

City Council Meeting

January 23, 2008



CITY OF
REXBURG
America's Family Community

12 North Center
Rexburg, ID 83440

blairk@rexburg.org
www.rexburg.org

Phone: 208.359.3020 x313
Fax: 208.359.3022

January 23, 2008

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
Gary Leikness — Planning & Zoning Administrator
Blair Kay — City Clerk

**5:00 – 7:00 P.M. – Work meeting with Joint Planners
(Cooper, Roberts, Simonsen Associates 700 North 200 West, SLC, UT)**

Attending: Mayor Shawn Larsen, Randy Schwendiman, Christopher Mann, Bart Stevens, Adam Stout, Richard Woodland, Mary Haley, Randall Porter, Thaine Robinson, Dan Hanna, David Stein and Laura Hanson.

Laura Hanson of Cooper, Roberts, Simonsen Associates, explained the proposed future land use map that was handed out to the group. She wanted to make sure everyone understood the future land use map is different than the zoning map. She said heavy industrial areas are probably not appropriate for the city limits of Rexburg, but local production centers such as business office parks, non-retail commercial and employment centers would be something to consider.

Mayor Larsen clarified that if this proposed land use map goes through the public hearing process and is approved, it would replace the current land use map. He wanted to know what would be changed between the two maps because he doesn't want to run into a situation where a developed subdivision is changed to a park, etc. Laura Hanson said she will be here next week and will sit down with Planning and Zoning Administrator Gary Leikness to make sure these problems don't happen.

Council Member Stevens suggested leaving areas zoned the way they are now if the new land use map is adopted. This will still allow Planning and Zoning and the City Council to have some control over what is developed, etc.

Mayor Larsen said he feels very confident that the new comprehensive plan is looking very good. He feels all these issues that are being discussed can be worked out.

Council Member Stevens said he likes the idea of neighborhood centers for future developments. He does not think neighborhood centers in existing developments and subdivisions are a good idea however.

Laura Hanson said she will bring photos next time to give ideas of how this would look. She suggested allowing schools, churches, and parks in these neighborhood centers, but requiring Conditional Use Permits for any commercial use.

Council Member Stevens said it is important that the City Council has plenty of room for review. It would be disastrous if the commercial businesses had free reign on what to develop just because it is zoned appropriately on the land use map.

Mayor Larsen asked if visuals and pictures would be in the final document. Laura Hanson said pictures say 1000 words, so they will incorporate those in the final draft.

The group discussed the timeline of when the comprehensive plan needs to be complete.

Planning and Zoning Administrator Gary Leikness explained that if comprehensive plan changes are approved in the City Council meeting tonight, the land use map cannot be revisited and changed again for six months. This would be sometime in July.

Mayor Larsen said this is a good goal. July should be the target to have everything adopted.

Laura Hanson said they are very close to the end of their budget. The goal is to get the preferred land use map, the comprehensive plan and the development code that goes along with the comprehensive plan ready to adopt.

The next meeting will be February 20, 2008 from 5:00 P.M. to 7:00 P.M. They will go through goals and objectives at this meeting.

They will have another meeting on March 19, 2008 from 5:00 P.M. to 7:00 P.M. and it will be a City Council agenda item that night.

7:00 P.M. – Pledge to the Flag

Roll Call of Council Members: All Council Members except Council Member Erickson were present.

Mayor Larsen welcomed the scouts to the meeting. They introduced themselves and told what merit badge they were working to achieve.

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 January 09, 2008 meeting.
- B. Approve the City of Rexburg Bills.

Council Member Woodland asked about a bill to buy a piccolo. Mayor Larsen explained this came through the Arts Council who has their own budget and fundraisers for items like this.

Council Member Stout asked about a bill to Depatco for \$73,000. Mayor Larsen explained the Council Member over this area reviewed the bill before it was paid. (Partial payment on the **Gravity belt thickener project** costing approximately \$1,000,000 – Waste Water Treatment Plant improvement)

Council Member Mann moved to approve the consent calendar. Council Member Stevens seconded the motion. All voted aye, none opposed. **The motion carried.**

Public Comment: on issues not scheduled on the agenda (limit 3 minutes) – None

Presentations:

Committee Liaison Assignments for 2007:

- A. Council Member Chris Mann *Museum Committee · Beautification Committee · Emergency Services Board*
- B. Council Member Rex Erickson *Golf Board · Planning & Zoning · Rexburg Redevelopment Agency*
- C. Council Member Bart Stevens *Airport Board · Romance Theatre Committee · MYAB · School Board*
- D. Council Member Randy Schwendiman *Parks & Recreation · Traffic & Safety Committee*
- E. Council Member Richard Woodland *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*
- F. Council Member Adam Stout *Legacy Flight Museum · Trails of Madison County*

Public Hearings:

- A. **7:20 P.M. amending the current Comprehensive Plan Map - (Preferred Land Use) Map**

On December 06, 2007 the Planning and Zoning Commission recommended to City Council a land use designation change on the following proposals:

(Area 1) Planning and Zoning Administrator Gary Leikness explained Area 1 is on the far west side of the city. It includes two parcels, one on the South side of Hwy 33 and one on the North side.

Planning and Zoning Commission recommended approval of the property south of Highway 33 from Low-Moderate Residential to Commercial and to deny the change on the north side of Highway 33 by a split vote of seven to three.

Shauna Ringel representing Ringel Family Farms reviewed the proposal to change the land use designation for about 26 acres. The property is across the street from Valley Wide Co-op. Two-thirds of the property to the east is in the land use designation for commercial and one-third of the property to the west is in low-moderate residential. They are asking to change entire parcel be turned to commercial. The family wants to develop the entire property into commercial.

Those in favor of the proposal:

Shauna Ringel said she is in favor of this proposal.

Those neutral to the proposal: - None

Those opposed to the proposal: - None

Council Member Mann clarified the different land use designation of commercial compared to the zoning of RR1. He said a lot of commercial developments are going in out in this area.

Council Member Stevens said this is true, but Hwy 33 is a good commercial area.

Council Member Stevens moved to approve the request from Low-Moderate Residential to Commercial. Council Member Woodland seconded the motion. Discussion: Council Member Stout asked what the land use designation was to the east; it is commercial. Council Member Stevens clarified his motion was to uphold the recommendation of the Planning and Zoning Commission and to approve the change for the property south of Highway 33 from Low-Moderate Residential to Commercial, and to deny the change on the north side of Highway 33. Council Member Woodland concurred. All voted aye, none opposed. **The motion carried.**

(Area 2) Planning and Zoning Commission recommended denying the land use change by a unanimous decision. **(Withdrawn by applicant)**

(Area 3) Planning and Zoning Administrator Gary Leikness explained this request is for the old Craigos building by Hogi Yogi. The request is to rezone this property from moderate to high residential to commercial. The anticipated use for this building is different than a restaurant. The Planning and Zoning Commission recommended approval of the change from Moderate-High Residential Density to Commercial.

Those in favor of the proposal: - None

Those neutral to the proposal: - None

Those opposed to the proposal: - None

Mayor Larsen closed the public hearing.

Council Member Stout said this property would be best served as a commercial area. He recommended the request.

Council Member Stevens asked for information from the developer. They would like to use the building for commercial use instead of a restaurant. Parking would require three parking stalls per 1,000 feet. Planning and Zoning Administrator Leikness explained the applicant is out of town, but they have been very involved in the whole process. He explained this property has been grandfathered in as a restaurant, and the applicant would like to make it a satellite dish location.

Council Member Schwendiman moved to approve the recommendation from moderate to high density residential to commercial. Council Member Stout seconded the motion. Discussion: Council Member Mann had concerns with the parking. Mayor Larsen

said the use of the building would dictate the required parking stalls. All voted aye, none opposed. **The motion carried.**

(Area 4) Planning and Zoning Administrator Gary Leikness explained the request is for the block at West 2nd South by Porter Park. They are asking for the property to be rezoned for Commercial/Moderate-High Residential Density to Mixed Use. The property totals about eleven acres. It currently has a Commercial/Moderate-High Residential Density land use designation. The Planning and Zoning Commission recommended approval of the change from Commercial/Moderate-High Residential Density to Mixed Use.

Lane Hemming explained this property has been discussed for a number of uses. This development has great personal meaning to him and his family who are natives of Rexburg.

Val Hemming explained this project has been in the works for the past six years. They are trying to preserve some historic buildings in Rexburg. They are planning to incorporate commercial developments with residential areas. Val Hemming said he feels this kind of development would really compliment Rexburg.

The proposal was reviewed on the overhead screen for the land designation change to Mixed Use.

Val Hemming spent his life trying to solve problems in young children. Drugs he developed for children are marketed internationally. The royalties he gets for these drugs allow them to pursue this project. They presented a plan to revitalize the block they grew up on just east of Porter Park. They want to improve the downtown area of Rexburg where people can live, shop and recreate. It is adjacent to downtown and the university. His heritage from Ricks' and Grover's has been in Rexburg since 1883.

Mayor Larsen reminded the applicants the request is a land use designation change instead of a site plan review. They plan building in-town living with a mixed use flavor. They want to build a lodge (30 to 50 rooms with two stories) next to a conference center with an upscale restaurant. They want to build a development to bridge the university and the commercial area. They are planning to include a parking garage behind commercial buildings on 2nd South. They plan a low energy pedestrian friendly development with a friendly three-acre park.

Lane Hemming said the family has spent four years to develop this plan. He thinks it will do more for downtown Rexburg than other development in the last 25 years. They are trying to present a plan to encourage the development inside Rexburg to avoid urban sprawl. It will bring the core of Rexburg back to its center.

Those in favor of the proposal:

Lane Hemming asked the City Council to approve this proposal.

Val Hemming is in favor of the proposal.

David Pincock has been a business man in Rexburg for the past 24 years. He thanked the City Council and Mayor Larsen for their dedicated service. He encouraged approval of this proposal. He explained the purpose of the Hemming's has always been what is best for Rexburg. Their goal is to preserve Rexburg. He said this project would allow for additional

proper growth. They have planned a project to add value and keep businesses in the community. The development is much more appealing than traditional student housing.

Donna Benfield 201 Millhollow Road is the Executive Director of the Rexburg Chamber of Commerce. She read the vision and mission statements for the Rexburg Chamber of Commerce. It is in the best interest of the Chamber of Commerce to synergize commercial development. They believe this development will bring in new commercial development and keep customers in Rexburg for shopping. This is the downtown area of the city adjacent to the new roundabout on 2nd West. Rexburg is the fortunate recipient of a past resident who wants to improve the downtown area of Rexburg. The Chamber of Commerce is in favor of this development.

Clair Boyle 1340 Meadow View Drive is the Executive Director of Madison Economic Partners. He is in favor of the proposal. He feels this is a great project for the community. He also feels that this kind of development would stop the leakage of customers leaving Rexburg to shop in Idaho Falls and other areas.

Jon Weber a business owner and resident for 17 years in Rexburg, is excited to see a development to revitalize downtown Rexburg. He referred to a recent downtown study conducted by Tom Hudson to revitalize downtown Rexburg. He is in favor of the development.

Richard Smith speaking as a developer in Rexburg, said he would like to see this proposal approved. He pointed out the presentation is consistent with the new planning that has gone on with planning group in developing a new comprehensive plan. This project fulfills a great need in Rexburg. There is a need for lodging, restaurants and housing close to the university.

Those neutral to the proposal: - None

Those opposed to the proposal:

Paul Pugmire 4792 Furmont in South Jordan, Utah, is a representative for Hawks Holdings. He asked the City Council to give more time for development in the community. He spoke of the possible sale of the Junior High property in the future as the new high school is built. Hawks Holdings is interested in acquiring the Junior Property to develop a similar project. They would like the process to slow to allow time for additional discussion and comment. He complimented the Hemming's for their proposal; however Mr. Pugmire asked if the City wants the center of business gravity in Rexburg by Porter Park or on Main Street. He referred to past efforts to study and propose changes to the downtown area pointing to Main Street as the core of the downtown revitalization effort. He submitted this decision should be the decision of the community instead of a single developer. Where does the community want this development to go; Main Street or Porter Park? What is decided tonight will lead the downtown development for the next fifty years.

Jeff Hawks 18365 Old Coach Road in Poway, California is a developer. They have an interest in developing in Rexburg. They have a mixed use community developed in Ammon, Idaho. It is a mixed used development with a variety of development. They are interested in developing the Junior High property if and when the School District makes the property available. The decision tonight is whether the City Council wants to abandon past efforts to improve the downtown area. Anything in a downtown district is easily financed. He

recommended focus groups in community meetings to make this long term decision. There is not room for two of these developments in Rexburg.

Rebuttal:

Lane Hemming spoke to some issues which he felt were misrepresented. He said that because of his involvement with Madison School District, he knows of at least five developers who are interested in acquiring the Junior High property. The School District is at least two and one half years away from making a decision on the Junior High property, and that is if a bond gets passed in the next six months. He explained they are not developing Porter Park it is a block east of Porter Park. They have different goals and direction than other developers. The hope for this development is that it will pay for itself. They are not planning on becoming wealthy from this proposal.

Mayor Larsen closed the public hearing.

Council Member Stout disclosed he had been approach by a developer who was opposed to this development before this public hearing.

Council Member Mann said he was impressed that John Weber gave his vote of approval because his business is right on Main Street. He also said he feels there is a first come, first serve mentality that needs to be followed in this case. It would not be fair to stop one for sure development for one that might be sometime in the future.

Council Member Stout said he could see the benefit form either development. He did not think this development would injure the downtown area.

Council Member Schwendiman did not want to postpone the proposal. He feels the Hemming proposal is very good. He also said it was recommended by the Planning and Zoning Commission.

Council Member Woodland said this proposal is a bird in hand and other one is a possible maybe.

Mayor Larsen said this has been a good process. He appreciated the testimony for and against this proposal.

Council Member Stout moved to approve the request to rezone from Commercial/Moderate-High Residential Density to Mixed Use. Council Member Schwendiman seconded the motion. All voted aye, none opposed. **The motion carried.**

New Business:

A. 9:00 P.M. - Main Street Traffic Flow – Traffic Safety Committee

Mayor Larsen started the discussion explaining he had visited door to door with business owners on Main Street about reverse diagonal parking and other changes on Main Street.

Public Works Director Millar reviewed the downtown Main Street plan with a handout showing a Main Street plan to address a traffic signal at Main Street, and Center and Main

Street and 1st East. These two signals don't have camera operated signals. The new plan would retain most of the diagonal parking however, reverse diagonal parking would be a safer parking method to reduce accidents on Main Street. The plan would also require sidewalks to be pushed back so left hand turn lanes could be put in.

The Traffic and Safety Committee supported the plan with a unanimous vote. From the Traffic and Safety Minutes on January 22, 2007:

“Lyle Wakefield moved to accept the proposal for reverse diagonal parking with the condition that adequate signage be put up along with practice stalls in front of City Hall. Trudy Porter seconded the motion. All voted aye, none opposed. **The motion carried.**”

Idaho Transportation Department (ITD) will provide all of the signal equipment for the two signals this summer if the city would do the associated installation including concrete bases, etc.

Public Works Director John Millar explained Salt Lake City and other cities are expanding reverse diagonal parking. It may be hard to park with snow covered parking stalls. There were concerns with stopping in traffic to back into a parking stall. Mayor Larsen referred to a recent study showing fewer accidents with reverse diagonal parking.

Council Member Schwendiman would like to look at other alternatives. Mayor Larsen did visit with about 50 business owners with 80% of them favorable to having left hand lane turns.

Mayor Larsen said the downtown blue print encourages pedestrian friendly streets. The goal is to increase safety on Main Street.

Council Member Schwendiman is concerned with the reverse diagonal parking proposal.

Bill Moss, owner of The Mans Image on Main Street, expressed concerns with reverse diagonal parking. He was concerned with customers avoiding downtown stores because of reverse diagonal parking. Business is fragile in Rexburg which may lead to empty store fronts. He did not think new businesses would open up with reverse diagonal parking. He asked for a 20 MPH speed limit on the downtown street. He thinks most store owners on Main Street would prefer the parking as it is currently configured.

David Pincock, a business owner in town asked for accident studies on Main Street in recent years. Public Works Director Millar said there are records available with intensive research. He did one year study which took two days to retrieve

Mike Bingham, owner of Bingham & Sons, said 2nd East has turn lanes and there are more accidents on 2nd East than on Main Street.

Melissa Bingham, owner of Bingham & Sons, wants slower traffic so the customer can view the store fronts. Her customers like to drive and park close to the store. She wanted to have a welcoming store front with parking.

Council Member Mann said Brad Smith did not want to lose parking however, he would support the greater good for the community.

Council Member Schwendiman and Council Member Woodland are concerned with bulb-out areas in the middle of the street affecting the snow removal process. Council Member Stout asked for planners to help identify bulb-outs during snow removal.

Planning Administrator Gary Leikness reviewed the positive aspects of reverse diagonal parking and walking to down town businesses.

Council Member Stout recommended a designated left hand turn lane for increased pedestrian safety.

Council Member Schwendiman asked for a speed study on Main Street.

The City Council would like to see the incremental costs for the project before moving forward.

B. 8:30 P.M. - Discuss Ordinance 911 concerning “Towing and Booting”

Mayor Larsen explained that this was not up for public hearing. This is simply a presentation that was requested to be put on the agenda by Dennis Summers and the Student Representative Council from BYU-Idaho.

Dennis Summers explained he is presenting a huge concern in the community about the “unfair towing and booting” that is going on. Ordinance 911 was passed in 2005. He realized there was a problem when one of his family members was unfairly towed. It made him ask the questions: “Why don’t people know or understand the law?” “Why don’t students warn others, especially their friends of how severe this law is?” “What is the Law?” “How do they learn the law?” “How is the law enforced, and who enforces the law?” “Who does this law affect?” and finally “Does the system seem fair?” Mr. Summers said the more he looked into this and the more questions he asked, the more unfair testimonies he heard. He explained that he began to call and visit BYU-Idaho administrators, Rexburg city offices and officials, the police department, the sheriff’s office, apartment managers and owners, the towing companies, students and local community members. He gave each Council Member a binder with information compiled over the last several months about this issue.

Mr. Summers explained that he visited with Council Member Erickson about the issue. Council Member Erickson explained to him that the goal of the ordinance was to enact the law with tolerance for short-term visitors. They wanted a 15 minute window where young men could drop off their dates, or for those visiting for compassionate service purposes. Council Member Erickson further explained that a method of education would be provided with signs that should be clearly seen and complaints would come from someone other than the towing companies. Any car towed would be with the consent of the manager and the owner of the apartment along with a written explanation of why the car was towed and by whom. Mr. Summers said that Council Member Erickson’s explanation seemed very reasonable. Mr. Summers said after this, he got a copy of Ordinance 911 and saw that all of the points from Council Member Erickson were in the Ordinance. This made him believe that many of the towing that are going on in Rexburg are being done illegally. Mr. Summers explained that he then visited with City Attorney Stephen Zollinger who explained to him that the ideas in the original ordinance were amended with the 9A exemption. The 9A exemption called for a 12 inch sign to be put at the entrance and exit of each parking lot

which in turn annulled the other points of the ordinance. Exemption 9A also allowed for apartment managers and owners to contract with tow companies and allows the tow companies to be their own police, and decide who gets towed and who doesn't. Exemption 9A was done at the very end of the ordinance and so many people are unaware of it.

Mr. Summers said they received about 350 testimonials and gave the City Council about 60 of these testimonials to review. Mr. Summers also explained that he met with the different tow companies including All American Towing and Barney Towing. He got a letter from DJ Barney, the owner of Barney Towing who said he is in favor of revisiting Ordinance 911. Mr. Summers explained that they are in agreement that towing is always a necessary part of managing the parking in Rexburg they are just concerned about the naïve students, the visiting parents, visitors that are here over the Thanksgiving weekend, etc.

Mr. Summers said they made some calls to the State and the State Attorney General. They said they were concerned about this issue and they were going to get in contact with Mayor Larsen. Mayor Larsen has not heard from them yet.

The Sheriff's Office reported that in the first two weeks of November, a total of 63 cars were towed from different apartment complexes.

Mr. Summers said the only warning that they were able to find was on the BYU-Idaho website under commonly asked questions. No apartment complex websites, etc. give any kind of warning that this is the law if you bring a car to Rexburg.

A situation was explained where a tenant at Birch Plaza was unloading her groceries and in the process a tow truck came to take her vehicle because she wasn't in a parking stall. The Village Apartments have assigned parking for \$10.00 per month. Students help police the parking due to assigned parking, and they rarely have problems with unfair towing and booting situations.

Mr. Summers offered a solution to the problem and proposed that the city go back to the original 911 Ordinance and eliminate the 9A exemption. They feel it is only fair that those who are towed have a written explanation of why their vehicle was towed. This will also require manager involvement.

Stephanie Barclay the student body vice president at BYU-Idaho explained the student representative council acts as conduits between university administration, city officials and students. She explained they have received numerous complaints about the towing and booting ordinance, and they are convinced this is a legitimate issue. She urged the City Council to amend Ordinance 911. She spoke as a concerned student. Exemption 9A does not require managers to provide fair treatment. She said in section 7 of Ordinance 911, it states that they need to provide competent evidence that all business operations have been conducted in a fair, equitable, and lawful manner. She provided a few examples of when this ordinance was not conducted in a fair, equitable and lawful manner. **Example one:** Ms. Barclay explained that when she and her husband were dating, they were unloading groceries, and in the middle of this, their car (which was still idling) was in the air hooked to a tow truck. **Example two:** A student bought a new car over the Christmas break. When they brought it back up to school, the manger's office was still closed so they were unable to get a new sticker. The car was towed the next morning. Neither towing company nor the managers would help this student. **Example three:** One student reported that they had a

sticker for and the right to park in the parking lot, but the sticker was covered by snow, and the car was towed.

Ms. Barclay said the motive behind this practice is money making, and it does not treat students or citizens fairly or equitably. She again urged the City Council to consider revising Ordinance 911.

Mayor Larsen asked if any education is done by the student representative council to inform new students of Rexburg's booting and towing law and the no parking on the streets from November 1 to March 1 each year. Ms. Barclay said that is not something that is currently being done, but it may be something to implement at the new student orientation.

Council Member Woodland asked if the university sends out a packet to students that are accepted to BYU-Idaho. A packet is sent out, and many students are aware of the ordinance. The three examples that she gave were all students who were aware of the ordinance, but the law has been taken to such an extreme that it's not logical anymore.

Council Member Schwendiman asked if it is one company that is causing the problems, or all of them. Anna Tew said in talking to the police department along with many students, All American Towing has the most reports of unfair conduct, high prices and unfair towing in general. It was mentioned that students are very difficult to work with, so many towing companies won't deal with them. All American Towing is one of the few companies that will tow students.

Anna Tew at 438 W. Main Street collected 450 signatures in less than 2 ½ hours to repeal the 9A exemption. She said manager involvement would be a huge step in the right direction and may even alleviate many problems. She has personally had a vehicle towed twice. She also explained that in Rexburg most students make about \$6 per hour. Having to pay \$110 for a towed car is excessive. Ordinance 911 is not helping the parking problem it is making the problem worse. Something needs to be done to help this problem.

Council Member Schwendiman asked the apartment managers that were present, how many of their parking stalls are filled with snow. They said no parking stalls are being filled with snow in their complexes.

Mayor Larsen gave some background on Ordinance 911. The intent of the ordinance was to protect all parties who have a stake in the parking issues. Apartment owners, towing companies and students were all kept in mind as this ordinance was passed. Mayor Larsen said one of the provisions in the ordinance was that apartment complexes notify students in their contract whether or not they had a parking stall. He explained that a number of years ago the law required .4 parking stalls per bed; later it was changed to require .7 parking stalls per bed. Now apartment complexes are required to have 1 parking stall for each bed in the complex.

Many complexes were grandfathered in with the .4 to 1 ratio, and therefore, apartments are required to let students know if they will have parking at the complex. When students sign a contract, they should know if there is a parking stall included in the contract. Exemption 9A was not included in original draft. Many apartment owners came to the city when the original Ordinance 911 was passed and explained that it would create a lot of hardship on managers to have to sign off on towing or booting a car at 2:00 A.M. Ordinance 911 was

passed to help solve the problem. Mayor Larsen said if the ordinance is not solving the problem as it was intended to do, it is the responsibility of the City Council to revisit this issue. Mayor Larsen asked students if they are informed when signing an apartment contract, if they will have a parking stall or not. Many students said this is not disclosed to them.

Richard Smith representing BYU-I provided a little history on this very divisive subject. Exemption 9A was added with the understanding of the City Council that they would monitor the towing companies to make sure they were in compliance. If the exemption failed, the ordinance would then go back to the original 911 ordinance without the 9A exemption. The problem continued, and that is when Ordinance 975 was passed requiring apartment complexes to disclose if the student would have a parking stall or not. Mr. Smith said that is the history of Ordinance 911 as he recalls.

Council Member Stout asked why the online petitions don't show name and address. For online privacy issues it gives those that sign the petition online the option to block their names and physical addresses.

Mayor Larsen explained that no decision would be made on Ordinance 911 tonight, as it is not up for an amendment or for a public hearing. If the City Council decides to revisit this ordinance, a future public hearing may be held where public testimony would officially be taken. The discussion tonight is to give the City Council information on what is going on and for them to have some background on the issue.

Council Member Stevens asked how this evolved to be a city ordinance because the city does not generally regulate private property. Richard Smith explained it started when students were complaining about the ordinance that prohibits overnight parking on the street from November 1 to March 1. The police department was constantly being pulled into parking issues, many on private property, and the city was often blamed for any towing or booting that was going on. Richard Smith explained the University supports the banning of on street parking in the winter months.

DJ Barney 440 West 1st North is the owner of Barney Towing and Recovery. He said he has been on all sides of the towing problems. He gave the City Council a copy of State Statue Title 49 Chapter 18. He explained vehicles are towed under the abandoned vehicle law. He also explained the Towing Association has become weak over the past few years. In the mid 90's his company started towing. Back then the process involved property owners who had a complaint about a vehicle on their property would call the police department, the police would respond and if necessary a tow company would be called using a towing rotation list.

He visited apartment owners and promoted the plan to bypass the police in towing and booting matters. The plan would involve calling the towing companies directly to get a car towed. It went rather well in the beginning. A second company started the service. DJ Barney explained the flow chart required by State Statue to be followed in towing a car. He said he is for property owner's rights, but these rights need to be exercised responsibly.

Mayor Larsen asked DJ Barney if he was on the original committee dealing with Ordinance 911 and how he felt about the ordinance. DJ explained the original 911 ordinance was agreeable to him and the committee. He was concerned about the 9A exemption because someone other than the towing company should make the decision to tow. DJ explained

unfortunately when Ordinance 911 was passed he was in Iraq. The ordinance was passed with exemption 9A without his knowledge.

DJ Barney said the decision maker on who gets towed should not have any kind of monetary interest in towing the vehicle.

Jeanne Deveraux the Director of Rexburg Housing who manages about a quarter of all the student beds in Rexburg, said she was not given the opportunity to speak to either group that made a presentation tonight. She said Rexburg Housing will be submitting a letter for the City Council. They take great pride in their signage and they have excess visitor parking. She explained towing cars of tenants does not protect her business. They are responsible for protecting their tenants. She said it is ridiculous to ask apartment managers who have a lot on their plate many are mothers, to get out of bed at 2:00 A.M. to make a decision whether or not to tow a car.

Mayor Larsen asked the City Council if they wanted to readdress Ordinance 911. Mayor Larsen said Ordinance 911 was put in place to solve a problem. He thought there was room for improvement.

Council Member Woodland, Council Member Schwendiman and Council Member Stout agreed to revisit the ordinance. Council Member Stevens would like more time for discovery. The other Council Members agreed a few weeks to research the issue would be helpful in deciding whether or not to revisit the ordinance.

Mayor Larsen explained the ordinance process requires a three reading process. He said there is enough interest that a public hearing would most likely be held.

Heather Johnson, the president of off campus housing, suggested a meeting with apartment owners addressing the issue.

A male student who lives in Shelbourne Apartments, showed up for school on Tuesday, classes started Wednesday. He signed the contract only to then be told he had no parking spot at his complex. He had never seen the contract before Tuesday when he and his friends showed up for school. He explained that he then went around to other apartment complexes trying to buy a parking stall and nobody will sell him one because he is not a tenant. He explained it is illegal for him to park his car within a mile of his apartment complex. He said there was no early warning that parking would not be available.

Virginia Pratt an apartment owner in Rexburg, said apartment owners and managers are taking responsibility.

Mayor Larsen explained countless hours were spent trying to find a solution to this problem. He submitted to the council that the solution they came up with is not working. He asked the council to look into the issue and be ready to make a decision on whether or not to revisit the ordinance at the next city council meeting.

Sandy Barney with Barney Towing mentioned curfew for BYU-Idaho. She suggested managers decide who gets towed up until curfew and the towing companies can make the decision after curfew. After curfew nobody should really be in a parking spot they shouldn't be in.

Mayor Larsen expressed his appreciation for everyone’s concern with this issue and explained the City Council would make a decision on revisiting the ordinance in two weeks at the next city council meeting.

C. 9:30 P.M. - Update on Swimming Pool meeting

Chris Moore Chairman Parks and Recreation Committee, reviewed the recent meeting on January 10th, for a city swimming pool. The committee received a lot of good comments on the wants of the citizens. The comments were across the board. They were happy with the city moving forward on the swimming pool design. The written comments will be reviewed to come up with a design to present to City Council. Council Member Schwendiman asked for a “cost of operation.” The costs for operation will be based on the design of the facility. Council Member Mann asked how much city money was used to support the old swimming pool at Porter Park. Mayor Larsen said the goal is to have the facility pay its own way.

It needs to be a sustainable design. Chris Moore said there are people (organizations) working on plans to partner with the city to help pay for the facility including soccer and ball fields.

D. Resolution 2008 – 02 Amend Street “Cross Section” for RR2 – John Millar

Council Member Stevens reviewed the resolution requiring ribbon curbing abutting the pavement on the RR2 Zone. The edges of the asphalt are at risk without the ribbon curbing. Harvest Heights and Millhollow Road has used this curbing.

Mayor Larsen said it would be added to the development code in the future when it is amended, but this resolution will serve until then.

RESOLUTION NO. 2008 - 02

A RESOLUTION AUTHORIZING THE AMENDMENT OF THE STREET CROSS SECTION FOR RURAL RESIDENTIAL TWO (RR2) ZONE IN THE CITY OF REXBURG.

WHEREAS, the City of Rexburg has adopted street and right-of-way cross section standards; and

WHEREAS, typical street cross sections of proposed streets show widths of roadways, curbs, location and widths of sidewalks and the location and size of utility mains; and

WHEREAS, concrete edge curbing is required to maintain the edge of street pavement avoiding premature street damage; and

WHEREAS, right-of-way cross section design standards have been created to provide safe and secure streets requiring minimal maintenance; and

WHEREAS, Rural Residential Two (RR2) Zoning does not require adequate street curbing,

NOW THEREFORE, be it resolved by the Mayor and City Council of the City of

Rexburg, that the City of Rexburg hereby amends the street cross section for Rural Residential Two (RR2) Zone by the addition of ribbon curbing to the street cross section shown as "Exhibit A" attached, for the Rural Residential Two (RR2) Zone.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 23rd DAY OF January, 2008.

DATED this 23rd day of January, 2008

CITY OF REXBURG
Madison County, Idaho

ATTEST:

By _____
Shawn Larsen
Mayor

Blair D. Kay
City Clerk

Council Member Stevens moved to approve Resolution 2008 – 02. Council Member Schwendiman seconded the motion. All voted aye, none opposed. **The motion carried.**

E. Resolution 2008 – 03 LID 38

Finance Officer Richard Horner explained LID 38 involves the alley parking lot project. Insert Resolution.

RESOLUTION NO. 2008-03

A RESOLUTION OF THE CITY OF REXBURG, IDAHO, FIXING THE TIME AND PLACE OF HEARING ON THE LOCAL IMPROVEMENT DISTRICT NO. 38 ASSESSMENT ROLL; PROVIDING FOR PUBLICATION AND MAILING OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Local Improvement District Number 38 ("L.I.D. No. 38") of the City of Rexburg (the "City") was created by Ordinance No. 988 adopted by the City Council (the "Council") on July 3, 2007; and

WHEREAS, in accordance with Ordinance No. 988, the improvements within L.I.D. No. 38 have been completed, and the City Engineer, as engineer for L.I.D. No. 38, has submitted a report showing in detail the total cost and expenses of the improvements, the dollar amount thereof payable from assessments, and a form of assessment roll showing the amount chargeable to each lot or parcel of property subject to assessment within L.I.D. No. 38.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO, as follows:

Section 1: *The form of assessment roll for L.I.D. No. 38 prepared by the City*

Engineer shall be filed in the office of the City Clerk, where it shall be available for public inspection during normal business hours.

*Section 2: **Wednesday, the 20th day of February, 2008, at the hour of 8:00 pm,** at the regular meeting place of the Council, City Hall, 12 N Center, Rexburg, Idaho, is hereby fixed as the date, time, and place when and where the Council will meet in open session for the purpose of considering the City Engineer's report on the assessment roll and hearing any objections to the assessment roll by the owners of property within L.I.D. No. 38.*

Section 3: The City Clerk shall give notice of the hearing specified in Section 2 above by publication of notice in the official newspaper of the City, once a week for two successive weeks, the first such publication being at least fifteen (15) days before the date fixed for hearing objections to the assessment roll. The City Clerk shall also, not less than fifteen (15) days before the date fixed for hearing objections to the assessment roll, mail notice of the hearing to each owner of property, if known, or his or her agent, if known, within the limits of L.I.D. No. 38, addressed to such person at his or her post office address, if known, or, if unknown, to the main post office in the City of Rexburg, Idaho. The mailed notice shall state the amount of the individual assessment as shown on the preliminary assessment roll.

Section 4: The owner or owners of any property which is assessed in said assessment roll, whether named in said assessment roll or not, may, within the time specified in the notice before the date and time fixed for the hearing, file with the City Clerk his or her objections in writing to said assessment.

Section 5: This resolution shall take effect and be in force from and after its passage and approval.

DATED this 23rd day of January 2008.

CITY OF REXBURG
Madison County, Idaho

ATTEST:

By _____
Shawn Larsen
Mayor

Blair D. Kay
City Clerk

Council Member Stevens moved to approve **Resolution 2008 – 03** to close LID 38. Council Member Schwendiman seconded the motion. All voted aye, none opposed. **The motion carried.**

Staff Reports:

- A. **Public Works report on Projects:** John Millar
 - 1. Access Control Management Policy – Staff

Public Works Director Millar presented a draft proposal for an “Access Control Management Plan”. He handed out a proposed list of street projects for the City Council to prioritize.

B. Financial Officer Report: Richard Horner

1. Monthly Budget summaries

Finance Officer Horner explained this report covers the first quarter ending December 31, 2007.

Council Member Stevens moved to approve the monthly budget summary. Council Member Mann seconded the motion. All voted aye, none opposed. **The motion carried.**

Calendared Bills and Tabled Items:

- A. BILL Introductions:** - NONE
- B. First Reading:** Those items which are being introduced for first reading. - NONE
- C. Second Reading:** Those items which have been first read. - NONE
- D. Third Reading:** Those items which have been second read. - NONE

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

Old Business:

Mayor’s Report:

Adjournment

Shawn Larsen
Mayor

Attest:

Blair Kay
City Clerk