a long term project, so it does not have to be annexed tonight outside the City's Impact Area.

**Those in opposition to the proposal:**

**Iris Hogle** at 2971 West 440 South does not want to change her status in the county. She is in the Impact Area and she is opposed to being annexed in the future. Their neighborhood is on five acre lots. Council Member Erickson asked for the location of these lots. Their subdivision is north of the current proposal as noted by Planning and Zoning Administrator on the overhead screen. Mayor Larsen explained this proposal does not change the status of her property. She will remain in the City of Rexburg's Impact Area. The plan would include this area into the city at some future time. "Who knows when that would happen?" Iris asked if she would have any input into the decision to annex her property in the future. Mayor Larsen explained the same process would occur with a Public Hearing for the public to make comments.

**David Saunders** at 2877 West Hwy 33 before the S curves on Hwy 33. He is concerned with traffic flow and accidents from traffic accessing Hwy 33. He did not state he was in opposition; however, he has some concerns about traffic flow onto Hwy 33. There are three or four accidents every winter just around the corner from the S curve. With the addition of fairly constant traffic flow at the intersection, it could introduce some serious safety hazards. He would like to see some traffic plans for the area before the project is annexed.

**Rebuttal:**

**Brad Stauffer** indicated they would love to address that concern and see if there is a way to make the traffic flow work entering Hwy 33. They are in favor of straightening Hwy 33 even if some of their property would be required. He explained the long term nature of the twelve year project. It will not happen over night. They want to annex the whole Weimar farm to make it work. They will start the project next to Mary Ann Beck's property on 12<sup>th</sup> West to obtain the city services. Mayor Larsen asked him to explain the issue of annexing outside the Impact Area. Brad said it was not Kartchner's property and it would be hard to plan a development by splitting the farm. They would need to annex the entire farm for the planning of the development. They do not want to buy the farm and only have part of it in the city. He understood the State allowed annexations outside the impact Area.

**Mayor Larsen closed the Public Hearing.**

**Council Member Mann** asked City Attorney Zollinger if there was a problem annexing outside the Impact Area. City Attorney Zollinger explained the State allows it at the request of the property owner. Council Member Mann is concerned with the traffic flow on Hwy 33 as the city grows. There are more and more areas in the city accessing Hwy 33.

**Mayor Larsen** explained this proposal was reviewed by the County Commissioners and they said the city could move forward with this proposal. They said the request came to the city and the city should move the request through the process.

**Council Member Young** reviewed the written request from the owners; however, they have not provided any input to the City Council for this request tonight. He reviewed the original request to exempt their homes from the proposal. Planning and Zoning Administrator Hibbert explained they later requested in writing to have all of their lands annexed. Jodi Weimer at 350 South 12<sup>th</sup> West explained they did request annexation.

**Council Member Erickson** reminded the City Council of earlier discussions by the City Council to expand the Impact Area to 3000 West. He asked if it was a problem to wait on the annexation until the Impact Zone is changed. He understood the concerns from Planning and Zoning on the issue.

**City Attorney Zollinger** explained the Impact Area discussion with the county is ongoing without a definitive time period to complete the discussions. It could indefinitely postpone this annexation. Mayor Larsen explained the west Impact Area would be expanded at the same time as the other Impact Area boundaries in the city.

**Planning and Zoning Administrator Hibbert** mentioned the county would strongly support the city either way on this proposal to annex the Impact Area or annex outside the Impact Area; recognizing the Impact Area expansion would follow the annexation. Council Member Erickson reminded the City Council of three Commissioners who were opposed to annexing outside the Impact Area. He asked if there was any problem with waiting on the annexation.

**Planning and Zoning Administrator Hibbert** explained delaying the annexation from a planning standpoint is not a problem; however, the annexation of properties outside the Impact Area can be overcome by enlarging the Impact Area. Plan Mayor Larsen reviewed the proposed zoning. All of the areas except Area 4 would be zoned LDR2. The school property would remain agricultural. Planning and Zoning Administrator Hibbert noted LDR2 allows for a single home on 8,000 square feet of property and a duplex or twin home on 10,000 square feet of property.

**Council Member Young** moved to accept the recommendation of Planning and Zoning for the annexation of these four parcels as they had been explained to the City Council and as they are outlined on the map; Council Member Mann seconded the motion; all voted aye, none opposed. **The motion carried.**

**B. 8:00 P.M. Local Improvement District N0. 35 - staff**

**Mayor Larsen** invited the Scouts from Troop 118 to introduce themselves and he welcomed them to the meeting.

**Millhollow Road discussion:**

**Mayor Larsen** asked for those from Millhollow Road and Shoshone Avenue to speak first after City Engineer Keith Davidson explained LID 35.

**Mayor Larsen** explained applause is not appropriate in a Public Hearing. It puts people on different sides of the issue.

**Engineer Keith Davidson** explained three primary areas for the LID. Millhollow Road, Morgan Drive and Reed Street are planned for street reconstruction, and new owners have curb gutter and sidewalks that need replaced. If the curb, gutter, or sidewalks are a problem at the property line, both properties need to be included in the replacement. The guidelines are as follows.

CITY OF REXBURG  
RESOLUTION 1995 – 01

*BE IT RESOLVED by the Mayor and City Council of the City of Rexburg, Idaho, that effective January 4, 1995, the City of Rexburg adopts the standards and specification set forth in the City of Idaho Falls Standard Drawings & Specifications, as the City of Rexburg's minimum Standard Drawings & Specifications and any additions, amendments or addenda thereto established by the City Engineer.*

*FURTHERMORE, ANY SUBDIVISION WHICH SHALL REQUEST ANNEXATION INTO THE City of Rexburg or any subdivision which is in the Rexburg Impact Zone and all lots less than one acre in size, must be in substantial compliance with the Rexburg Standard Drawings & Specifications prior to being annexed or approved, unless modified by an annexation or development agreement. The terms of this resolution, if in conflict with any existing Ordinances or Resolutions, shall be controlling. Specifically, this Resolution applies to Ordinance No. 658 (Rexburg Subdivision Ordinance). ADDITIONALLY the City establishes the following policies and guidelines.*

*STREETS*

*Streets shall have as a minimum:*

- 1. 5' Wide Sidewalks on both sides*
- 2. Concrete Curb & Gutter on both sides*  
*Normal minimum grade = 0.40%*  
*Absolute minimum grade = 0.30% can be used only under unusual circumstances with prior written approval of the City Engineer.*
- 3. Street Ballast Thickness*
  - A. Residential Streets*
    - i. 2 1/2 inch thickness of hot asphalt plant mix*
    - ii. 3 1/2 inch thickness of 3/4 inch Aggregate Base*
    - iii. Granular sub base material thickness as required by the City Engineer (Normally 12 inches, but may vary depending on traffic volumes and strength of sub-grade soils.)*
  - B. Arterial Streets & Heavy Duty Industrial Commercial Streets*
    - i. 3 1/2 inch thickness of hot asphalt plant mix*
    - ii. 6 inch thickness of 3/4 inch Aggregate Base*
    - iii. Granular sub base material thickness as required by City Engineer.*  
*(Normally 20 inches, but may vary depending our traffic volumes and strength of sub grade soils.)*
- 4. Asphalt Chip Seal of street surfaces to be placed within 2 years of the date the street surface is constructed or may be included in a City Seal Coat project if such is approved in the Annexation/Development Agreement. Street right-of-way widths and curb-to-curb widths shall be as approved by the City Engineer and City Planning Zoning Commission.*

*.....*

*Dated this 15 day of February, 1995.*

CITY OF REXBURG

BY: Nile L. Boyle, Mayor

ATTEST:

Rose Bagley, City Clerk

LID 35  
Replacement Criteria  
City Council Minutes July 07, 2004

**Sidewalk**

- Vertical Displacement
    - More than 1/2 inch
    - 1 1/2 inch or greater between the sidewalk and back of curbing
  - Spalling or surface damage
    - 50% spalled to a depth of 1/4 inch per 5' section
    - Missing pieces of sidewalk (3" x 3")
  - Cracks or Fissures
    - 10' or more of cracking per section
    - 1/2 inch wide for 3' crack
  - Voids under the sidewalk
  - Depressions (ponding)
  - Safety hazards
  - No existing sidewalk
- Curb & Gutter**
- Vertical displacement
    - More than 1/2 inch
  - Spalling or surface damage
    - 50% spalled to a 1/4 inch depth per 10' section
  - Cracks or fissures
    - 3 cracks across per 10' section
    - Greater than 1/2 inch cracks across section
  - Depressions or high spots that impede water flow
  - Back broken off driveway
  - Safety Hazard
  - Missing Sections

The city creates an LID to amortize the cost of a loan over a ten year period. The city gets a loan to cover the cost of the LID. The city will send out a letter when the project is complete to explain the options for paying the LID for the resident. The resident will notify the city if they want to pay the loan off or amortize it over a ten year period on their water bill. The rate would be at approximately five percent. The process to amortize the financing for the LID work can be paid monthly or annually. There is a prepayment penalty of one year's interest if the LID is paid early on an LID agreement. The city pays for the street portion of the LID. The resident can contract with a contractor to do the work; then the city will pay the invoice and bill the resident on the financing terms of the LID. The LID payments can be paid monthly or annually. Removal and replacement of existing sidewalk, curb, and gutter needs inspection by the city. He mentioned the city participates on the removal and replacement of existing sidewalks at sixty five cents per square foot and the city participates on the removal and replacement of existing curb, and gutter at five dollars per lineal foot.

**City Engineer Keith Davidson** reviewed LID 35 on the overhead screen. The city looks at settled sidewalks or settled curb and ponding. Another criteria is three cracks per section. The city contributes 65 cents per square feet for sidewalks and \$5.00 per lineal foot for curb and gutter replacement, adopted July, 2004. If the cracks become alligator size, they start to deteriorate the city streets. Locations where the curb has been cut for driving access has caused some deterioration of the curb and gutter.

**Engineer Keith Davidson** reviewed the design for the intersection between Millhollow Road and Shoshone Avenue on the overhead screen. The turn would need to have super elevation change to keep cars from sliding on the corner. We reversed the slope of the road so cars won't have a tendency to slide as much. We looked at changing from a 6% slope change to a super elevation of an 8% slope, then back to a 6% slope to help the traffic turn the corner for the proposed intersection at Millhollow and Shoshone for option two. In that short of a distance it would be like a roller coaster with a quick up and down. It would not be very good. It is not a good engineering design in that short of a distance. The engineering design worked better on option

one. The difference between option two and option one is we are taking away through traffic to the south on Shoshone Avenue from the current situation. There would be ribbon curb (one foot flat boarder of concrete to the asphalt,) a thirty-two foot wide road on Millhollow, and a high back curb around the island.

**Mayor Larsen** noted the LID is for property owners on Millhollow Road excluding the approved design. Engineer Keith Davidson said the property owners would pickup the cost of ribbon curb as well as three feet of asphalt on either side of the road. Mayor Larsen explained the sidewalks can be completed outside the LID by the homeowner doing his own work or having a contractor do the work. City Attorney Zollinger indicated the property owner can contract to have their own work done for the sidewalks; however, they are not allowed to work on the curb and gutter which is part of the city street. The LID numbers are a best cost estimate of the work to be done. The engineers that will go out for bid on the proposed work to be included in the LID. The actual or final costs may be more or less than the bid.

### **The City Council discussed the design proposed on Millhollow Road.**

**Council Member Stevens** explained one of the designs is similar to the existing roads at the present time. The difference is the elimination of the through street south on Shoshone Avenue. He did not want to dead-end Shoshone Avenue going south with one lane going north. He wanted Shoshone Avenue to have access from the north and the south.

**Council Member Benfield** concurred with Council Member Stevens to leave Shoshone Avenue open going both ways. She has not heard on any accidents at this location going south on Shoshone. She was opposed to closing Shoshone off.

**Council Member Schwendiman** concurred with Council Members Stevens and Benfield to leave Shoshone Avenue open.

**Council Member Erickson** recommended leaving both north and south open on Shoshone Avenue too. If necessary, a stop sign could be put on Millhollow Road coming down the hill.

**Council Member Mann** concurred with Council Member Stevens to leave Shoshone Avenue open.

**Mayor Larsen** asked the public if they would like to speak to this design.

**Larry Wickham** at 310 Millhollow Road asked if the city had changed the overall plan for Shoshone Avenue connecting to 7<sup>th</sup> South. Mayor Larsen said yes. It does change the nature of Shoshone Avenue.

**Steve Hart** at 285 Millhollow Road wants more north/south roads in the city. He does not want to shut off Shoshone Avenue. In earlier discussions, sharing traffic was an option. It was never discussed to shut off Shoshone Avenue.

It was stated by an individual that Millhollow Road has an excellent base under it for big trucks. He has lived there for twenty five years watching big trucks coming and going. There is no movement on the road. It took him two hours to dig a little hole today with a bar and a shovel. He did not want to rip the road base out.

**Jim Brannon** at 321 Millhollow Road asked about clarity on an open meeting on the original design of Millhollow Road. Is this meeting a forum to approve this new design as a part of the LID or is it a Public Hearing on the nature of the street and the LID. Mayor Larsen explained it is a meeting to discuss the nature of the street and the LID. Jim said it was not part of the public notice for coming to the meeting. It says the LID not the nature of the street. He has never seen this revision of the street. Council Member Erickson indicated City Council has not seen this design either. It is a bone of contention. Jim came to the meeting to object to something; however, after reading the LID letter, he is not sure what he can object too. The letter explained

the options and the direction of the LID which could change. Because the design had changed from the original meeting, he does not trust the commitment from City Council to keep Millhollow Road at thirty-two feet.

**City Attorney Zollinger** explained procedurally, you are here on the LID hearing. The rest of the discussion has always been a courtesy. There is not a Public Hearing requirement on the road determination issues. It has been a neighborhood discussion, more than a Public Hearing. There is not any procedural requirement for City Council to obtain community acquiescence for approval to the design the City Council may choose. Jim said that is why he is asking the questions. Mayor Larsen explained it is the reason for the discussion; the road design is ongoing with neighborhood input. The LID is not affected by the design of the road. Jim said if City Council puts in four lanes and a sidewalk as determined later on, it could affect the LID. He is not sure what the final design is going to be for Millhollow Road. He thought he knew the design when he left the meeting a month ago. He came to this meeting thinking he would be talking about the cost of something; however, he is also talking about a design function.

**Mayor Larsen** noted the City Attorney has explained the Public Hearing is not necessary for the design of the road. The city has tried to include the neighborhood in that process. At the last meeting of the City Council the width of Millhollow Road was decided. Now, the City Council has sent the plan back to the city engineers to make sure the slope of the road and all of the other design issues are dealt with for traffic engineering. This is where we are today – looking at the engineering drawings. It is a health thing and a good thing to combine these two processes.

**Reed Stoddard** at 249 Millhollow Road asked if the design being discussed tonight would vacate Shoshone Avenue. City Attorney Zollinger explained the input from City Council tonight indicates they are not going with the drawing shown to you at this meeting. They are going to leave it as presently configured, widen Millhollow Road to thirty-two feet, and make the intersection as safe as they can in the roads current right-of-way.

**Mayor Larsen** explained Shoshone Avenue would not be vacated. It is taking an area that is not currently very functional and doing the best the city can do to make it more functional.

**Mayor Larsen** asked Public Works Director Millar to address the safety issue. John explained not everyone obeys the one way sign at the intersection. The city will add better signage and landscaping of the island to draw attention to the configuration of the intersection. Safety wise, the current intersection configuration has not developed any major traffic problems.

**Council Member Stevens** asked if a stop sign at Millhollow Road traveling north at 2<sup>nd</sup> South would be effective. He asked if it would be workable (positives/negatives) for the neighborhood to continue to have the three way intersection. Public Works Director Millar explained two of the three entry legs currently have a stop condition. So taking the intersection to a fully controlled intersection is not a problem. City Attorney Zollinger interrupted the conversation because Council Member Stevens was talking about a stop sign going north on Millhollow Road and Public Works Director Millar was reviewing the oblique angle stop. Council Member Stevens asked if widening Millhollow Road would give the impression to drivers going north on Millhollow Road they could travel fifteen miles per hour faster. He wanted to know if a stop sign would help alleviate that issue and slow that area down. John said it would on the lower end; however, he did not indicate the stop sign would change the speed two to three hundred feet up the road. The speed change would occur closer to the stop sign. John was asked if an additional stop sign south on Millhollow Road beyond 2<sup>nd</sup> South would help slow the traffic. John said numerous stop signs are not necessarily good for speed control. If stop signs are unanticipated, they can create accidents if they are in an area where they are not needed.

**Mrs. Hart** at 285 Millhollow Road asked for a stop sign at Millhollow Road and Rolling Hills due to visibility around a berm and winter snow. Mayor Larsen asked her and her neighborhood to bring the issue up at the Traffic and Safety Committee meeting for this input.

**Council Member Stevens** recommended a stop discussion at Millhollow Road and 2<sup>nd</sup> South. City Attorney Zollinger said there is a Traffic and Safety Committee in place to evaluate stop signs. The request should not part of this motion.

Discussion on the danger of a one way street. There have been drivers going the wrong way. A high-back curb, landscaping, and signage would help the intersection.

**Mayor Larsen** mentioned changing the engineering of this intersection doesn't affect LID costs.

**Council Member Stevens** explained the City Council has sought public input all the way through the discussion of this issue. It is tough process; however, it is a good process to consider the safety issues. The city does not want to have winners and losers. The city wants to have a safe intersection. The decision is getting closer to a conclusion. Jim Brannon asked for the final numbers on road width, etc. Engineer Keith Davidson explained the costs for the LID would include a one foot ribbon of concrete to edge the asphalt and three feet of asphalt along frontage of each property in the LID for Millhollow Road. Jim explained he was satisfied with the explanation if that is what it is. He was supportive of the LID and the street design. Mayor Larsen reiterated the desire of City Council to seek public policy that will work.

**Steve Hart** at 285 Millhollow Road asked why the slope of curve was a problem. Council Member Erickson noted there is the same slope issue on Shoshone Avenue. Engineer Keith Davidson explained it is a super slope elevation design would be a problem as cars come to a stop on the curve, they will slide. A school bus driver mentioned there is a school bus stop in this area for engineering to take into consideration.

**Council Member Benfield** noted this is a design presentation. City Council has not made a decision to accept this design. City Council does not need a motion at this point. City Attorney Zollinger asked City Council to give some direction to the Engineering Department so they can begin the final design. One criterion would be the road width for Millhollow at thirty-two feet.

**Council Member Schwendiman** noted the residents up there want to know how the road is going to be designed. He asked City Council to leave a one way road going south on Shoshone Avenue as it is now being used. He is prepared to leave the intersection as it is currently being used. He has not seen a design he really liked to this point. After the safety issues have been addressed, this design was the only alternative the engineers felt City Council could approve. Some of the residents thought the design stage was over and the next step would be the LID discussion and cost allocation. Mayor Larsen responded, indicating City Council has never approved the design of the road; it has always been sent back to engineering to give a design the City Council could look at and approve.

**Council Member Mann** moved to send to project back to the city engineers for a design that is similar to the current design (alignment) of the road and bring the design back to City Council for a vote; Council Member Benfield seconded the motion; Discussion: Council Member Young will vote nay because the project has been on the table for two years without consensus between City Council, engineers, or the citizens. He suggested removing the Millhollow project off the LID and use the money on the rest of the city streets. Council Member Schwendiman agreed with Council Member Young to do it or not do it. It has gone on way too long. The engineers are giving City Council reasons for safety that have to be dealt with in the design.

**Council Member Erickson** agreed with Council Member Young. He said to leave the road the way it is now. He has talked to the residents in the project that would like to leave the road alone. The city could spend the money elsewhere. His other recommendation would be to open up Shoshone Avenue as a through street. Council Member Mann said it would be a shame to through it all away now after two years of work. The City Council has approved the width of the road at thirty-two feet. He wants to come to a conclusion on this project.

The residents reminded City Council and the Mayor of a meeting on April 5<sup>th</sup>, where the city Council approved a different design. Mayor Larsen said the design was sent back to Engineering because it is not a policy decision to design the roads. It becomes an engineering and safety issue.

**Council Member Benfield** said City Council is voting on something that is not ready for a vote. She said deciding on the design of the street is not the LID. This discussion is confusing the two issues. The street design and the LID are different. We are combining them into one motion. Mayor Larsen said if the will of City Council is to take this project out of the LID, you will take Millhollow homeowners out of the LID. Council Member Stevens asked Public Works Director Millar if the city held off until 7<sup>th</sup> South and future development (including an LDS Church) to the south takes place, how will this project be impacted. How much deterioration will take place on Millhollow in two years if it is left as is and taken out of the LID? Public Works Director Millar said it is hard to say because the road is starting to deteriorate. It can be patched for two more years. Mayor Larsen said two more years of patching will also cause two more years of discussion. Council Member Stevens thought two more years of growth to the south would give City Council a better idea for the correct design of Millhollow Road at that point for capacity expansion, etc. Public Works Director Millar stated some of the property south of Millhollow Road has been platted for fifteen or twenty years without any discussion for movement. The other property south of that property (Eagle Point, etc.) is having some discussion. Council Member Schwendiman asked to make a decision on the road tonight or else bag it. He wants Shoshone open going south like the current design that is in use. He has never been comfortable with the whole design. Mayor Larsen called for a vote:

**Those voting aye**

Council Member Mann

**Those voting nay**

Council Member Benfield

Council Member Young

Council Member Schwendiman

Council Member Stevens

Council Member Erickson

**The motion failed**

**Council Member Young** moved to remove Millhollow Road from the LID 35 and consider it at some future time when it can get further consideration for design and take off this year's project list; There was not a second; **The motion died.**

**Council Member Erickson** asked for a second engineering opinion. He said there is no reason why it can't be designed. He does not want to close or even have a one way street for Shoshone Avenue. It should be a through street all the way up. He thought a better design was to bring Millhollow Road into Shoshone Avenue. The Millhollow residents expressed their desire to continue with the LID. Council Member Erickson expressed the desires of the residents to make a decision and refrain from being wishy-washy.

**Council Member Benfield** said the process is important; there have been several drawings. It may not have been the right design the first time. She could feel the consensus of the residents to remain on the LID; however, City Council wants it done right. We do not want to make a mistake.

**Council Member Young** did not think City Council could approve the LID without knowing the design of the street.

**Council Member Erickson** wants a design everyone (City Council and residents) can agree is the best design. It is bothersome to him to change the design on a previous City Council's unanimous decision because one or two residents came to City Council and requested a different design. The city may need to put a bank on the intersection to make it work.

**Council Member Stevens** disagreed; the City Council does the best job they can with the information at the time. It is not a flip-flop based on who came to the meeting. It is a flip-flop based on current information from the staff to design the safest design. He would like to follow

the engineered plan for safety and use input from everyone. No one wants an accident. If City Council is getting information indicating an unsafe situation, City Council has to look at it. We can't make a decision because six people want it one way and thirteen people want it another way. There is not an ideal situation for everyone.

**Mayor Larsen** noted the consensus or majority of City Council is for a design similar to tonight's drawings without a one-way for Shoshone Avenue.

**Council Member Mann** wants the configuration just as it is right now. Engineering would still have to design the island. Mayor Larsen said City Council could direct engineering to do a design with a two-way road from Shoshone Avenue or approve the LID and remove the Millhollow Road from the LID.

**Council Member Schwendiman** is concerned with safety. He would accept the road design as it is currently being used now.

**Council Member Stevens** explained residents from both streets purchased their homes with the current configuration.

**Public Works Director Millar** expressed some concerns with Shoshone Avenue traffic going both directions on a one-way section. He thought it may work better if the one-way section was reduced in width to draw attention to the one-way direction of the road. If the one-way street is narrowed it may address duality of the street. Mayor Larsen said signage is another improvement to help get traffic control and safety. City Council could make a motion to direct the Traffic and Safety Committee to work on the signage for this location.

**Council Member Erickson** asked for more time to work out the design given the discussion has been ongoing for nineteen or twenty years.

**Mayor Larsen** asked for public comments.

**Steve Hart** at 285 Millhollow Road said Council Member Erickson is correct. The City Council did vote unanimously to accept the other design. He said their procedure is going behind the resident's backs. He wondered if the residents would need a lawyer to represent their interests. They don't have time to examine the changes that are being proposed.

**Sherrie Lewis** at 231 Millhollow Road asked for a long range transportation plan. She commented on the extension of both streets. Mayor Larsen explained the county's twenty year transportation plan has transportation improvements on the east side of Rexburg showing Shoshone Avenue tying into 7<sup>th</sup> South. The city has to work on a section at a time due to budgeting constraints.

**Robert Tueller** at 240 Shoshone Avenue is concerned with safety. He is one of the two homes at the bottom of the road. He is very concerned with the direction of engineering's design. The engineers are saying you can't make a curve with the elevation. He is concerned with the possibility of the design that allows cars to end up in his yard. The one-way lane would help alleviate that possibility somewhat.

Another neighbor stated his property drops off on the hill at the intersection's location. Mayor Larsen explained the road was shifted a little to the west to stay away from the elevation shift.

**Jill Anderson** 419 Morgan Drive suggested two traffic lanes for both streets. She purchased her home thinking the neighborhood would stay that way for life. You have to look down the road. She agreed with Council Member Erickson to keep two lanes of traffic on Shoshone Avenue. She uses this area to get out of town because it is faster than Main Street. She recommends having stop signs, speed bumps and have two lane traffic on both streets. Avoid the right angle connection. Engineer Keith Davidson explained the correct engineering would be to create a ninety degree intersection to avoid the oblique angle.

**Public Works Directory Millar** said the city has presented the complete LID to the public. The city can not separate the LID without violating state statute. The hearing process would have to start over with two LID's.

**Council Member Young** moved to pass the LID including the Millhollow residents and let them know the Millhollow Road design will be thirty-two feet wide with a one foot ribbon curb on each side of the pavement, noting there is still a lot of work to do on the intersection design; Council Member Erickson seconded the motion; Discussion: Council Member Stevens said to leave the design undecided. Council Member Young said the motion would allow the street to be fixed with the width of Millhollow Road being set at thirty-two feet with a one foot concrete ribbon on each side of the pavement all the way up to Rolling Hills and leave the intersection the way it is until the City Council can come to a decision on it's design; Council Member Erickson seconded the explanation; Mayor Larsen asked for a vote: all voted aye, none opposed. **The motion carried.**

### **Mayor Larsen opened the public hearing on LID 35.**

**Mayor Larsen** explained the city has received a number of letters; however, City Council will take oral testimony at this time. This hearing is different than a land use hearing. These properties will be reviewed by City Council on a case-by-case basis on the LID.

**Trent Shaw** at 453 Reed Street (LID 314) asked for information on the time frame for getting the work done. Engineer Keith Davidson explained August 15, 2006, is the deadline for the resident to use their own contractor to do the work. The city will send out a letter asking the resident if they are planning to get their own contractor for the LID work. Trent asked if the road work would be completed by this time; Engineer Keith Davidson explained the August date is needed to allow the city to have lead time to contract for the work if the resident doesn't use his own contractor. Trent was concerned with the road completion date to avoid future damage to the road. He was concerned some utilities have been installed and the street has sunk away from the curb and gutter causing water to puddle. This damage to the street may have caused the problems with his curb and gutter. He is concerned with investing in the project in a timely manner and then the street improvement is delayed for some reason. He was not sure if the replacement would have been necessary if the street damage had not occurred from utility trenching or city water line damage to the street. Trent asked why other locations with similar damage are not being replaced.

**John Zirker** at 415 East 1<sup>st</sup> North is in favor of the LID for sidewalks. His property is near the high school on 1<sup>st</sup> North and 4<sup>th</sup> East. He is concerned with the location for the placement of sidewalk. He referred to a similar discussion three years ago with himself, Garners, and the Phillips' property. They were told the sidewalk could not be located at the curb for safety issues. Since that discussion, there have been six violations of the policy within a three block area. The first example is a quarter of a mile of asphalt for a sidewalk against the curb going from the high school to Hidden Valley with widths varying from a foot to seven feet and the pathway ends going into the road at Paul Christensen's property. He wants sidewalks next to the street. The latest violation is the sidewalk next to Walgreen's where the curb and gutter were removed and the sidewalk was replaced on the road.

Another example is Frank Jacob's residence where the side walk is on the curb and meanders through some trees. Another example is the Robert Smead home where the sidewalk goes inside then back outside to inside before transitioning to a driveway. He said a sidewalk is great where they live next to a high school and maybe a future junior high. He wants to put a sidewalk in for the safety of the students coming to the high school. He wants a sidewalk with the same consideration as others in town. His neighbors across the road (Dick Phillips, Cordingley's, Don James) have been told their sidewalks need to be on the curb due to precedents. He has been told the principle behind his sidewalk being located off the curb is safety. He asked the City Council to avoid fixing a problem with one policy. He would prefer to go on "precedent" and locate his sidewalk on the curb. He said he would put the sidewalk in place in July. He would not wait until August.

**Engineer Keith Davidson** reviewed his property on the overhead screen. John Zirker asked City Council if safety is driving the location of sidewalks off of the curb; He asked City Council why about 1/2 of the sidewalks in Rexburg are up against the curb. One of the sidewalks in John's

neighborhood was put in two years ago off the curb for safety concerns. Is City Council requiring unsafe sidewalks like his neighbors across the street to be located on the curb? He did not think it was unsafe.

**Council Member Young** ask John why he wanted his sidewalk on the curb instead of his lawn. John referred to Phillip’s and Pond’s sidewalks being located on the curb, so he located trees and landscaping where an interior sidewalk would need to be located. He is on a four way stop intersection that hundreds of cars use each morning. The city sands the street and the snow plow throws the snow and sand onto his lawn. This builds up his lawn against the road. He wants to keep his lawn clean by brushing off the sidewalk against the curb. He wants to save his existing row of trees and landscaping. You can’t have them (high school students) walking in the road. It is a dangerous intersection. He wants to keep sand from winter snow plowing off from his property.

**Council Member Mann** wants to make concessions to make it work with Mr. Zirker. He is not a new owner; however, Council Member Mann does see a need to have a sidewalk near the high school. He would like to see the sidewalks line up in some way. Mr. Zirker indicated the driveway could be used to line up the sidewalks on his side of the street. Public Works Director Millar explained the reason for the Jacobs sidewalk being located on the curb is because there was only five feet of right-of-way precluding a seven foot grass stripe and a five foot sidewalk. He noted any policy has some exceptions. The sidewalk was taken off the curb to miss some landscaping for a meandering sidewalk. Right-of-way or lack of right-of-way drives the location of sidewalks; however, sidewalks are more useable if they are located back away from the curb. The pedestrians are away from the traffic if the sidewalk is located off the curb.

**Mayor Larsen** asked Public Works Director Millar why there is such a variance in the location of sidewalks. He explained the original City Plat has ninety nine foot right-of-ways. The streets are forty to fifty feet wide, leaving a lot of room behind the property line. In the middle 1960’s the City of Rexburg adopted a new Subdivision Ordinance which allowed for a fifty foot right-of-way with a forty foot street and sidewalk adjacent to the curb and gutter. This policy hampered where the city could locate sidewalks. They need to be on public property. Those areas are typically located on the bench and subdivisions constructed in the 1960’s, 1970,s and the 1980’s. These sidewalks located against the curb have marginal use due to mail boxes and snow being piled on them in the winter. He indicated one of the big failings the city has experienced was to allow this policy of fifty foot streets and sidewalks on the curb. It has been a good policy in the last ten years to go away from the narrower street with sidewalks on the curb and move the sidewalk seven feet back away from the curb and gutter.

**Mayor Larsen** referred to Resolution 1995 – 06.

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RESOLUTION NO. 1995 – 06

*BE IT RESOLVED THAT whenever a lot within the City of Rexburg which does not have an existing sidewalk changes ownership, a new sidewalk must be installed on said lot within thirty (30) days unless a written extension of time for installation is granted by the City Engineer.*

*Furthermore, whenever there is major street reconstruction (which includes, but is not limited to, replacement of curb, gutter, or asphalt overlay) then the adjoining lot owners shall be required to install sidewalks, if such are not already in existence.*

*When there are existing sidewalks already in place on the same side of a street, all new or replaced sidewalks should be in conformity, as far as placement, with those in existence. The width of the sidewalks shall be five feet or more unless the majority of the sidewalks on the same side of the street have a narrower width.*

*PASSED AND APPROVED BY THE CITY COUNCIL, AND MAYOR THIS 17th DAY OF MAY, 1995.*

*Nile L. Boyle,*

*ATTEST:*

*City Clerk, Rose Bagley*

*(This resolution amplifies and clarifies Resolution 94.04 passed by the City Council on August 3, 1994)*

**Public Works Director Millar** referred to another policy statement about ten years ago.

***City of Rexburg - Resolution 1994 – 04***

*WHEREAS, the City of Rexburg, desires to provide a safe and efficient means for pedestrian traffic, and*

*WHEREAS, pedestrian safety is best provided for by separating pedestrian travel from automobile traffic, and*

*WHEREAS, the City of Rexburg has in place a provision which requires sidewalks together with a provision which provides for site plan and plat review by the City Engineer,*

*NOW, THEREFORE BE IT RESOLVED that the City of Rexburg hereby adopts the policy of complete compliance with respect to the requirement that there be sidewalks in all areas within the city limits of Rexburg. It shall be the duty of the City Engineer or the Planning and Zoning Commission to determine that a proposed site plan, or plat drawings contain provisions for minimum 5' sidewalks, unless there is prior written approval of the City Building Inspector for any deviation from a 5' sidewalk. It shall further be the duty of the City Engineer or the Planning and Zoning Commission to decline to issue permits necessary for construction or occupancy in the event such sidewalk compliance is not met.*

*This Resolution shall not repeal any prior action by the City Council except to the extent that such action is inconsistent with the terms of the Resolution.*

*Approved as a Resolution of the City of Rexburg on the 3rd day of August, 1994, upon a motion made By Jim Flamm, seconded by Kay Beck, upon which the following roll call vote was had: those in favor: 4; those opposed: 0.*

CITY OF REXBURG

\_\_\_\_\_  
Mayor, Nile L. Boyle

ATTEST:

\_\_\_\_\_  
City Clerk, Rose Bagley

**Public Works Director Millar** explained the city adopted a Subdivision Ordinance that changed the policy. The Subdivision Ordinance originally adopted June 06, 1984, requires a seven foot setback for sidewalks.

***SUB-DIVISION  
ORDINANCE***

***SECTION 4.2 REQUIRED IMPROVEMENTS***

***1. Curb, Gutter, and Street Improvements***

*All streets shall have curbs and gutters, sidewalks, and asphalt paving which complies with the adopted design standards and specifications of the City. In rural residential zones the requirement for curb and gutter may be eliminated with approval of the commission.*

***2. Sidewalks***

*Concrete sidewalks shall be provided on both sides of dedicated streets in compliance with the adopted Design Standards and Specifications of the City. All sidewalks are to be set back from the curb a minimum distance of 7' 0" the area between the sidewalk and curb and gutter is to be landscaped.*

NOTE: LID 35 **Resolution 2006 – 08**

***City of Rexburg - Resolution 2006 – 08***

Section 5: The assessable portion of the costs and expenses of the Improvements shall be assessed against the tracts, lots, and lands benefited by the Improvements according to the method of assessment, as provided by Section 50-1707, Idaho Code, shall be a front foot fee, with the frontage being determined at the setback line.

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NOTE: Current City Code

## **DEVELOPMENT CODE OF THE CITY OF REXBURG, IDAHO**

(ADOPTED FEBRUARY 16th, 2005)  
LAST DATE AMMENDED: N/A

### **Ordinance No. 926**

#### **3.5.080. Yard Requirements.**

The following minimum yard requirements shall apply in the LDR2 zone: (Note: all setbacks are measured from the property line.)

(1) *Front /Rear Yard.* Each lot or parcel in the LDR2 zone shall have a minimum front yard of at least twenty-five (25) feet, unless the street upon which the parcel fronts has a boulevard strip of at least seven (7) feet, in which case the front yard setback may be reduced to twenty feet (20). The minimum depth of a rear yard shall be twenty (20) feet.

(2) *Side Yard -* Each lot or parcel of land in the LDR2 zone shall have a side yard of not less than six (6) feet or six (6) inches of setback for every foot of building height, whichever is greater.

(3) *Accessory Building Setbacks.* Accessory buildings must meet all setback requirements established by any applicable building code, and shall:

(a) *Have a building footprint and height less than the main dwelling.* Accessory buildings larger than one hundred twenty-square feet shall meet the same side yard requirements as principal buildings.

(b) *Comply with all lot coverage requirements.* An accessory building or group of accessory buildings in any residential zone shall not cover more than thirty (30) percent of the rear yard.

(c) *Comply with the latest adopted edition of the International Building code.*

(d) *Only be used for those accessory uses allowed in the respective zone.*

(e) *Maintain architecturally similar material and colors with main building.*

(f) *Accessory building shall not be placed in the front yard.*

(g) *Accessory buildings may be placed in any location in the rear yard not otherwise in conflict with this Ordinance, unless the accessory building is a garage with doors opening into the alley. Such garages shall be located at least fifteen (15) feet from the alley.*

#### **3.5.090. Setbacks and Rights-of-Way Exceptions.**

(1) *The following structures may be erected on or projected into any required setback or right-of-way:*

(a) *fences and walls in conformance with the Rexburg City Code and other City codes or ordinances;*

(b) *landscape elements including trees, shrubs, agricultural crops and other plants;*

(c) *necessary appurtenances for utility service; and*

(d) *in all zones the area between the curb and gutter and the sidewalk is to be landscaped and maintained by the adjacent property owner. For the purpose of insuring visibility and safety in residential zones and other zones which require buildings to be set back from the property line, the triangle of land formed on any corner lot by drawing a line between points on the lot lines, which are forty feet (40) from the intersection of such lot lines, shall be free from any sight obscuring structure or obstruction except as permitted. Trees in such triangles shall be trimmed to at least ten (10) feet above the centerline grades of the intersecting streets. Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets.*

(2) *When fifty percent (50%) or more of the lots on the same side of the street have been built, all buildings erected, established, or rebuilt shall be in conformity with the average setback of such buildings. In all Residential Zones, all buildings erected, established, or rebuilt shall be required to place sidewalks a minimum of seven (7) feet behind the curb and gutter, where conditions permit.*

## **4.13 Commercial Design Standards**

### ***Pedestrian Flows***

***INTENT:*** *Pedestrian accessibility opens auto-oriented developments to the neighborhood, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.*

***STANDARD:***

*(1) Sidewalks at least 6 feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding interstates. The Planning Commission may waive this requirement as part of the development agreement.*

*(2) Continuous internal pedestrian walkways, no less than 5 feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length.*

*(3) Sidewalks, no less than 5 feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.*

*(4) Internal pedestrian walkways provided in conformance with Subsection b above, shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.*

*(5) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.*

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**Council Member Erickson** referred to the Zirker property going east on 1<sup>st</sup> North being the only property that would not have a sidewalk on the curb. The south side of the street coming from the west and the high school property has the sidewalk on the curb. Council Member Erickson reviewed how the west side of the Zirker property could have a sidewalk on the curb transitioning into the neighbor's driveway to connect to the neighbor's interior sidewalk. Council Member Erickson recommended the west and north sidewalks for Mr. Zirker located on the curb. This would be the same as his neighbors across the street and Mr. Ponds property. He referenced his subdivision has the sidewalk on the curb. He would be following a past precedent. Council Member Young indicated he recently located his sidewalk on the curb; therefore, he could not require Mr. Zirker to do anything different. He agreed with John Zirker. Mayor Larsen asked John if he would do a meandering sidewalk.

**Mayor Larsen** asked Mr. Zirker if he would consider a meandering sidewalk through his trees that would connect to the neighbor's sidewalk. Mr. Zirker explained it would be possible; however, he was representing his neighbors, the Summers, who wanted their sidewalk on the curb. Public Works Director Millar clarified the issue with the west sidewalk. The city does not own any right-of-way on that portion of the street; therefore, the city could not require him to put in a sidewalk in that section. Council Member Erickson concluded there are a lot of areas the city doesn't have right-of-way adjacent to the street. Public Works Director Millar agreed with Council Member Erickson. Mr. Zirker referred to his neighbor's property, the Ponds property, and the high school property as being a precedent that has been set on 4<sup>th</sup> East and 1<sup>st</sup> North. Mr. Zirker explained the

city broke precedent when they said they would go with the policy of the safety issue first. He explained the city can't say it is a safety issue if half the city is unsafe. He would like to put in a sidewalk because it is a safety issue for students.

The City Council discussed how the sidewalk could transition through the Summers property from the inside position to the curb and hit the driveway before exiting out to the Zirker's property on the Curb.

**Council Member Erickson** moved to allow Summer's and Zirker's to place their sidewalks on the curb on 4<sup>th</sup> East and allow the Zirker's to place their sidewalk on the curb on 1<sup>st</sup> North; Council Member Young seconded the motion; all voted aye, none opposed. **The motion carried.**

**Anne Dougherty** at 268 Ricks Avenue and Ginger Bott (item 126 & 128) share a driveway on Ricks Avenue. They want to option out of the LID because their driveway is not a problem. They think their driveway is perfectly fine. She replaced her sidewalk in 2002. Engineer Keith Davidson reviewed the driveway on the overhead screen and he pointed out the problems with the driveway. She mentioned a fence encumbering the area at the end of her sidewalk. Engineer Keith Davidson said it would have to be removed out of city right-of-way.

**Council Member Erickson** asked Engineer Keith Davidson if the city is asking them to replace the driveway area and curb and gutter. The request is to replace the blacktop driveway area for the sidewalk with a concrete sidewalk, plus curb and gutter. Anne explained the driveway is shared with five property owners. She is not a new owner; she has lived in her home for ten years. Engineer Keith Davidson explained the city has gone back to 2002 to add new owners to this LID. One of the townhouse neighbors is a new owner since 2002 and they share the driveway. The cost of the LID for Anne was discussed. It is a per person cost split between the five property owners. The LID is for thirty-two feet of sidewalk, curb and gutter. The city will help with \$0.65 per square foot on the sidewalk and \$5.00 per lineal foot on the curb and gutter. Council Member Erickson reviewed the plan to help the residents replace the asphalt with concrete for the sidewalk at \$0.65 per square foot. Engineer Keith Davidson explained the costs are estimated and the city portion is figured into the amount on the LID. Anne asked if the city could make her pay for the planned replacements without including the other neighbors on the street. Engineer Keith Davidson explained the other side of the street does not have right-of-way; therefore the city is checking into how the other side of the street can be done. Anne concluded Park Place would not be required to have sidewalks on this LID; however, she noted the townhouses are being sold all of the time. Engineer Keith Davidson said the city would have to take a look at those transactions. Anne explained Park Place residents are about to re-do their driveways.

**George Wilson** at 129 Ponderosa Avenue (items 126 – 130) asked when the policy changed from painting lines on black top to designate a walking path to requiring concrete for a sidewalk. Council Member Erickson asked when did the policy get changed and who changed it? Engineer Keith Davidson explained City Council changed the policy.

NOTE: the policy was changed when the "Development Code" for the city was adopted by Ordinance No. 926, February 16<sup>th</sup>, 2005.

**Council Member Stevens** asked if the sidewalk was up against the curb. Engineer Keith Davidson said it was against the curb. There will need to be a patch to bring the asphalt into the sidewalk. Another patch will be needed at the curb.

**Council Member Erickson** explained the owners were notified when they purchased the property. It is a condition where it needs to be replaced. He recommended having it done on the LID at this time. Council Member Stevens was concerned with replacing a small portion of the street. He would like to see this project done when the street is repaired so the new curb and gutter would not be damaged by the condition of the street. Council Member Erickson asked if it would work to patch the street four to six feet back from the curb to protect the new curb and gutter. Engineer Keith Davidson said it may help to patch three feet from the curb; however, it would be good to look at the entire street.

**Mayor Larsen** said the City Council as policy makers will have to decide when and at what time the entire street would be reconstructed. Council Member Erickson explained the site is in poor condition and a street repair project would need to be prioritized and scheduled on a future budget.

**Council Member Schwendiman** asked if the street was deteriorating? Engineer Keith Davidson explained the poor condition of the curb and gutter will cause street deterioration. Council Member Schwendiman would be in favor of doing a bigger section of the road when this project is done. Council Member Erickson referred to the City Code where the work is initiated by the change in ownership. If the city started doing adjoining properties located next to change in ownership properties, the City Council would be going against City Code. Council Member Benfield agreed with Council Member Schwendiman by leaving this section until a bigger project can be planned.

**Council Member Benfield** moved to option Ricks Avenue out of the LID; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

**Shelleen Malan** at 617 Taurus Drive (item 142) asked to have her property revisited. She does not have missing pieces of concrete or any asphalt. There are three cracks in the concrete without any vertical shifting. She noted a stroller could be pushed along this area by a child without any problem. She asked the City Council to revisit the policy requiring sidewalks at the time property is purchased by a new owner. She asked the burden for sidewalks to be placed on the people that have lived in their homes for thirty years and have some equity. A new homeowner does not have equity in the home or money in their budgets for sidewalks. Engineer Keith Davidson reviewed the property on the overhead screen. The property falls within the engineering criteria for replacement. One of the criteria is a missing piece of concrete three inches by three inches. Shelleen noted this item was at the bottom of her driveway. The city is planning to put in a handicap access at this location at the city's expense. She is the only location on the street that is drained. Other locations on the street have water ponding situations. She can't afford the \$3,300 because it is twice her monthly income. She would have to do the work herself. She explained if she had lived there for a longer period of time (fifteen to twenty years) she could do the replacement.

**Council Member Erickson** asked if all the LID properties on Taurus Drive are in the same neighborhood. Shelleen said they were in the same neighborhood. Council Member Erickson noted four properties with two handicap areas on Taurus. Council Member Stevens asked to hear from other residents on Taurus Drive.

**Steve Denison** at 590 Taurus Drive (item 140) asked why only some owners are included in the LID. There are other locations on the street in worse condition. He was concerned with the new owner's property being updated and other properties in worse condition were not included in the LID. He would like to have the work done; however, he was unclear how his work would benefit the whole street. He indicated selecting a few properties here and there on the street was a little shoddy (second-rate). Engineer Keith Davidson explained the properties are reviewed by the city policy when a property transfer is initiated. The city reviews sidewalk, curb and gutter during the inspection. Engineer Keith Davidson explained the Real estate Purchase and Sales agreement could include the installation or replacement of the sidewalk, curb and gutter as a condition of the sale.

**Council Member Erickson** questioned why the city was requiring curb and gutter for new owners. He understood the Ordinance was for sidewalks. He asked if everyone on a street could be done at the same time. Engineer Keith Davidson explained the work for everyone on the street would be done when the entire street is reconstructed. The property condition is reviewed for sidewalk, curb and gutter because the new owner has responsibility for those items. Engineer Keith Davidson explained City Council could change to process for sidewalk, curb and gutter compliance. Council Member Erickson questioned the logic requiring new homeowners to replace curb and gutter just because they are new homeowners. Council Member Young indicated the Ordinance says sidewalks, not curb and gutter. Shelleen asked if it could have been done on her mortgage because the timing is bad for this added expense two years later. She asked the city to provide better information on these replacement costs at the time the paperwork is prepared to close on the mortgage. She wanted to have the work done; however, it is frustrating to learn about the process two years after her home loan was processed. Engineer Keith Davidson explained the city does not get notification of property transfers until after the fact.

**Council Member Schwendiman** was not comfortable doing curb and gutter for one home at a time, while other properties on the street may be in worse condition.

**Council Member Mann** asked if the properties in the Starlight Addition were marginal properties to include in this LID. Engineer Keith Davidson said they could go and recheck the properties to

see if they are marginal. He noted some properties have bad deterioration.

**Council Member Erickson** asked who set forth the criteria to replace curb and gutter. He understood the criteria for sidewalks on property exchanges. Engineer Keith Davidson said curb and gutter was in the ordinance as well. It was towards the end of the ordinance. Shelleen said it is \$3,300 for three cracks in her sidewalk. Financial Officer Horner explained the costs could be spread over ten years at 6% or less.

**Council Member Erickson** reviewed *RESOLUTION NO. 1995 – 06* noting curb and gutter replacement are only required for street reconstruction. Engineer Keith Davidson explained it has been the city procedure for some time to review curb and gutter conditions with the sidewalk review.

**Council Member Young** moved to delete all improvement items (including sidewalks) on Taurus Drive from the LID; Council Member Erickson seconded the motion; Discussion: Mayor Larsen asked if that included the handicap access items on Taurus Drive. Council Member Young said the city could do those improvements. Council Member Stevens did not agree to spend money on the corners (handicap access) and leave the rest of the street. Council Member Young amended his motion to include handicap accesses; Council Member Erickson amended his second of the motion to include handicap accesses. Finance Officer Horner mentioned if the work is postponed it may speed up the timing for street reconstruction by five years or ten years. Council Member Erickson recommended doing the curb and gutter for each owner on the street with a future LID. All voted aye, none opposed. **The motion carried.**

The City Council discussed doing another LID to include all property owners on Taurus Street.

**Council Member Stevens** explained the curb and gutter could be redone to hold the street for another five years plus; Council Member Schwendiman would like the curb and gutter work done a block at a time. Council Member Stevens mentioned he agreed with Engineer Keith Davidson, the curb and gutter repairs could extend the life of the street five or ten years; however, when the street is eventually reconstructed, the relatively new curb and gutter would not have to be redone. Mayor Larsen noted the city would not have enough budget monies to reconstruct all of these streets; however, the city could LID everyone on the street to do needed repairs.

**Kay Cordingley** at 444 East 1<sup>st</sup> North (item 301) did not expect the LID for the sidewalk. They have done a lot of landscaping in twenty-nine years in the area where the sidewalk is supposed to be located. He asked about the costs for moving sprinklers, trees, etc. If it is on the city right-of-way, it would be the owner's expense. He landscaped the circular driveway which has two birch trees and other landscaping. He was concerned with the handicap access being encumbered by a mailbox. Kay was not expecting the high cost (just under \$7,000) for the LID work. He expects another \$5,000 in landscape work to accommodate the sidewalk going through his landscaping. When they built the home in 1977, no one told them they had to have a sidewalk. He would like some consideration in the placement of the sidewalk or be allowed to use the circular driveway for a sidewalk. He does not want to lose his landscaping. People do not use obstructed sidewalks because they like to walk together. You can't walk together on a sidewalk with mail boxes or cars parked on the sidewalk. They will be happy to cooperate with the city to comply with the requirements; however, they are disappointed to lose their landscaping. Two years ago, they received a beautification award for their yard.

**Council Member Erickson** asked for the rationale to include 1<sup>st</sup> North with Morgan Drive and Reed Street. 1<sup>st</sup> North will not be touched by any of the Madison Memorial Hospital street reconstruction project. Council Member Erickson noted the city is not going up on Millhollow Road which is just as close as 1<sup>st</sup> North to the Madison Memorial Hospital project. Engineer Keith Davidson said Cordingley's property is the last property on that block except Don James' property.

**Council Member Schwendiman** noted this property does not meet any of the criteria. It is not changing ownership and the street is not going to be reconstructed.

**Council Member Schwendiman** moved to exclude the Kay Cordingley property at 444 East 1<sup>st</sup> North (item 301); Council Member Benfield seconded the motion; all voted aye, none opposed. **The motion carried.**

**Mayor Larsen** asked if there were others on 1<sup>st</sup> North to testify.

There was a comment concerning a two inch city water line on 1<sup>st</sup> North. It has deteriorated and needs replaced. Engineer Keith Davidson explained the city's two inch galvanized water line has had numerous repairs. This two inch water line is not part of the LID. This water line has caused deterioration of curbs and gutters.

**Council Member Schwendiman** moved to exclude all properties on 1<sup>st</sup> North; Council Member Benfield seconded the motion; Discussion: Council Member Mann was concerned with removing properties from the LID in case the owner would like to have a sidewalk. Three properties on 1<sup>st</sup> North were included in the LID because they were the last ones on the block. Council Member Stevens explained an LID is a great way to finance a sidewalk for an owner. Kay Cordingley mentioned the sidewalk is more important on the other side of 1<sup>st</sup> North for high school student traffic. There are a few neighbors using the Cordingley's side of the street. Jill Anderson explained the students walking from Hidden Valley need to have some place to walk. They walk on the street and in the winter they have to walk farther into the street. There is a huge population in Hidden Valley that needs sidewalks to get to the high school. All voted aye, none opposed.

**The motion carried.**

**Barbara Blazer** at 75 East 1<sup>st</sup> North (item 7) gave a letter to the City Council with her questions. She is one of those new home owners. She gave an example of relatives in Utah that are not required to be responsible to replace curb and gutter; it is always the city. She does have a sidewalk that needs replaced. Her concern is the curb and gutter in front of her home. She is trying to keep her home maintained. She is a single mother. She has walked down the street and noted other properties in worse condition. She would like to replace her sidewalk; however, she would like to option out of the curb and gutter as was discussed earlier. If she would have know the requirement for a sidewalk replacement when she purchased her home, she would have done some negotiating with the seller on the price. Her driveway is in need of replacement; however, she does not know if the driveway has to be replaced out to the street. She will be happy to look into the driveway replacement if it is required by the city. She does not want to replace the curb and gutter on the other side of the driveway where the snow plow comes down the street and rams into the curb and gutter. She knows, because she has to dig the snow out. She indicated the whole street needs curb and gutter repair. A neighbor (Mike McKinley) further east, needs some curb and gutter replacements; however, he was not on this LID.

**Council Member Erickson** noted the curb and gutter needs to be replaced where the snow plow hits. Barbara wants the entire curb and gutter repaired on the street as needed. She does not want to be selected because she is a new homeowner. Others on her street are not new homeowners; however, they have worse conditions. Barbara said she fell at the Library and Tabernacle and hurt herself. She did not know if it was city property. The letter the city sent Barbara explained her responsibility for water and sewer connections into the street. She asked if she was responsible for anything the city does on her water and sewer lines or is this a one time LID? She asked if the city did any work on her lines, would the cost be put back on Barbara the homeowner. Mayor Larsen explained this LID covers the specific items of sidewalk, curb and gutter. If there were other issues to fix the water or sewer lines, they would be covered under another LID. She asked how much curb and gutter would she be required to replace.

**Council Member Erickson** said it looked like the entire length of her lot could need curb and gutter replaced. The sidewalk definitely needs to be done. He personally thought it would be good to do the curb and gutter at the same time. Council Member Stevens noted the sidewalk is on the seven foot set back. The driveway is used for the sidewalk too. Council Member Erickson said the sidewalk, curb and gutter needs to be replaced. Barbara asked Engineer Keith Davidson what percentage would the city participate. The city has estimated \$30.00 to \$32.00 per lineal foot for curb and gutter. Sidewalk costs would be reimbursed at \$0.65 per square yard by the city. She wants to check out other options for the work before allowing the work to be done on the city contract. She thinks it is unfair to target new homeowners who are trying to fix up old properties. She did not want to be penalized for trying to keep up property that was not kept up.

**Jared Klingonsmith** at 536 Angela Drive (item 78) has been in his home 3 and ½ years and he has never heard of an Ordinance requiring him to replace his sidewalk, curb and gutter. He liked the idea of replacing the streets with the curb and gutter. He asked to seal the cracks first in the sidewalk before replacement. It would keep the moisture out and extend the life of the concrete. He could fix the problems with some repairs. Jared asked to be taken off the LID and let him do the repairs to the concrete himself. A lot of things can be cleaned and a lot of things can be patched. The only bad area he has seen is where the driveway meets the curb. He recommended changing the policy to do repairs verses replacement. He referred to others in the neighborhood

that have been put on the LID. He asked to City Council to take the curb and gutter off his LID. He asked the City Council to change the current policy which uses the property transfer for a sidewalk compliance review. He wanted this type of expense to be covered with tax revenues. Jared proposed a \$5.00 fee for college students to drive on the roads 2/3 of the year.

**Council Member Erickson** recommended replacing the driveway up to the first joint. He explained to Jared something needs to be done with the property. Jared wanted to cut out the bad pieces and repairs them instead of replacement of the whole piece. Jared said he was fortunate to pay \$1,800 instead of \$6,000. He wanted to do the repairs for \$100 to make his area look better than the neighbors curb and gutter. Jared said with a hard days work, you wouldn't recognize it.

**Council Member Erickson** said anything can be patched; however, it would not be to the city standards. He said Jared really needed to replace the sidewalk and a portion of the curb and gutter. Do it right and you know it will be there for a long time. Council Member Erickson said to do from the arrow towards the driveway on the curb and gutter. It won't look good without doing the replacement work.

**Barbara Blazer** indicated she was reminded the residents were not responsible for curb and gutter unless it was for road reconstruction. She explained she is going to do the sidewalk; and the driveway up to the sidewalk; however, she is going to check on the legality of doing the curb and gutter as far as the City Ordinance. She referenced the 60% voter count to protest against an issue so it would not pass.

**City Attorney Zollinger** said the city can LID for structures if the property owners directly benefit from the improvement (i.e. sidewalks, curbs and gutters.) State Statute stipulates improvements to structures directly benefiting property owners can be done at the property owner's expense. The 60% rule would only apply if citizens initiated the LID by petition.

**Mayor Larsen** asked to review five properties on Angela Drive.

**Council Member Erickson** noted the Blazer property's sidewalk needs replaced; the curb and gutter should be replaced also. There may be some properties on Angela Drive that do not need curb and gutter replacements because the sidewalk is still good. If the sidewalk needs to be replaced the curb and gutter should be replaced. This sidewalk needs to be replaced.

**Don Nelson** at 585 Angela Drive (item 80) explained his sidewalk is better than others on the street. They moved onto the street four years ago. He did not know why he was considered a new owner. Council Member Stevens asked about the storm drain. It is two blocks to the west of this property with adequate flows. He asked if the whole street should be replaced for curb and gutter. Engineer Keith Davidson explained the whole street does not meet the criteria for replacement. The staff could take a second look at the marginal properties. Council Member Schwendiman was having a problem with doing one property at a time just because they have changed ownership. Council Member Stevens would like to do the whole section instead of one property at a time. The street can be replaced inside the replaced curb and gutter at a later date. Engineer Keith Davidson noted if the entire street was reviewed without new owner criteria, every section of curb and gutter would not be replaced because some would still be good. Only those areas where the back of curb is busted off or other flow line breakage would initiate a repair. Mayor Larsen asked the City Council if Engineer Keith Davidson should go out and check for marginal areas on Angela Drive. Engineer Keith Davidson will look at each section again.

**Sherrie Lewis** at 231 Millhollow Road (item 203) called and sent a letter to the city. She has a concern with the front footage assigned to her lot. The lot has a larger street frontage than rear area. Engineer Keith Davidson reviewed the plan to have a one foot ribbon curb and three feet of asphalt on each side of Millhollow Road. The cost would be split by the front footage on each parcel by a percentage.

**Vaughn Price** at 315 Millhollow Road asked why they are being assessed on city right-of-way for the three feet of asphalt even though it is city road. He asked if the city was going to keep the sixty foot right-of-way for the road. Engineer Keith Davidson said the city would not abandon the sixty foot right-of-way on Millhollow Road. Vaughn explained the Lewis home is down the alley off from Millhollow Road. He asked why they are getting assessed front footage on Millhollow Road. Engineer Keith Davidson said they are still going to use Millhollow Road for access. The alleys off Millhollow road will be covered under the city's portion of the LID.

**Sherrie Lewis** could not understand how they were being assessed a disproportionate LID amount compared to others on Millhollow Road.

**Council Member Young** asked for an explanation of their fee. Engineer Keith Davidson said the fee is based on the property's frontage on Millhollow Road. The City Ordinance calls for a property frontage allocation. The Lewis' lot frontage is larger than others on Millhollow road. Council Member Schwendiman did not understand the assessment split. Gary Lewis did not understand the methodology for the assessment split. He asked if his contractor did the work, where would he put the curb and gutter (in his front yard or his back yard.) Mayor Larsen explained the project is being assessed by the total cost of the project and then sharing the cost by front footage on Millhollow Road.

**Vaughn Price** did not want to pay for three foot of asphalt road if the city is responsible for the asphalt on the other LIDs. Engineer Keith Davidson explained the three foot of asphalt on each side of Millhollow Road represents the sidewalk in other LIDs. Vaughn understood the need to pay for the one foot concrete strip; however, none of the asphalt touches their property. Engineer Keith Davidson explained this cost would be born by the developer and homeowner in a new subdivision. Vaughn did not see a need to pay for the road because they had a road before the LID was put in place. It is not the residents fault the road is narrow; it was a decision by a former City Council to accept the project with a narrow road. He was willing to be assessed for the concrete strip; but not asphalt for a city street. It is not the resident's property, it is the city's property.

**Council Member Erickson** agreed with Vaughn on a road reconstruction. He did not know of another subdivision that has paid for the street. Mayor Larsen explained the City Ordinance allows the city to widen a road and LID the property owners for the sidewalk, curb and gutter. Council Member Erickson agreed for a road reconstruction project. Mayor Larsen said the three foot strip of asphalt on Millhollow Road in the LID is in lieu of a sidewalk. Gary Lewis asked if it was fair to charge the Lewis' that much for their portion of the LID. Mayor Larsen said this meeting was to go over the issues and evaluate the process. If there is a better formula, let's discuss it.

**Council Member Mann** asked to re-evaluate the Lewis property assessment. Mayor Larsen asked if the Council would like to split it equally between the property owners. It would raise the assessment on some properties and lower the assessment on other properties if the Lewis property assessment was lowered. Council Member Erickson asked what the average would be for the homeowners. Mayor Larsen explained the average would be about \$3,105.00.

The City Council discussed the methodology for assessing the property owners on Millhollow Road.

**City Attorney Zollinger** explained the concept the LID is to assess the property owners for the proportional benefit they receive from the project for the access onto the street. What benefits does their property derive from the improvement to the road? The lineal front footage method is used all over the State. Lewis' can't get to their lot with driving up and down Millhollow Road. The Lewis property is flared the wrong direction. It is wider in the front of the lot than the back of the lot. City Attorney Zollinger suggested averaging the front and back lot line lengths to get an average lot size for their front footage that benefit from the road. The question is "what is the benefit of this project to the property owner." It is a linear benefit to everyone on the road. To say the ¼ acre lot in the front gets the same benefit as the ½ acre in the back is inconsistent with the process in the rest of the State. Front footage is used because the bigger lots get more benefit from the project than the smaller lots. Road frontage in the Resolution is the width of the property at the setback line.

**Council Member Erickson** explained their property is not in direct contact with Millhollow Road. City Attorney Zollinger explained the LID is in place to charge for the "benefit derived from the cost of this project." They derive the exact same benefit as everyone else. The road has to be there for the Lewis' to get to their property. City Attorney Zollinger explained the formula for dividing up the LID cost for Millhollow residents. The front footage for each lot (front or rear position on the street that benefits from the road; not touching the road) was added together to get a total front footage amount. It dilutes the frontage that is directly adjacent to the road. This allowed everyone to pay the same cost per front foot, whether they are in the back of the lot or in the front of the lot. The total cost of the project was divided by the front footage amount to get a cost per front footage foot. Each property owner was given an estimated cost by multiplying the front footage cost per foot by their respective front footage amounts. If it was a beatification

project one could argue the back lot does not get the benefit of the beautification project; however, this project is being done to move traffic back and forth on Millhollow Road to have access to their lots.

**Council Member Stevens** asked if the Lewis lot could be averaged on the front and back lot line. Mayor Larsen suggested averaging all rear lots to get the same benefit. The City Council directed Engineer Keith Davidson to average the rear lots to get an average for a front lot line similar to the lots adjoining Millhollow Road and adjust their LID's accordingly.

**Vaughn Price** asked if he was paying for the three foot asphalt strip in the road. Mayor Larsen said yes, that is correct.

**George Wilson** on 129 Ponderosa Avenue asked about his property (item 23) on the LID. It is located on 364 South 1<sup>st</sup> West and the name of the development is Harris Hall. He is being assessed for sidewalk, curb, and gutter. He asked if he could do some saw cuts to repair a portion of the sidewalk (cracks in the sidewalk.) He showed a picture of an elevation problem that was less than 1/2 half inch tall. He reviewed an asphalt entry into the property. He was told asphalt was okay for a sidewalk if the driveway was marked as a walking path. George felt the curb and gutter were okay and they should not need replacement because the cracks are about the same as those in a sidewalk. George asked the City Council to remove his property from the LID. George referred to a city drainage ditch that is planned for removal. There is a grate over a drain at this site that may have caused a person to fall. Engineer Keith Davidson said there is a lot of pedestrian traffic in this area. There is an unused water drainage grate which is dangerous to pedestrians. The grate will be removed and the drainage hole will be filled because it is not used by the BYU-I University for a Storm System. They have rerouted the storm system. Financial Officer Horner explained the drainage grate is a hazard to people leaving the BYU-I University venues after concerts, etc.

**Council Member Mann** said this property was a marginal section. The power pole is in the middle of the sidewalk and stairs coming down off from the back of the sidewalk.

A saw cut needs to be done to move the sidewalk around the power pole for wheelchair access. There is a bike path along the street by this area. Engineer Keith Davidson said staff recommends replacing curb and gutter and a saw cut for the sidewalk for a partial replacement. Apartment complexes require reinforced concrete.

**George Wilson** was concerned with connecting to the adjoining property. He was not aware of any accidents because of the condition of the area.

**Council Member Schwendiman** recommended fixing both the north and south ends at a minimum for the sidewalks. Engineer Keith Davidson asked for direction on asphalt. If you take the curb and gutter out, you will have to do a saw cut including the asphalt section. The tie in for the asphalt section needs replaced. Trying to tie new concrete into old asphalt is a problem.

**Council Member Stevens** asked if the sidewalk was the main problem. Engineer Keith Davidson indicated the curb and gutter had fallen; however, the sidewalk is the main problem. There is a poor tie in between the sidewalk and the concrete. The asphalt could be re-patched to tie it into the concrete. George took pictures of a couple of other newer complexes with cracked driveways. He did not want to do the repairs for \$7,000 and then have a driveway that was worse than the current driveway. Engineer Keith Davidson stated the newer complexes are required to have reinforced concrete installations.

**Mayor Larsen** noted the biggest concern is the sidewalk and pedestrian access on the sidewalk.

**Engineer Keith Davidson** asked the City Council for direction on the asphalt. The City Council discussed the use of asphalt for driveways. Council Member Young requested to have Engineer Keith Davidson go out again and decide what needs to be done at a minimum.

**Council Member Schwendiman** asked if new buyers were being told about the property transfer costs for installing sidewalks. City Attorney Zollinger explained the Ordinance requires disclosure. The real-estate people should be providing that information to the buyers as well as the title search disclosure. Dilapidated sidewalks would not be a part of the title search or the real-estate disclosure. If the property is absent of a sidewalk, the purchaser is notified they will be required to put in sidewalks. Council Member Young asked the process to be timely so two years won't elapse before the city goes for the LID improvement. Mayor Larsen explained to Engineer Keith

Davidson the City Council would allow saw cuts tying into asphalt.

**Karen England** at 114 Webster Avenue (item 147) lives on a dead-end street with five homes. Her property is used for a mechanic garage and she doesn't see a need for a sidewalk on the north side of Lorin's Auto Repair. It is a street with limited traffic and the curb and gutter are fine. Engineer Keith Davidson explained the property is on the LID for the sidewalk criteria. It is an asphalt sidewalk and it is in a deteriorating condition. He explained there is no curb and gutter replacement on this LID. The city is not accepting asphalt sidewalks; therefore, it is a sidewalk issue. This is a dead end property. Council Member Young noted the property is not a new owner. It is a Commercial business which has been in the family for generations. Council Member Erickson moved to have this property removed from the LID. Council Member Schwendiman seconded the motion; Discussion: They are across the street from a vacant lot. Their dad built it in the 1950s. All voted aye, none opposed. **The motion carried.**

**Travis Allred** at 37 South 4<sup>th</sup> West (item 70) explained his seller has some legal issues. When they purchased the home the seller agreed to put in the sidewalk. He did not perform on his contract so the sidewalk was not installed. They got stuck without a sidewalk. The property is east of the canal. Council Member Mann asked why the real-estate closing transaction did not have the sidewalk money placed in escrow. Travis did not know why that did not happen. Travis noted a vacant lot next to them without a sidewalk and triplex without a sidewalk in his area. There are no sidewalks around his location. Council Member Mann said the City Council could give him a pass on the LID at this time with the idea of revisiting this property later without a grandfather status.

**Financial Officer Horner** explained the premise for doing properties on an LID. The work has to start somewhere with the first property on the block. Engineering reevaluated the property today and they identified only two sections of curb and gutter for replacement plus the new sidewalk. The price dropped from \$5,200 to \$3,400. Travis wanted to know if there was an assessment for the duplex in the rear that uses the same driveway. Council Member Young asked to include the duplex in the assessment. City Attorney Zollinger explained the curb and gutter could be part of a shared assessment with the duplex. The sidewalk would need some more discussion before it could be included in the assessment for the duplex. The sidewalk falls into the beatification criteria. Council Member Erickson reviewed the location of the sidewalk to the north boundary. Council Member Schwendiman requested to include the two bad sections of curb and gutter and the sidewalk in the LID for Travis. City Attorney Zollinger noted the duplex does get benefit from the sidewalk in the driveway and the curb and gutter. The curb and gutter is part of the street infrastructure, which is to be shared by all property owners. The sidewalk is considered an amenity to the property.

**Council Member Erickson** asked to include the duplex property owner with Travis in next years LID; Mayor Larsen asked for written letter from Travis Allred to be included his LID in next year's LID. Travis agreed to write the city a letter to that end.

**Tim Laderman** at 362 West Main Street (item 110) is a new home owner. He did not want to be targeted because of his status as a new homeowner. He has lived at this location for eight years. Many places are far worse than his place. If it is a safety issue, then focus on the real problems. He has a canal by his house with a bad sidewalk with a three or four inch gap. He asked if there was politics involved in who gets included in the LID. It is a big burden on new homeowners. Council Member Erickson is well acquainted with the area because he used to walk it all of the time. He explained West Main Street has horrible sidewalks for a couple of blocks. It is not just one property owner; it is the whole block. It is old cement with displacement problems. The sidewalk west of the location by the apartments is even worse. All of West Main Street needs to have an LID. Engineer Keith Davidson said the bridge on the south side of West Main Street could be worked on this fall. It would require new concrete footings to hold up the bridge. Mayor Larsen asked if the city had taken a whole street or area to be included in an LID. Engineer Keith Davidson said the residents on Mohawk asked to have an LID for their street. Mayor Larsen agreed with Council Member Erickson to look at the whole street at once for an LID. Council Member Erickson recommended doing a block at a time in an LID.

**Council Member Young** asked if the City Council should hold up on this property and do all of West Main Street in an LID. Council Member Erickson said West Main Street should be done on an LID. It would make West Main Street a nice entrance into the city. Council Member Schwendiman asked if Tim would give a letter to the city to be included in next years LID. Council Member Erickson stated by going to the homeowners, the city has part of the block looking right and the rest of the block looks lousy. Council Member Erickson recommended doing a block at a time on an LID. Tim explained he would be willing to fix anything if it was about safety. Safety can't be accomplished by focusing on one group of people. Council Member Erickson noted most of the West Main Street homes are not going to come in under a new homeowner. Tim said it is wrong to target new homeowners if it is for safety. Mayor Larsen noted another issues is allowing asphalt for a sidewalk. Council Member Erickson noted that asphalt is allowed for a sidewalk in a Commercial area. Mayor Larsen indicated the city will remove Tim from the LID with a letter from him stating other safety issues on West Main Street.

**Roger Pearson** at 267 West 4<sup>th</sup> South (item 68) said the City Council should do entire blocks at a time. If the City Council continues the current policy; the city will look like a patch work quilt. He is not against replacing curb and gutter on his property; however, the work should tie in to other new work. He thought the work on his LID would be for the entire block. He has concerns with the off street parking for his property. It has had off street parking for over fifty years. The reason the off street parking was denied was because the bumpers of the cars hang into the sidewalk. He used the example of John Zirker's property. If Roger could be treated the same as John Zirker, the sidewalk could be located at the curb, eliminating the problem. The staff denied a knock down curb, because it discourages off street parking at his site. This will limit his parking. He was assessed over \$9,000 without having an allowance for off street parking. Engineer Keith Davidson said the city doesn't allow parking in the right-of-way. Engineer Keith Davidson reviewed the sidewalk location and adjoining connections on the overhead screen. He could continue to have parking along the street. Roger lost his parking in the north and the front of the building if the high back curb is installed. A high back curb without off street parking de-values his property. The reason for an LID is to improve the value of the property. Council Member Erickson asked how can the city allow New Ride Auto at 180 West Main Street to put blacktop out to the curb and gutter for parking on the south and the west side of the property and not allow Roger's property to do the same thing. Engineer Keith Davidson said New Ride Auto was not allowed to park on the right-of-way.

**Council Member Erickson** asked Engineer Keith Davidson why a Commercial lot was required to have a sidewalk instead of asphalt. Engineer Keith Davidson explained the policy was changed to dis-allow asphalt to be used for sidewalk, because inevitably if asphalt is used, cars will park on the sidewalk area. The issue at this location is parking in the right-of-way.

**Council Member Young** asked if this could be a grandfathering situation. Engineer Keith Davidson explained the City Ordinances have never allowed grandfathering. Roger Pearson explained the situation has continued and been allowed for fifty years. Under new construction it was continued and allowed. Engineer Keith Davidson agreed with the situation continuing for fifty years; however, he did not agree with the situation being allowed. Council Member Erickson said the sidewalk issue should have been addressed when the new building was constructed. Council Member Benfield asked if the business across the street was required to install sidewalks. Engineer Keith Davidson noted they were required to install sidewalks.

**Council Member Erickson** asked Roger if he knew he had to have sidewalks. Roger explained he did understand he needed sidewalks by being included on the LID or paying for it himself; however, he wanted the sidewalk located on the curb. Council Member Erickson explained the sidewalks would not line up. Roger said from the pictures tonight, it is all over town. Council Member Erickson said "just because it is in one place, there is no reason it should be done in another place." He agreed with Roger, that it doesn't look good. The one across the street by the church has the sidewalk against the curb. Mayor Larsen explained the properties adjoining this property have the grass strip between the sidewalk and the curb going south.

**Council Member Mann** explained the need to make the entryway into Rexburg nice. Roger said he would be willing to put the whole thing in concrete. If he used blacktop with a concrete sidewalk, it would still look bad. Roger does not mind the improvement; however, he does not like losing the access to the property. The city would not allow any knock down curb on the north side or the front of the building.

**Council Member Erickson** noted Roger's willingness to install sidewalks on the west and north sides of the building. He requested the City Council allow Roger to install asphalt between the sidewalk and the curb and gutter. Engineer Keith Davidson explained the issue was the request to have a knock down curb for parking. Roger noted the west side of his building looks a lot better than some locations he has seen tonight. Mayor Larsen did not know how the city could allow knock down curb along his building even though it is the current configuration. A knock down curb would open the property up for a parking lot. The City Ordinance does not allow parking in the right-of-way. Roger explained the parking use has been in place for many years. Without the parking, the city is restricting the building's uses; therefore the city is affecting the value of the property. Mayor Larsen explained the right-of-way is the city's property. Roger pointed out the city is denying an existing use. Mayor Larsen said parking in the right-of-way has never been an allowable legal use. Council Member Erickson noted the sidewalk should have been installed when the building was built two or three years after the flood. Roger explained the city should do an inverse condemnation if the improvement to the property de-values the property.

**City Attorney Zollinger** explained the history of the building. They sought permission to use the building for storage. The BYU-I University said the building would be used exclusively for storage and work on automobiles. They would not need parking for any cars in the setback except for parking from the south. They came in eight to ten years ago and asking to use the building for stage sets and there would not be any need for student parking except for the parking lot. Both times they came to the city; they assured the city they would not need parking other than the parking lot that is located to the south of the building. This information was obtained from the minutes of city meetings. City Attorney Zollinger stated: "at one point we were leasing it and we had to commit to that." Roger explained since construction, the building has been used for a parts house, trucking firm and the Show Time Theatre. City Attorney Zollinger agreed and he said the Show Time Theatre requested to use the building to set construction and staging for the groups to leave on their tours. There would be no issues with parking because they never expected to have students spending time down at this building.

**Roger Pearson** explained when he took the building over; he talked with Public Works Director Millar about replacing the curb and gutter. He was told the city would replace the street when funding was available. Roger thought he would need to address these improvements when the street was replaced. Council Member Erickson reviewed the issue with Roger; requiring a high back curb that would restrict his parking in the city right-of-way for a parking lot. Roger explained he requested a knock down curb. Council Member Erickson noted it would be a tremendous improvement to the area if this lot had sidewalk on it.

**Mayor Larsen** asked Engineer Keith Davidson if he was concerned with the low back curb due to water issues or because it would allow parking in the city right-of-way. The site was reviewed on the overhead screen. It was noted that the low back curb on 4<sup>th</sup> South allows parking on the city right-of-way. Engineer Keith Davidson explained curb and gutter is not in the LID for the west side of the property. The LID is for the north side of the building. Council Member Erickson said there was not a problem on the west side of the building. He told Roger to put a sidewalk down both sides and a new high back curb and gutter on the front fifty six feet of the building. Mayor Larsen asked to have lines painted for parking. Roger agreed it would work for him.

**Lori Cardon** at 246 West 2<sup>nd</sup> North (item 32) is a new owner. She asked how many parcels on her block are on the LID. She noted one or two other new owners on her street that were not on the LID. She requested doing the LID by block, not by new owner. She explained the previous owner was allowed to repair the driveway with patch work. It did not fix the problem. She wanted to check out why that was allowed. She asked the City Council to do the LID by block in the future for her street. Council Member Stevens noted some new sidewalk at her location. She

explained the sidewalk was replaced after a leak in the water line was repaired. They are still working on paying for that LID. This LID is estimated at just under \$2,385. She felt like it should have been fixed the first time by the previous owner without doing the minimum patch work to get it through the system. Mayor Larsen explained the city does review the zoning; however the sidewalks are not reviewed before a purchase. She asked if it was a possibility to do the project by the block instead of just the three properties on this LID. The city does not have all new owners on this LID from 2002 to 2004 because the city is about two years behind the curve for addressing new owner properties.

**David Rock** at 174 Rosewood Drive (item 135) is also speaking for the Pyper family at 175 South 3<sup>rd</sup> East (item 50). Both properties have the same issues. He wants out of LID so the costs can be shared with the neighborhood on the street. He explained he is being assessed for thirty feet of curb and gutter. The first issue is does it need to be fixed. There would not be any water puddling as the water flows down the fairly steep hill. There is not a safety issue because no one parks on it, walks on it or drives on it. Cosmetically, it does look a little bit ugly. It is not ugly enough for \$900 of David's money to fix. The second issue is the curb and gutter is part of the street. If everyone on the street benefits for the curb and gutter, then everyone should help pay for its upkeep. He used the example of a power pole, stop sign or fire hydrant on his property that everyone has benefit. It is not just his rain water that flows down the hill. It is everybody's rain water. He felt everyone on the street should bear the cost of the forty feet of curb and gutter; not just his family.

**Council Member Erickson** reviewed the new sidewalk completed when the subdivision was completed. It is a shame the curb and gutter was not completed at the same time. Although \$900 is a lot of money, it is unfortunate the work needs to be completed in front of David's place. Council Member Erickson explained the work needs to be done. He will have to do the same thing in front of his place. David explained at a contractors rate of \$25 to \$30 per foot; he is not the only person benefiting. Council Member Erickson agreed in theory with what David was saying; however, he inherited the responsibility for the curb and gutter when he purchased the property. Everyone in the city inherits the same responsibility to maintain and pay for the curb, gutter and sidewalk in front of their place.

**City Attorney Zollinger** explained the curb and gutter is an integral part of the street infrastructure. Linear foot for linear foot, there has to be curb and gutter adjacent to the street to complete the street. The city has never taken another position than each person is responsible for that portion of the street directly in front of their property or that portion of the street that they directly derive their benefit. Mayor Larsen noted David would not be assessed for curb and gutter on another part of the street. David contested the word benefit. It would not benefit him to raise a few feet of sidewalk by an inch. David referred to the letter he received from the city explaining the levy to pay for the work. He did not believe he would receive any benefit from the work. Council Member Erickson explained that if the property was sold, the real estate agent would explain to the new buyer his responsibility to fix the problems. The buyer would ask David to fix the problem before the buyer purchases the property. It does enhance your property to have good curb and gutter.

**Council Member Erickson** said it is unfortunate the sidewalk has broken up in front of David's home and not in another location on the street. Engineer Keith Davidson explained the breakup is due to base failure. He suggested leaving the property on the LID and have the work completed.

**Council Member Mann** agreed with having the work completed on the LID. David Rock asked if there was any way the cost could be distributed to others on the street. Mayor Larsen said no.

**Jill Anderson** at 419 Morgan Drive (item 306) is in favor of the LID. She applauded those who are working on the issues. They plan to do more than requested on this LID. There are two additional sections they want to replace. Jill asked the City Council to be consistent with enforcement. The city has used asphalt for sidewalks in Porter Park, Smith Park and the sidewalk on North Hill Road. Residents were told tonight asphalt was not allowed for sidewalks. She asked

the city to maintain the grass strip they created on North Hill Road. The wavy asphalt has created an incredible eye sore in front of the Christensen home. She complained about the August deadline to complete the LID work when the Madison Memorial Hospital work on Morgan Drive and Reed Street will not be completed. She did not want utility cuts into a brand new road. She wanted to know the time line for the completion of the road. Engineer Keith Davidson explained the city has not put the road project out for bid at this time. He could not provide a road completion date. It is schedule to be completed this year.

**Jill Anderson** asked about a new water line. Public Works Director Millar explained there were conversations earlier to have a water line installed on Morgan Drive; however, the line would not serve anyone. The water line was moved inside Madison Memorial Hospital property to avoid blasting lava rock on that street. Mayor Larsen explained it is a valid concern. He asked Public Works Director Millar to have the two contractors (city and Madison Memorial Hospital) to coordinate the work to avoid road cuts.

Discussion on coordination with the Madison Memorial Hospital for improving Morgan Drive and Reed Street.

**Jill Anderson** asked if Morgan Drive and Reed Street projects were moved up due to the Madison Memorial Hospital project. She is replacing sidewalk, curb and gutter. Jill gave other examples of inconsistencies with areas selected for improvement. One of those areas was adjacent to Council Member Erickson's property. He agreed there was a section of his sidewalk that could be replaced. He wanted to go ahead and replace that section along with the portions noted on the LID.

**Engineer Keith Davidson** explained the criteria again because everyone has to pay for their own portion of the sidewalk, curb and gutter. If the break was more that 1 ½ inches, it would need to be replaced. If the work does not fall into that criteria, it becomes very subjective to quantify. The city has no problem with adding sections to the LID. Jill agreed with doing the work block by block. She does not want to incur any cost because of the Madison Memorial Hospital project. She is in favor of the LID, only after the Madison Memorial Hospital Construction work is completed. Council Member Erickson said the work on Morgan Drive and Reed Street may not be completed until next year. Public Work Director Millar explained the Madison Memorial Hospital has committed to do their curb and gutter on the city's schedule this year.

**Council Member Erickson** explained the rest of the residents on the LID can do their work by August 15<sup>th</sup> if the Madison Memorial Hospital can complete their portion of the work on the same deadline. He asked Public Works Director Millar to notify everyone of the date for the Madison Memorial Hospital's portion of the work. Jill asked for the standards and a contractor's list to complete the work.

**Engineer Keith Davidson** mentioned the standards (specifications) for the work are available at the Engineering Department. The contractor would bring in a curb machine to replace an entire section of curb. The city wants to inspect the base work before the concrete work is done.

**Calvin Carey** at 431 Morgan Drive (item 307) asked why he was selected to be on the LID. His letter is concerning a lack of understanding why his street was selected. Mayor Larsen explained the street was selected because of the reconstruction project for the street. It was an area of concern because of the Madison Memorial Hospital project. It was an ideal time to do the construction. Calvin asked if his work was required due to the Madison Memorial Hospital project. Mayor Larsen explained Calvin's work was initiated by the reconstruction of the street. Council Member Erickson stated the street project for Morgan Drive and Reed Street had been on the radar for 2 ½ years before the Madison Memorial Hospital project was announced. It was moved up when the Madison Memorial Hospital did their project. Calvin is in agreement with the LID and he will fix his property (driveway,) etc. It has caused him additional pressure and he did not understand why his property and why now.

**Trent Shaw** at 453 Reed Street (item 314) wants to do his project after the Madison Memorial Hospital's project is done. He asked why a section of curb and gutter has to be replaced where

there is brand new sidewalk. The staff will take a second look at this section. It may be sloping down from settling. Trent complained with the poor work from utility companies when they do street cuts over the years. He referred to the gas line trench settling on Reed Street. He thought the trench caused settling of the curb and gutter on Reed Street. They never get water in their curb and gutter because it all runs on the street. There is a two to three inch gap between the street and the curb and gutter. It bothered Trent because the utility trench has enlarged the drainage problems for curb and gutter on several properties on Reed Street and Morgan Drive. The utilities come in and have their way with city streets. He did not believe the city was inspecting their work. One example was a large rock left in the trench protruding out of the ground. Another issue is the city water line that has been repaired several times. The failure of the water line may have caused curb and gutter problems. He mentioned a broken sprinkler valve on his property due to city water line breaking. Is Trent responsible for the damage from the city water line? Trent stated at this point: He is responsible for the damage. He echoed what was said by Jill Anderson concerning the inconsistencies of tonight's discussions. They are discouraging. He did not want to have Cordinleys rip up their trees. He requested the work be done on a block by block basis. He asked if Edith Circle was included in the LID. There is work being done all around Edith Circle. He noted John's beautiful landscaping; however, he was not included in the middle of the LID. He referred to an example of a power pole in the middle of a sidewalk. Why is the property owner responsible for the location the power company installed their pole. He did not want to work on the project and then have problems in five years because of future road cuts and poor repairs by utility companies. Trent asked the city for some considerations in the costs for replacing his curb and gutter because of the damage caused by the utility company and the city water line. He mentioned the possibility of having the two inch galvanized water line replaced that feeds Reed Street by the city. Over the years it has caused problems. Will his work need to be redone when the water line is installed? He does not want to redo the work because of a future inspection. He wants to install something that will stand the test of time. Engineer Keith Davidson will make a second inspection and meet with Trent to go over the LID items.

**Mayor Larsen** read into the record the letters residents sent in concerning their LID.

**Sandra Angell** 566 Park St. (Item 123): She is protesting LID 35 because she is single and would not be able to pay for it. Plus, she does not understand why only some places in town are picked and not others.

**Tanya Johnson** 510 Taurus Drive (Item 138): She had various questions regarding LID 35. She would like her driveway to be reassessed, and if the results are the same, she would like to know why she has been singled out when her surrounding neighbor's properties seem to be in far worse shape than her own.

**Blake Loveland** 276 W. 3<sup>rd</sup> S. (Item 58): He is protesting LID 35, which regards his driveway. Though it has cracks larger than one inch, it is not unsafe. Also, considering the sidewalk in front of his property ends at his neighbor's yard, there is no value to improving the sidewalk.

**George Wilson** 364 S. 1<sup>st</sup> W. (Item 23): They want to be taken off LID 35 for three reasons: they feel the cracks in the sidewalk are not dangerous, cement will always crack within a short period of time, and they inspected other driveways within the city that contained significant cracks.

**Barbara Blaser** 75 E. 1<sup>st</sup> N. (Item 7): She opposes LID 35 and listed several concerns: Is the percentage of payment the city is responsible for a floating number? The LID contains no specifics and it is too general. She asked why she was not notified earlier.

**Heath and Tricia Edwards** 305 S. 3<sup>rd</sup> E. (Item 51): They agree their curbs need to be repaired, but their sidewalks are in decent shape. They wonder if they can repair the curbs through a contractor at a cheaper price, and repair the sidewalks later...which they feel can last another ten years.

**Anne Marie and Tim Laderman** 362 W. Main (Item 110): They wrote, "These repairs would be a burden financially to our family. And again why force us to make repairs to the sidewalk if it poses no danger to anyone just because we are new home owners. We are in objection to LID 35."

**Kay and Janet Cordingley** 444 E. 1<sup>st</sup> N. (Item 301) They object to LID 35 with the understanding that construction of a sidewalk would only take place upon the sale of their property. The construction of a sidewalk would also destroy a sprinkler system and numerous shrubs, bushes, and trees.

**Travis Allred** 37 S. 4<sup>th</sup> W. (Item 70): They are asking to be relieved of LID 35 because the former owner of their property, who sold them their property, agreed to put in a sidewalk but was soon incarcerated for robbery. If they had followed through with the agreement, the Allred's would be in compliance with LID 35.

**Terry Madsen** 535 Maple Dr. (Item 115): In protest to LID 35, he states this amount is more than his annual property taxes. He feels he should have the right to seek out a competitive bid or do the work himself.

**David Rock** 174 Rosewood Dr. (Item 135): He objects to LID 35 on gutter replacement for the following reasons: the flow of water is not impeded down the hill, there is no safety concern, and there is no significant cosmetic benefit.

**Heidi Pyper** 175 S. 3<sup>rd</sup> E. (Item 50): They are notifying the Council she will allow her neighbor's, David and Jennifer Rock, to speak in their behalf in the meeting on June 21, 2006 as they will be out of town.

**Michelle Carey** 431 Morgan Drive. (Item 307): They object for "lack of information on the purpose, timing, intended outcome, who all effected parties are and other details not described in the notice."

**Dr. Gary Lovell** 473 Morgan Drive. (Item 308): Lists his concerns regarding LID 35: his property has already had sidewalk and gutter repair, the proposed stretch of sidewalk would receive almost no use, installing a sidewalk would require removal of almost all the trees, etc.

**Michael and Cindi Farnworth** 248 and 250 S. 3<sup>rd</sup> W. Homestead Apts. (Item 61): They are filing a complaint concerning LID 35 because they feel this will place them in "financial desperation and despair."

**David and Lucybeth Stowell** 350 Yale Ave (Item 150): They will take care of any required improvements in LID 35 regarding the gutters, but they are concerned with the installation of a sidewalk. Along certain points on their joint properties, their neighbor's property is two to four feet higher than their property. Installing a sidewalk may result in a major erosion problem and the sidewalk would end in a mound of earth.

**Leon Christensen** 210 W. 4<sup>th</sup> S. (Item 66): He requests a "delay of action," or more time for improvements. He also believes the sum and payment was too high.

**Carolyn Lewis** 40 N. 4<sup>th</sup> E. (Item 303 & 310): She feels the notice of LID 35 was unclear and ambiguous. She is objecting based on the following grounds: her property has an easement, is still owned by the original owner, and the time and expense.

**John Zirker and Kendall Sommer** 415 E. 1<sup>st</sup> N. (Item 9), 435 E. 1<sup>st</sup> N. (Item 11): They feel there is no consistency in the proposal for LID 35 and though it was said to regard safety, it is really to accommodate the existing landscape. They do not oppose putting in sidewalks, but feel by putting the sidewalks where LID 35 asks, they lose the privacy of their property. They want to follow the precedent set by the high school and others.

**Wenette Hamilton** 360 W. 2<sup>nd</sup> S. (Item ?): She objects to LID 35 suggesting the assessment is too high and she just finished paying for the other sidewalk that lines the opposite border of her property. The expense is just too much.

**Mayor Larsen** suggested commenting on the letters at the 2<sup>nd</sup> reading.

**Mayor Larsen closed the public hearing.**

### **C. 8:15 P.M. Vacation of Property at Trejo Professional Park Division No. 1**

**City Attorney Zollinger** explained the Final Plat for Trejo Professional Park Division No. 2 has been approved. This property was taken out of a dead end road heading to the Melaleuca property in Division No. 1 and added to the Plat for Division No. 2. He explained the proposal is a formal request to vacate the road from city property in Division No. 1 to Division No. 2. The request was recommended by the Planning and Zoning Commission.

**Mayor Larsen** opened the Public Hearing.

**Those in favor of the proposal:** Developer per city staff

**Those neutral to the proposal:** None

**Those against the proposal:** None

**Mayor Larsen closed the public hearing.**

**Council Member Stevens** moved to vacate the section of road as recommended by Planning and Zoning; Council Member Erickson seconded the motion; all voted aye, none opposed.

**The motion carried.**

**New Business:**

**A. Approve Operational/Fireworks Stands Permit Applications**

**Council Member Erickson** moved to approve the Fireworks applications; Council Member Mann seconded the motion; Discussion: Mayor Larsen asked if they had all filled out applications. Council Member Young asked if they were the same as last year. City Clerk Blair Kay noted they had all applied for permits and the same number of applicants applied this year as last year. All voted aye, none opposed. **The motion carried.**

**A. Rexburg Tabernacle Civic Center** - Recommendations for changes in rental rates for financial year 2007 & Tabernacle Civic Center agenda – Martell Grover

**B. Fire Department** Training facility location – Spencer Larsen (Delayed to a future agenda)

**Report on Projects:** John Millar (Delayed to a future agenda)

A. Animal Shelter

B. Spray Park

**Public Works Director Millar** asked the City Council to approve a bid from Commercial Metal Works out of Shelley for the HVAC at \$34,816. Rexburg Plumbing bid \$51,300. The Engineering estimate was \$33,000. Council Member Erickson was concerned with the difference. The mechanical engineer recommended the lower bidder. Mayor Larsen asked if the City Council was ready to spend this kind of money on the building. Council Member Erickson indicated the city would recover part of the cost by added value to the building. City Attorney Zollinger said the Police building is out of air conditioning in part of their building. The Police Department has seven different furnaces to heat and cool their building. The Patrol Division is without air-conditioning at this time. They are working on a bid.

**Council Member Stevens** asked if the City Hall is comfortable until the meetings. Mayor Larsen suggested holding off until the spring of 2007. He asked Financial Officer Horner to provide the City Council with a Contingency sheet before they make a final decision.

**Public Works Director Millar** asked the City Council to approve the purchase of a piece of property at the old county landfill forty acre site for \$20,000 for application of bio-solids (sludge). It is an ideal site for that purpose. It will cost \$500 per acre. Council Member Schwendiman recalled a previous discussion of the proposal for some property.

**Council Member Schwendiman** moved approve the purchase of forty acres at \$500 per acre for the application of bio-solids; Council Member Young seconded the motion; all voted aye, none opposed. **The motion carried.**

**Mayor Larsen** excused himself for this discussion due to a conflict:

**City Attorney Zollinger** asked to use some of the reserve fund that has been set aside to maintain the Apple Tree Learning Center building in the Rexburg City Business Park for the life of the mortgage. The city provided \$30,500 for the reserve fund at its inception. The reserve fund has increased from rent monies to \$45,000. There has been some damage to the bowler from salt water from the water softener conditioner. The City Council would need to approve the Apple Tree Learning Center building for a new bowler at a cost near \$10,000. It was revolving loan fund money. (ECIPDA) East Central Idaho Planning and Development Company needs City Council approval to access the reserve fund to replace the bowler. The Revolving Loan is paid back when

the building is sold. The new system is enclosed without effect from the ambient system. Council Member Schwendiman asked about a recent repair/replacement of the HVAC to the building. City Attorney Zollinger explained there is a warranty period of one year. The new system is a completely enclosed system that will not harm the bowler again.

**Council President Benfield** asked for a motion.

**Council Member Mann** moved to spend up to \$10,000.00 to replace the bowler from the reserve fund. Council Member Schwendiman seconded the motion; all voted aye, none opposed.

**The motion carried.**

**Financial Officer Report:** Richard Horner (Delayed to a future agenda)

- A. Monthly Budget summaries
- B. Personnel Manual

**Calendared Bills and Tabled Items:**

- A. BILL Introductions:** – NONE
- B. First Reading:** Those items which are being introduced for first reading.
  - 1. **BILL 964** – for a city wide Local Improvement District (LID 35)

**Mayor Larsen** asked for consideration of BILL 964 (LID 35).

**Council Member Young** asked if all of the changes tonight would be included in this first reading. Mayor Larsen indicated all of the changes tonight would be made available by the third reading.

**Council Member Young** moved to consider BILL 964 for a city wide Local Improvement District (LID 35) as first read; Council Member Mann seconded the motion; Mayor Larsen called for a roll call vote.

**Those voting aye**

Donna Benfield  
Farrell Young  
Christopher Mann  
Rex Erickson  
Randy Schwendiman  
Bart Stevens

**Those voting nay**

None

**The motion carried.**

**C. Second Reading:** Those items which have been first read.

- 1. **BILL 961** – City of Rexburg Streets Development Impact Fee Report

**Attorney Gregory W. Moeller** at 25 North 2<sup>nd</sup> East representing the school district referred to letter from the school district superintendent. He mentioned the Idaho Constitution addresses the issue of taxation of government property in Article 4 Section 7; a school district property is exempt from taxation. This is officially labeled as a fee. There is a difference between a tax and a fee. But the impact is the same. The main difference is a fee is assessed one time. The issue is taxing of one government entity by another government entity.

The Supreme Court case McCulloch Verses Maryland in 1819 instituted that the Federal government could not be taxed by the State government. One lawyer observed “Taxation among governments constitutes a transfer providing no direct benefit and unnecessarily increases in cost.”

This is an issue of no direct benefit – double taxing – or a tax transfer issue. A majority of students are city residents. This is a fee exemption for a community. A study done by Urban Housing Development on how impact fees should be used recommended there should be an allowed jurisdiction to establish a system of fee exemptions consistent with community priorities.

**Attorney Gregory W. Moeller** mentioned minor errors that need to be corrected in the Street Impact Fee Plan. Section 2, application sub C on page 8, the Ordinance needs basis for claim and there is no basis for appeal. It also refers to Section 10, page 14. But this is a typo. There is nothing to do with appeals on this page. It needs to be directed to Section 11. The bottom of Section 10 needs to be changed to Section 11. It is very inadequate.

**Attorney Gregory W. Moeller** continued referring to a previous City Council meeting on June 7, 2006. In this meeting, the Plan author Mr. Hofman indicated the school district shouldn't be too concerned because bills in the legislature would be passed that will exempt school districts; however, the school district shouldn't take any solace or hope in Mr. Hofman's words. Attorney Gregory W. Moeller subbed for Senator Hill and sat the last two days in the Idaho Legislature. Three Bills failed and did not pass. The bottom line is the high school within the city is a huge benefit for the city. It increases property value of homes around it and nice homes add tax base for the City. The school district is a good neighbor to the city.

**Attorney Gregory W. Moeller** mentioned the fees discussed in the June 07, 2006 meeting. The costs lie between \$500,000 and \$2,000,000 for the school district to build a new high school and two elementary schools. He said, "It just doesn't make sense to have a government entity that should be working together taxing each other."

**Attorney Gregory W. Moeller** asked for the school's exemption. He also asked to correct the previous mentioned errors.

**Mayor Larsen** asked to talk about specifics. He asked for clarification on the \$200,000 verses \$2,000,000. The \$500,000 came from Var Snedaker's formula. Financial Officer Horner explained the cost for the high school and two elementary schools for Street Impact Fees were estimated at about \$200,000. He indicated 12<sup>th</sup> West (one of the streets) could be opted out of the Street Impact Fee Plan) and then treat the school district as a developer.

The City Council discussed the idea of opting out 12<sup>th</sup> West and using a Development Agreement for the development of 12<sup>th</sup> West. The school district will add increased traffic from the new high school and elementary school on 12<sup>th</sup> West. The Street Impact Fees are needed to fund road expansion of 12<sup>th</sup> West. The new high school will attract commercial development.

**Financial Officer Horner** preferred to sit down as partners with the school district to work on 12<sup>th</sup> West.

**Mayor Larsen** said it would be better to leave 12<sup>th</sup> West on the plan. Financial Officer Horner explained this plan is set up as one zone. 12<sup>th</sup> West improvements may cost up to \$5,000,000. If the school district's impact fee was \$500,000; it would be a bargain.

**Council Member Mann** wants impact fees from the school district to get county residents' participation. Philosophically, it is not efficient to charge one taxing entity by another taxing entity. If we don't get some impact fees from the school district, then basically city residents would be paying the whole bill. The school district will eventually turn this expense into a bond.

**Council Member Erickson** explained this is not a tax but a fee. They don't tax a new developer, but charge them a fee. Unlike an ongoing tax, this is a one time fee. community members are angry the school would consider being exempt when the school district is an entity with more impact on 12<sup>th</sup> West than anything else. How do you justify that? They should pay their share of impact they have on a certain entity. They should pay the same fees as everyone else. He does not agree to exempt the school district.

**Attorney Gregory W. Moeller** explained the difference of a fee and a tax once again and how the impact is no different and is the same for the school district. The new high school will be a great benefit to the tax structure of the city. He noted in the long term perspective there is more tax revenue for the city. It is a very positive benefit.

**Attorney Gregory W. Moeller** wanted to partner with the city and avoid a slippery-slope of one entity against another.

Council Member Stevens used a street light as an example as an additional cost with working with the school district. In the last meeting the Council did talk of limiting fees or bringing them down if the school district was willing to provide infrastructure for the stoplight.

**Attorney Gregory W. Moeller** Lawyer replied the school district would be willing to sit down and discuss it.

**Mayor Larsen** discussed how other developers are handled. When considering the partnership, he compared other developers who—based on the number of homes in a development and what the Park Impact Fee would be – would exchange that fee for a donation of the property which can then be turned into a city park. These are in-kind transfers for the impact fees.

**Attorney Gregory W. Moeller** responded the school district would negotiate those as terms of an exemption. He said philosophically a developer is different than a school district. It does not involve 1<sup>st</sup> Amendment issues. Under the 1<sup>st</sup> amendment they are exempted but this doesn't include impact fees.

**Council Member Schwendiman** wants county residents to participate in the formula. The county gets twice as much money as the city does. The only way to bring county residents into help with funding is to have them pay their share of the impact. If you break the city down, half of the population is BYU-I University students which leaves 6,000 people in county making 1/3 of school district in the county.

**Attorney Gregory W. Moeller** said he is not sure about demographics, but there seems to be growth in the county and the city. There may never be a majority in the county. These are issues bigger than the school district.

**Council Member Mann** noted the BYU-I University may have some issues with the impact fees. He was not sure what precedents this discussion would set for the BYU-I University.

**Attorney Gregory W. Moeller** argued legally the BYU-I University is very different from the school district. He quoted Attorney Richard Smith in the June 07<sup>th</sup> minutes as being agreeable to pay the impact fees. The last meeting discussion from Attorney Richard Smith mentioned there is no reason to confuse the two entities (BYU-I University and school district.) There similarity ends at education for legal issues.

**Council Member Stevens** expressed no problem limiting fees on the school district; however, he can't make a concession at this point without any knowledge of what the future infrastructure costs will be to develop 12<sup>th</sup> West. He was concerned with the city eating infrastructure costs.

**Council Member Benfield** mentioned the possibility of getting a Development Agreement. Attorney Gregory W. Moeller was not sure if there was enough information to do a Development Agreement given the upcoming Bond election; however, a Memorandum of Understanding by joint work meeting (one or two members each) with the School Board and the City Council would be possible to hammer out a Memorandum of Understanding before a final vote.

**Mayor Larsen** thinks impact fees may benefit the school district. He wants to hold a joint work meeting with the City Council and School Board before this comes up for a third reading. If the parties could set around the table, these issues could be discussed. The high school development on 12<sup>th</sup> West is like the Madison Memorial Hospital (a governmental agency). The Madison Memorial Hospital had to do a traffic study to show their impact on the traffic, etc. The same requirement will come before the school district. What is the traffic pattern? What are the number of cars? What if the city has to widen 12<sup>th</sup> West? Who will pay the \$5,000,000 fee to repair and widen that road? This (Street Impact Fees) gives the city a mechanism to make those

improvements. Mayor Larsen thought those discussions could be held in a joint meeting with the city and the School Board.

**Attorney Gregory W. Moeller** indicated he thought the superintendent would be quite enthusiastic with the proposal. Mayor Larsen thought it was critical to have the School Board meet with the City Council.

**Council Member Schwendiman** does not want to lose the 40% of resident support in the county. He had a hard time with excluding those residents by giving the school district a pass on the impact fees. He asked Attorney Gregory W. Moeller what difference it would mean if the school district paid the Street Impact Fees or they paid to make improvements to 12<sup>th</sup> West. The trade off of the impact fee verses making road improvements leaves 40% of the residents out of the formula. Attorney Gregory W. Moeller said he understands philosophically; however, it is beyond the city’s power or his power to solve that inequity.

**Attorney Gregory W. Moeller** was concerned with the other complication. If it is in the impact fees, it could affect the type and amount of bond the school district could pass. The bigger the bond the harder to pass. The bond election is scheduled for August 30, 2006.

**Council Member Stevens** asked for clarification in the amount of the fee. Is it \$200,000 or \$2,000,000. Financial Officer Horner noted the safest process for the city is to pass the Street Impact Fees without exemption; and then go into negotiations with the school district. Financial Officer Horner reviewed the fees is summary as the school trips on the road in the Plan Study is 1.3 trips per student or 15 trips per 1,000 square feet of building or 60 trips per acre. Mayor Larsen requested a meeting with the School Board when the number are available to discuss. Financial Officer Horner noted it was a lot cheaper that front footage fees.

**Mayor Larsen** asked City Council to consider BILL 961 for Street Impact Fees.

**Council Member Mann** moved consider **BILL 961 – City of Rexburg Streets Development Impact Fees** as second read; **Council Member Erickson** seconded the motion; Discussion: **Council Member Young** commented on calls he has received from three developers that did not want the Street Impact Fees to pass. **Council Member Stevens** explained the developer does not know what will be built on a piece of property. The fees are based on the square foot size of building. It would be indiscriminate to charge a developer for so many acres of development, etc. The builder and the home owner are paying the fees. Financial Officer Horner thought they did not want to prepay the fees. It really throws the whole formula out the window. Mayor Larsen called for a roll call vote.

**Those voting aye**

- Donna Benfield
- Farrell Young
- Christopher Mann
- Rex Erickson
- Randy Schwendiman
- Bart Stevens

**Those voting nay**

None

**The motion carried.**

**D. Third Reading:** Those items which have been second read. – NONE

**E. Tabled Items:** Those items which have been the subject of an affirmative vote to a motion to table: - NONE

**Old Business:** - NONE

**Mayor's Report:** - NONE

**Mayor Larsen** will send the City Council a schedule by E-mail.

**Adjournment**

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Shawn Larsen, Mayor

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Blair D. Kay, City Clerk