

# City Council Meeting

July 21, 2010



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

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July 21, 2010

**Mayor Richard Woodland**

**Council Members:**

Christopher Mann – Council President  
Rex Erickson      Donna Benfield  
Bruce Sutherland   Brad Egbert  
Adam Stout

**City Staff:**

Stephen Zollinger – City Attorney  
Richard Horner – Finance Officer  
John Millar – Public Works Director  
Val Christensen – Community Development Director  
Scott Johnson – Economic Development Director  
Blair Kay – City Clerk

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

**Shane Turman** led the Pledge.

**Cheryl Graham** gave the opening prayer.

**Roll Call of Council Members:**

**Attending:** Council President Mann, Council Member Erickson, Council Member Benfield, Council Member Egbert, Council Member Sutherland, Council Member Stout and Mayor Woodland.

**City Attorney Zollinger** was excused.

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

**Chris West** at 215 East 1<sup>st</sup> South wanted to settle some disputes on a water fight held a few weeks ago in Porter Park. He wanted City Council's input as to why they were not permitted to hold the second water fight they had planned for last Saturday. Mayor Woodland asked Economic Development Director Scott Johnson to address the issues. Scott reviewed information on the first water fight. After the first water fight there were some complaints made to city employees from the public. One parent complained that a water fight participant pushed her child down at the splash park so they could refill their water gun. City employees have also confirmed a young boy was taken to the ER with an eye injury from a three-man balloon sling shot. A group that large, without a gathering permit or a reservation of the park, is an obvious concern. Rexburg's Municipal Code, chapter 12, addresses those issues. The clean up was extensive, taking over 20 man hours for Parks Department employees to clean up debris from the first water fight. City Employees have received other reports, which have not been verified, of participants filling their foam noodles with sticks and using them to hit people. He feels it was out of concern, based on compliance with the first water fight, that the second fight was cut short.

**Mayor Woodland** asked about the extent of the injuries to the boy hit by the balloon launcher. He was treated for damage to his eye; he was also told if he had not been wearing sun glasses, he might have lost his eye. They have not confirmed if there were any broken bones.

**Ford Erickson** from Centennial Apartments #4 knew the person that got hurt. He did go to the Emergency Room and the person's eye was blackened. Council Member Sutherland asked when the first water fight was held. It was the 26<sup>th</sup> of June at Porter Park. Chris West said his kids go to the park everyday; kids do get pushed off slides. While it was not deliberate, things like that do happen. Council Member Sutherland said the spray park facility is for young children under age 10; it is a concern when college-age young men, in the midst of a heated water fight, act

inappropriately. There were injuries and other things their group did not anticipate, nor want to happen. Council Member Sutherland can understand some reticence on their part. Chris West acknowledged sometimes things get out of control. He knew injuries could happen; however, it was good clean fun. He asked for consideration in the future. They felt like they were bullied by the police officers at the park on Saturday. There was a lot of disconnect with the police officers as to the reasons why they could not play.

**Council Member Mann** asked why they did not seek a permit.

**Ford Erickson** said he had the idea a year ago and so he threw the idea together on Facebook in April. He did not know how big the event would be. As hype built up for the event, he thought about going to get a permit; however, he was worried that it was getting so big and lots of people were excited for it, so he did not try to get a permit, fearing he would get denied.

**Council Member Mann** appreciated his honesty. He said if they had come to the city it may have been worked out to both parties' satisfaction. Ford Erickson realized he was wrong in not asking about a permit. Council Member Egbert recognized that this is an opportunity for good clean fun, if it is done right. He said the damage could not be minimized, as far as little children getting hurt. Chris West's analogy of his children getting pushed off the slide regularly does not apply. These were college-age kids that were pushing. If everyone with the opportunity to get hurt consented to be there it would be different, but not when it spills over to affecting the little kids on the play ground. His concern is public safety.

**Council Member Sutherland** indicated the University has several fields that could be used for this type of event. Ford said he did not know how big the event would be. With his experience as a past student, he thought it would be easier to just plan for the city park, rather than ask campus administration. Council Member Sutherland said it is easier to ask for forgiveness than get permission. Ford said he takes responsibility for what happened; he did not want anyone to get hurt, especially those who were not there for the water fight. They put new rules in place for safety with the second water fight.

**Council Member Erickson** indicated the University students were involved in organized mayhem. He encouraged holding the event away from the general public. They might have more luck getting approval in other locations. He does not want it to show on the record that City Council approved organized mayhem at the public parks. Mayor Woodland asked what types of weapons were restricted. Ford said water balloon launchers are banned inside the walking path. They told participants not to shoot them straight at people. They also banned Styrofoam tubes, which some people filled with sticks. People also put flour in socks, which became hard when they got wet, and used them to hit people.

**Council Member Egbert** stated that with a group that large there will be people who get carried away and cause problems. Ford said he would take responsibility for the cleanup. He had not planned that part, but people stayed to clean up afterwards. He thought they left the park clean, but people who came late may have left more of a mess. That is something they will plan better in the future. They want to use the parks twice a year with appropriate signage and police protection.

**Council Member Stout** said he was personally concerned with safety for the public. He was not opposed to the idea in a public park if it is organized with property security. It would probably be best to find another venue.

**Economic Development Director Scott Johnson** said the city has to be concerned with liability on public property. As the organizers of the event, they should be concerned with liability too. Most events like this would have their own insurance to cover any injuries.

**Steven Crusis** at 135 South 1<sup>st</sup> East #2 asked on behalf of Steve Pope from Channel 3 News for public information; how many of the City Council members are opposed to future water fights on public property?

**Council Member Erickson** moved to not allow water fights (*as discussed*) on city parks, period; Council Member Stout seconded the motion;

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert  
Council Member Mann  
Council Member Benfield  
Council Member Stout

**Those voting nay**

None

**The motion carried.**

**Mayor Woodland** pointed out the outcome would have been the same for other groups as well, whether it was high school kids or any other organization. He wanted them to know the college students are considered a part of the community; they are residents. He appreciates their desire to have fun too. Rexburg would not be here without them.

**Steven Crusis** said they were not informed of the ordinances when they came to the park last Saturday. Some officers could not tell them what ordinances they were violating and why they were being asked to leave. There are several students that feel they were being made an example.

**Mayor Woodland** said they were not trying to make an example of them. Their top concern for the city is public safety. Their second concern is also public safety, and probably their third as well. The city is liable, and they as the organizers are liable too. There have been events across the nation, where people have been sued for the behavior of those that were invited. One of the most famous examples is Woodstock; there were lawsuits and litigation that went on for years. Events can get out of hand. He appreciated their orderly dispersal.

**Irene Marlow** at 142 Elm had a family reunion in Smith Park last Saturday. The park was beautiful. They had a great time. She was grateful to show off a city she is proud to be a resident. The Rexburg Madison Fire Department gave them some water while they were cleaning out their hoses too. Mayor Woodland said the fire trucks were there to put water on the cyclists for the “Race for the Romance”.

**Committee Liaison Assignments for 2010:**

A. Council Member Adam Stout *Trails of Madison County · Traffic & Safety Committee · Airport Board*

**Council Member Stout** said there may be a new airport board member, Chris West, who was just there presenting. Mayor Woodland clarified that he has been nominated, but it still needs to be discussed with the Airport Board. The details still need to be straightened out.

B. Council Member Brad Egbert *Legacy Flight Museum · Parks & Recreation · IBC Committee*

**Council Member Egbert** mentioned the Air Show this weekend. The Legacy Flight Museum Board wanted to remind everyone about the Blue Angels show on July 24<sup>th</sup> and 25<sup>th</sup> in Idaho Falls.

C. Council Member Bruce Sutherland *Museum Committee · Beautification Committee · Traffic & Safety Committee*

**Council Member Sutherland** reported that the Museum Committee, the Beautification Committee, and the Traffic & Safety Committee did not meet last week.

D. Council Member Christopher Mann *Emergency Services Board · School Board · MYAB*

**Council Member Mann** reported the Emergency Services Board met in executive session. It was quite a long meeting, but things were resolved. MYAB participated in the 4<sup>th</sup> of July parade. They were on the float with the Mayor and other City Council Members. They had a good time. It was a success.

E. Council Member Donna Benfield *Police Department · Romance Theatre Committee · Rexburg Arts Council · Tabernacle Civic Center · School Board*

**Council Member Benfield** reported on the “Ride for the Romance” race that Mayor Woodland mentioned earlier. The demolition has begun on the theater; the facade is coming off. It is part of an upgrade from a grant for \$150,000.

There was a meeting with the School Board, but she was not able to attend. She asked Mayor Woodland to report. Mayor Woodland met with the school superintendent, a couple of members of the Madison School Board, as well as their Financial Officer. There were a few issues needing to be resolved concerning billing with services rendered and the City's contribution. It was a very successful meeting. The city has some homework to do, but he felt these issues will be resolved.

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

**Council Member Erickson** reported the Golf Board has not met. Planning & Zoning met and the only topic to report on will be presented on the agenda tonight under Item 7-B. The Rexburg Redevelopment Agency has not met since City Council's last meeting.

(New Appointments deferred to Mayor's Report) **Mayor Woodland** – Confirm new appointment of **Kent Hillman** to the Rexburg Redevelopment Agency.

**Council Member Mann** indicated he will vote no for Cory Sorensen for Planning & Zoning because he is a developer. We need more people from the neighborhoods who represent families on the commission.

Discussion on proposed Planning and Zoning Commission appointments:

1. Loraine Jackson
2. Cory Sorensen replacing Josh Garner.

As vacancies occur on the Planning and Zoning Commission, Loraine Jackson will be considered.

Discussion concerning candidates for city committees and the nomination and approval process. The City Council needs to keep track of how long committee members serve. Council Member Benfield is not familiar with Kent Hillman and asked for input on his experience. Council Member Erickson said he was Kent Hillman's employer in the past. He is a builder by trade and a knowledgeable person. He is a good man. He was suggested by Community Development Director Christensen.

**Council Member Sutherland** moved to approve Kent Hillman to the Rexburg Redevelopment Agency and Cory Sorensen replacing Josh Garner to the Planning and Zoning Commission; Council Member Egbert seconded the motion;

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert  
Council Member Benfield

**Those voting nay**

Council Member Mann

**The motion carried.**

**Public Hearings:**

- A. 7:30 P.M. RE-HEARING** for a Zone Change from LDR2 to LDR3 at 5<sup>th</sup> South west of Willowbrook Subdivision off 12<sup>th</sup> West – Kartchner Homes – Troy Kartchner (**BILL 1049** to rezone from LDR2 to LDR3)

**Council Member Stout** stepped down.

**Troy Kartchner** at 601 West 1700 South, Logan, Utah said the proposal was approved by Planning and Zoning. He passed out pictures of the overall development. The rezone area, the homes, and plans for the entire development were reviewed on the overhead screen. Homes are being built on the south end of the development. Two churches are planned for the development. The request will allow the road to be built sooner past the church off 12<sup>th</sup> West. Buyers will be retirement age and younger families. He reviewed the parks and the club house that will be included in the development. The platted areas were reviewed. A range of lot sizes are planned for the different areas of the development. They have a 12 acre site on the interior that has not been planned yet. Their goal is to first get the road in so the chapels can be built, which will help move things along. He showed a slide of the twin home's design. They would like to build with rock and a hardy-board front and use vinyl for the siding. Planning and Zoning recommended this zone change for approval.



Proposed Re-zone Area  
Sec. 26, T. 06 N., R. 39 E.B.M.

Proposed re-zone area



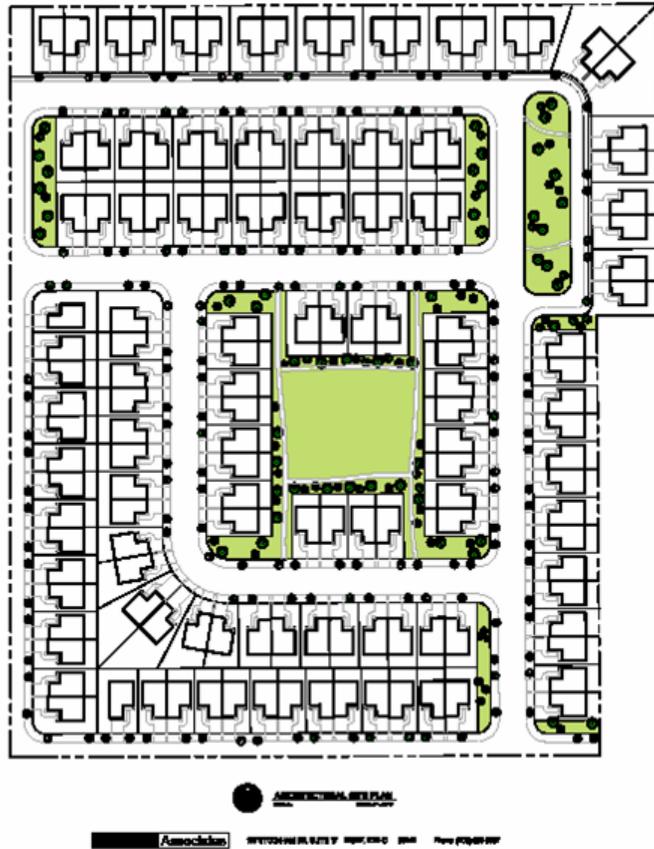
**Council Member Egbert** asked about the homes square footage. The homes will have 1,500 total square feet for each twin home in a connected building. Twin homes are planned for the smaller sized lots. A difficulty with the homes is they cannot build basements. With the irrigation and high water level this year, they do not want to risk it. The streets and sidewalks have been widened to improve safety measures. They are building a 6-foot sidewalk on 12<sup>th</sup> West for the students. Council Member Egbert said one of the safety concerns was ingress/egress off 12<sup>th</sup> West. They conducted traffic studies in the beginning stages of this plan. They have also worked with staff and hired engineers to determine what they will need to help pay, considering the impact their community will have on the roads.

**Mayor Woodland** asked about the distance between the homes. The distance is 12-15 feet. Council Member Erickson asked if LDR3 allowed twin homes. Troy Kartchner said LDR2 and LDR3 allow twin homes. They are planning for a denser product with a little more affordability. Some of the land will be given up to build parks for the community, so they are asking to build a little denser to compensate. It will add an additional 16 or 17 units in the area.

**Council Member Erickson** asked Commissioner Robinson if the Comprehensive Plan changes from June were making this request a moot request. The Comprehensive Plan only shows single family units, not zoning. Community Development Director Val Christensen explained the zones are the same thing either way with the Comprehensive Plan. Troy Kartchner reviewed the history of the first approval for LDR3; however, it was sold to the church. He would like to move the previously approved zone change area to the west behind the church so they can still build the development the way they planned. There is a market in the area for retirement and single-family homes. It is an attractive product for an affordable home. It will improve the area because they will also be helping with safety.

**Those neutral to the proposal:**

**Irene Merrill** at 2368 West 440 South asked how much area the twin homes will have in the front yard. Mr. Kartchner will answer when he gives his rebuttal.



**Those opposed to the proposal:**

**Judy Steiner** at 417 South 12<sup>th</sup> West said we did this a month ago. The issues they had a month ago are still issues today. They have an approved PUD. They can do studies and asked questions; however, they have not seen the impact the students will have on traffic coming from the new high school. Also, additional traffic will be coming from the hundreds of homes which have already been approved. She does not know why they would want to add an additional piece of land not included in the original PUD and make the homes closer together. The increased density will add more traffic to 12<sup>th</sup> West. The road coming from the development comes out on 12<sup>th</sup> West with no stop sign or traffic signal. She asked if Mr. Kartchner was widening 12<sup>th</sup> West more than what they city has already planned. The church will be widening the road in front of the new chapel. She asked why they would want to change it now when they have not yet seen the impact of the new growth. She asked for patience. She wanted the PUD built first before this request is approved.

**Wan Southwick** at 375 South 12<sup>th</sup> West said we have a plan and the plan was approved. He feels like there is an element of bait and switch tactics involved. They had City Council approve something and now they are coming back and trying to change it. That tactic makes him uncomfortable. He is hoping City Council will protect their neighborhood; they are the only ones that can. They thought it would be similar to the single family homes in the Willowbrook Subdivision, but Kartchner has something much more dense planned. Only 12 feet is planned between homes. The high density is disruptive to the nature of their neighborhood. They would like it to be more like the development across the street.

**Shandra Skolls** at 1118 Coyote way has the same objections with the high density. Troy Kartchner said it would increase density 16-17 homes. The original plan for the development, which she was not necessarily in objection to, was a lot less dense. She thought it would increase about 10%. The density does concern her. If they do approve this one, it's not the end of the world; her house will still be there. They may build a big wide road with a nice intersection. From the meetings she has attended, she sees the pattern that if approval is granted in one area it is more likely to happen again. The rural neighborhood areas are turning into dense, tight housing. She recognizes there is justification for that in Rexburg, but we do not need it all in one place. We do not need it where people have tried to establish a more open feel.

There was discussion on having a street light at the 12<sup>th</sup> West and 7<sup>th</sup> South intersection. There is not a plan for a street light right now. Council Member Egbert said it is something they can consider. Council President Mann said it is not budgeted for now. Mayor Woodland believes one is projected to be there someday.

**Rebuttal:**

**Troy Kartchner** said each unit has a fenced yard. The lot sizes vary. The larger lots are 5,000 to 6,000 square feet. The smaller ones are approximately 4,500 square feet. Those lots are for the twin homes. If it is re-zoned, the lots can be smaller. The project has over 18 acres of common area for parks and play grounds. Originally the plan was to have a retirement community. It failed financially. Therefore, they are seeking to put in retirement homes. He thought it was a good project with smaller lots. He feels it preserves open space by keeping the homes close together. Council Member Sutherland reviewed the LDR3 Zoning and the size of the original lot City Council approved, which was sold to the LDS Church. The new re-zone area is about three acres larger. Council Member Erickson reviewed the zoning around the proposed development. It is all LDR2.

**Mayor Woodland** closed the public hearing.

**Council Member Egbert** reviewed the concerns about future traffic flow. He wanted to provide good planning so the developer could prepare for the future. He appreciated the desire to watch it grow first before approving more development. Council Member Sutherland asked how big the park was planned. It is about an acre.

**Mayor Woodland** asked for a motion.

**Council Member Sutherland** said the community needs attractive affordable housing. He feels it is a compromise considering the LDS Church bought the original property that was re-zoned.

**Council Member Sutherland** moved to approve the requested zone change from LDR2 to LDR3 at 5<sup>th</sup> South west of Willowbrook Subdivision off 12<sup>th</sup> West for Kartchner Homes; Council Member Egbert seconded the motion; Discussion: Council President Mann appreciated the great job Troy Kartchner did on 7<sup>th</sup> South; however, he still feels sympathetic to the situation of the neighbors. Council Member Benfield said the project looks great. She is aware of what the neighbors are saying. One acre of green space does not sound like a lot for that many people. She would like to see a need for that much density before they build it. It is a great addition to our community, but how dense do we want to get? She doesn't see the need right now.

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert

**Those voting nay**

Council Member Benfield  
Council Member Mann

**The motion carried.**

**Council Member Stout** returned to the Dais.

**B. 8:00 P.M. Consideration of the proposed Appropriation 2011 Budget – Richard Horner**  
(BILL 1050 Appropriation 2011 Budget)

**Finance Officer Horner** reviewed the listing of the budget totaling \$51,000,000. Ordinance 1050 authorizes the 2011 Budget. The budget is up about \$5,000,000 due to construction projects including water and sewer upgrade projects. He reviewed the “Budget Highlights” and the “Statement of Understanding” as noted below:

City of Rexburg  
For the 2011 Budget (Year Ending 9/30/11)

**STATEMENT OF UNDERSTANDINGS ON BUDGET MANAGEMENT**

1) The Council will review the General Fund Contingency Balance at the end of the year to decide if any could be applied to the Police Impact Fee Fund deficit.

- 2) Expenditures, including all capital items, will be managed so that short falls in total revenues are offset by cutbacks in expenditures in the General and Street Funds.
- 3) \$350,000 of street funding is remaining in the Downtown Revitalization Fund to be later decided upon as to its application.
- 4) All construction projects over \$25,000 and their related operating and maintenance costs will be reviewed and approved by the City Council before any funds will be committed to the project.
- 5) All capital purchases of \$5000 or more shall be delayed until February 1, 2011, unless special permission is granted by the Mayor. The Mayor will then notify the City Council of any exceptions.
- 6) All hiring of employees to fill a previously existing position that was vacated must have approval from the City Council.
- 7) All volunteer committees will be notified of these policies and procedures

**BUDGET HIGHLIGHTS**

**City of Rexburg 2011 Budget**

Total Budget: \$51,947,200 up \$5,344,900 from current 2010 budget of \$46,602,300; the increase is mostly due to construction projects, namely water and sewer upgrades and expansion.

Operating Budget is approximately \$19 million of the total.

Street maintenance, repair and construction funding is at \$2,576,500, not counting \$350,000 of street funding remaining in the Downtown Revitalization Fund.

Property tax revenues are estimated to increase about \$176,100, mostly due to new construction. The City property tax levy rate is near a seven year low at \$346 per \$100,000 of taxable value, which is the lowest in the last 20 years or more, except for 2001.

No new full-time personnel positions are scheduled to be funded this budget year.

A new fund was created for funding of the new operating costs of the Riverside Aquatic Center in the amount of \$402,900, including a contingency of \$127,100 to offset variations in budgeted revenues and expenses.

Increases in utility rates will be about 5.2% for the average homeowner, or about \$4.17 per month. Major utility construction projects includes a new water well and tank of \$2,500,000, additions to the wastewater treatment plant to eliminate odors and add new capacity of \$6,000,000, and extensions of water and sewer lines to outlying areas of the city of \$3,000,000. New capacity will be funded by fees charged to new development. Plant upgrades will be funded by user fees. This budget includes the Riverside Park Construction Fund of \$5,250,000 for the purpose of constructing the Riverside Aquatic Center, which will be reimbursed by the Urban Renewal Agency of the City of Rexburg.

This budget includes the Madison Fire Protection District budget of \$1,127,700, which includes the construction of a fire station in Sugar City in the amount of \$680,000.

This budget includes the Community Safety Lighting Fund of \$293,500, of which \$230,500 is available for street lighting construction projects, with the remainder budgeted for street light maintenance. This budget includes the Community Safety Lighting Fund of \$293,500, of which \$230,500 is available for street lighting construction projects, with the remainder budgeted for street light maintenance.

**Published**

GENERAL FUND	7,259,300
STREET FUND	2,245,100
RECREATION FUND	250,100
TABERNACLE OPERATIONS FUND	155,700
REXBURG TABERNACLE ORCHESTRA FUNI	20,500
POLICE IMPACT FEE CAPITAL FUND	50,000
D.A.R.E. ASSOCIATION FUND	17,100
DRUG ENFORCEMENT FUND	30,600
POLICE SMALL GRANTS FUND	36,700
ANIMAL CONTROL FUND	76,100
EMERGENCY SERVICES FUND	1,939,100
JOINT FIRE EQUIPMENT FUND	280,600
MADISON COUNTY FIRE DISTRICT	1,127,700
FIRE IMPACT FEE CAPITAL FUND	30,000
ESD PAID CALL FUND	40,600
REVOLVING LOAN FUND	97,000

RIVERSIDE AQUATIC CENTER	402,900
LEGACY FLIGHT MUSEUM	147,600
UTILITY FUND	8,023,800
BUILDING SAFETY & P&Z	779,900
GEOGRAPHIC INFORMATION SYSTEMS	362,500
DOWNTOWN REVITALIZATION FUND	350,000
BEAUTIFICATION COMMITTEE FUND	35,000
STREET IMPACT FEE FUND	200,000
WATER CAPITAL RESERVE FUND	1,826,300
SEWER CAPITAL RESERVE FUND	2,933,700
ARTS PROMULGATION FUND	277,400
ESD PARAMEDIC CARE UNIT FUND	200,000
PARKS IMPACT FEE CAPITAL FUND	108,000
TRAILS OF MADISON COUNTY FUND	97,400
ROMANCE THEATRE FUND	292,500
RIVERSIDE PARK CONST. FUND	5,250,000
SOUTH WATER TANK & WELL	2,500,000
STREET REPAIR CONTRACTS FUND	400,000
STREET NEW CONSTRUCTION FUND	2,510,700
MAYOR'S YOUTH COMMITTEE	7,700
SEWER/WATER LINE EXT/REPLCMNT	3,000,000
AIRPORT OPERATIONS FUND	172,200
GOLF COURSE FUND	477,200
GOLF COURSE CONSTRUCTION FUND	60,000
SEWER PLANT CONSTRUCTION FUND	6,000,000
LID CONSTRUCTION FUNDS	500,000
LID DEBT SERVICE FUNDS	992,500
FARMERS MARKET FUND	15,400
REXBURG ARTS COUNCIL FUND	28,800
COMMUNITY SAFETY LIGHTING FUND	293,500
VETERAN'S MEMORIAL TRUST FUND	27,000
ARCHER EMPLOYEE TRUST FUND	10,000
ESD PIPES & DRUMS TRUST FUND	9,000
<b>GRAND TOTAL EXPENSE:</b>	<b>51,947,200</b>

**Council Member Erickson** said two different construction projects have increased the budget by \$11,000,000. The net budget is down \$6,000,000 from last year except for the Riverside Park Project and the Wastewater Plant upgrade. Finance Officer Horner said of the \$402,000 budgeted for the Riverside Aquatic Facility; \$127,000 will come out of the reserve fund. \$275,000 is planned to run the facility. The proposed Revenue Schedule C was reviewed. Finance Officer Horner said he has added to \$99,000 to Revenue Schedule C as a one-time transfer of revenues from the Riverside Park Construction Fund that can be held in reserve. Because this is the first year, they do not know exactly how things will turn out. These funds will give them a buffer. Council Member Erickson asked about the added employee to manage the park. The objective is to have Riverside Park pay its own way without subsidy. \$275,000 is the reserved portion of that budget, so it is not spent unless it has to be. Council Member Erickson feels they did a good job setting it up that way. He does not want the operating manager to be told they have \$400,000 to run the facility; he wants them to know they have \$275,000 to raise in funds.

There is a 5.2% increase in utility rates based on the average home usage of 10,000 gallons per month. For homes with less than four or five people it would be less. The increase covers costs for water, sewage, and garbage. Garbage rates did not increase at all, but sewage increased 8% and water increased 6%. The 5.2% is an average increase for an average home. Council Member Erickson asked when the sewage was increased last. It was increased last year, but had not been increased for a few years prior. He said smaller annual increases are better than larger increase every few years. Finance Officer Horner responded the sewer upgrade to get rid of the smell was the reason for the increase last year. This year the proposed increase is to cover inflation on regular costs like power rate increases. Council Member Benfield said one older constituent does not come near the minimum usage for water or wastewater. What can we do to help people in that situation? Richard Horner said the minimum usage increase will be close to \$0.53. The sewage minimum increased about \$0.08, so for one person it might be a \$0.67 increase per month. There is some help available through the county for indigent care and to supplement utilities. For construction projects, there is a new water tank and well at \$2.5 million in the budget and \$6 million in water and sewer projects. The \$5 million that will be reimbursed from the Urban

Renewal Agency for the Riverside Aquatic Facility will go towards some of these construction projects. The Fire District budget increased because of the new station being built in Sugar City, budgeted at \$680,000. The new station construction costs will not come from city funds; however, because the city manages the station it must be recorded in the budget. There is \$230,000 in the community lighting fund for use in the community. Plans need to be made by winter 2011. Finance Officer Horner stated the budget is very similar to what they had last year. The Police Impact Fee includes the animal shelter. There still remains \$350,000 in the Downtown Revitalization fund. Any construction projects over \$25,000 must come to City Council for approval.

**Council Member Mann** asked if all of the approved requisitions are included in the budget including police cars, etc. Purchases under \$5,000 can be approved by the mayor. Council Member Stout asked to notify the City Council if there are large purchases up to the \$5,000. Council Member Erickson asked to notify the Committee Chairmen of the purchasing restrictions until February, 2011. Finance Officer Horner will make that notification by letter under the mayor's signature. Employee hiring's will come to the City Council for approval. All of these extra measures will help ensure that we stay on-track with the budget. The cash is up to the good about \$40,000 over budget at this point. Council Member Erickson explained the city is in better shape than other cities.

**Mayor Woodland** opened the public hearing:

**Those in favor:** NONE

**Those Neutral:**

**Lynn Betts** at 66 North 1<sup>st</sup> East asked about the new aquatic person. It is stated no new personnel. It was explained that this is a part time position. They will change the wording. Council Member Stout asked to add the wording for "any new positions" to the document.

**Those opposed:** NONE

**Mayor Woodland** closed the public hearing.

**Council Member Mann** moved to recommend approval of the budget; Council Member Benfield seconded the motion;

<u>Those voting aye</u>	<u>Those voting nay</u>
Council Member Erickson	None
Council Member Sutherland	
Council Member Egbert	
Council Member Mann	
Council Member Benfield	
Council Member Stout	

**The motion carried.**

**C. 8:15 P.M. Consideration of proposed fee increases** to be effective October 1, 2010, for Water, Wastewater, and Garbage; Resolution 2010 – 10: Richard Horner

**Finance Officer Horner** reviewed the proposed fee increases. Increases in utility rates will be about 5.2% for the average homeowner, or about \$4.17 per month. Water and Wastewater took an increase to the following:

**Proposed New Monthly Cost:**

Water	Base Fee for .75" Equivalent Meter	\$15.62 up .64 cents.
	Usage Fee per 1,000 Gallons over 6,000	\$ 0.803
Wastewater Fee for .75" Equivalent Meter:		\$12.34
	Usage Fee per 1,000 Gallons	\$ 3.19
	Other City Usage Fee per 1,000 Gallon	\$ 2.08
Out of City Limits	Add 30% to each service	

Some of the Wastewater Plant upgrade is funded with current funds in the wastewater account. Council Member Benfield asked if the increase could be held to 4%. It would not pay all of the bills, including power charges. Council Member Mann asked if the minimum could be subsidized. Some larger homes use a lot more water. Is it possible to charge different rates depending on usage? Finance Officer Horner said it is already subsidized. The average home pays the same base fee of \$15.62, but the first 6,000 gallons is free. The same rate is charged for those who use 20,000 and those who use 60,000. Council Member Mann asked for a rate to encourage water conservation and for relief in costs for those who are far under average usage.

**Council Member Erickson** said it already is high for billings in May and June. Raising the rates may not conserve water. Lower rates would encourage greener yards. Council Member Mann asked for conservation measures including rain meters for sprinkling systems. Finance Officer Horner said the city used to have a declining rate structure. Council Member Sutherland said it is a little late for rate changes for this fiscal year, but it should be discussed for next year. Mayor Woodland said the city could explore other cities and their solutions to conservation.

**Mayor Woodland** opened the public hearing:

**Those in favor of the proposal:** NONE

**Those Neutral to the proposal:** NONE

**Those opposed to the proposal:** NONE

**Cheryl Graham** was concerned with the increase last year and she asked if new water vehicles could be purchased out of the general fund. Finance Officer Horner explained code requires the vehicles to be purchased out of the water fund. Council Member Erickson said it could be done by having a city motor pool. He reviewed the Cedar City motor pool as an example. If a water employee needs a truck, he would have to check it out of the motor pool. A record would be kept and the water department would be charged for using the truck that day. A motor pool would make the departments more accountable for what they use. Finance Officer Horner said a motor pool is typically used in larger cities where more vehicles are needed. Larger cities would have enough savings to afford the overhead costs for tracking it. The city would have to hire someone to check it out, sign it, bill it out, etc. Council Member Erickson said it would be very expensive to get started; however, it would save money in the long term. The university has a motor pool system set up for accountability purposes. Finance Officer Horner said he is hoping the allocation of funds now is very close to what it would be if the city had a similar system in place. Council Member Erickson said a motor pool is something the city might want to look into implementing.

**Paul Skolls** at 1118 Coyote Willow Way is opposed to the increase. He said people's incomes are not expected to go up in this economy. Families have expenses like gas, food costs, etc to fit in their budgets. The increase may only be \$5 per person each month, but for a family budget it will add \$70.00 to \$100.00 a year that families will have to struggle to pay. Inflation is a factor; however, businesses always seem to make their bottom line. He wanted more creativity to keep costs down by not buying trucks, etc. His second concern was the flat rate utility charges to families, regardless of usage. His comments are not meant to be a criticism to the city. Rexburg is a wonderful and beautiful place to live; however, families are struggling right now. There needs to be more thought put into the solution than just increasing rates to cover expenses. He realizes there may be details he is not aware of, but consider the sewage smell as an example. He thought maybe we could live with the smell for a while because we are having trouble. A motor pool was an example. He asked to look forward and be good stewards of the people's money.

**Mayor Woodland** said the city has curtailed expenses. No city employees took cost of living increases this last year. The city has lost 6 or 7 people to attrition and those people have not been replaced. The city curtailed the purchase of several vehicles they all wanted, but did not get. The city's gasoline costs do go up; electrical costs do go up. The sewage smell needed to be taken care of or the city might face a lawsuit. We do work very hard to keep costs low. The city's sewer rates are quite low compared to other cities.

**Council Member Sutherland** said an enterprise fund requires a balanced budget. All of the funds have to be covered. One of the biggest problems the city has right now is the increase in electrical fees. The pump systems are all electrical. The sewer system has a lot of electrical

powered lift stations. The city gets stuck between a rock and a hard place. He does agree the costs are going up and it would be nice to hold the line, but the city is required by state statute to balance those costs. They do have a freeze on major purchasing until the revenue allocations are known in 2011. If the funds are not there, there will not be purchases, period. All of the comments are correct and good; however, the city is bound by statute.

**Cheryl Graham** asked for line by line cuts. Council Member Egbert responded the city did cut as requested in earlier budget meetings to get to this point. They are all on the same page trying to cut spending and preserve funds. The city has to keep equipment maintained as the city grows. Mayor Woodland explained some of the reasons for increased benefits; health care costs have gone up this year. City employees have taken a cut in health care and their contribution is larger as well. The city is working very hard to make it right.

**Lynn Betts** does not think growth brings more costs because new residents are paying their monthly fees as well. Mayor Woodland responded with growth comes an increase in services. Mr. Betts asked how apartment's billings are calculated. Finance Officer Horner explained the fee calculations. Apartments may have multiple meters, but they are billed the same rate per gallon just like everybody else.

**Those in favor:** NONE

**Those neutral:** NONE

**Council Member Mann** moved to approve Resolution 2010 - 10 for fee increases to be effective October 1, 2010, for Water, and Wastewater; Council Member Stout seconded the motion; Discussion: Council Member Stout referred to EPA fines for the water system exceeding the allowed pollutant limits. Council Member Mann said Mayor Woodland was watching the money very closely.

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert  
Council Member Mann  
Council Member Benfield  
Council Member Stout

**Those voting nay**

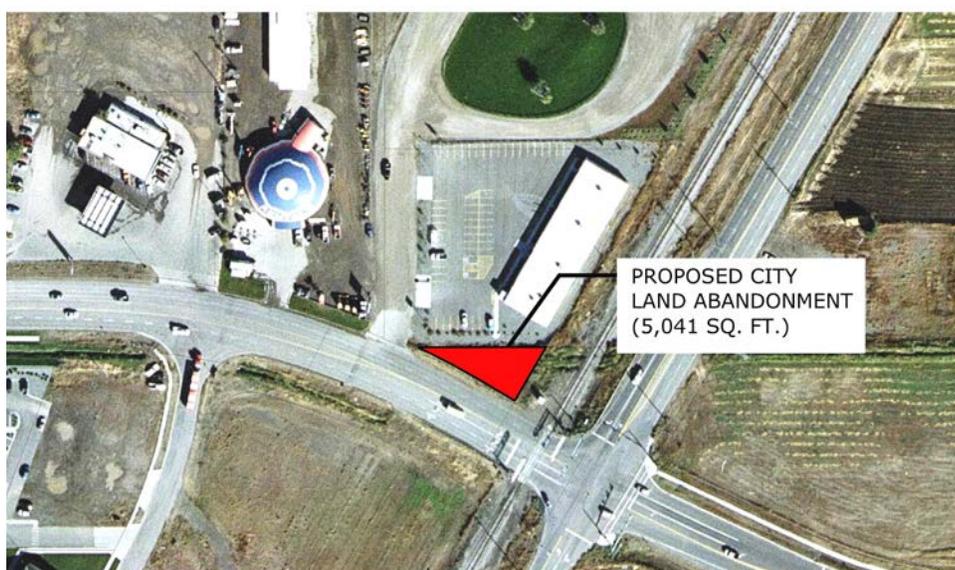
None

**The motion carried.**

**Items for Consideration:**

**A. Request to vacate property:**

1. Adjacent to the railroad tracks on University Blvd and South Yellowstone Hwy – Staff

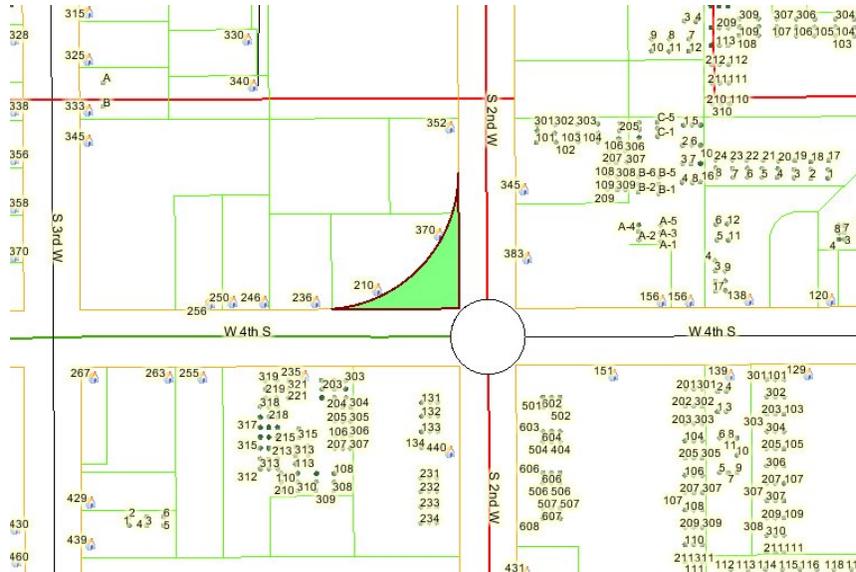


**Public Works Director Millar** reviewed the proposal to vacate a portion of street right-of-way at the intersection of South Yellowstone Hwy and University Blvd. The city does not have any future use for this portion of the right-of-way outside the street's required width. It is about 5,000

square feet. The agreement with the adjoining property owner is that if the land is vacated to him, he would landscape and maintain it.

**Council Member Egbert** moved to set a public hearing to vacate said property; Council Member Sutherland seconded; all voted aye. The motion carried.

**2. Christensen Auto Body property adjacent to the Roundabout on 4<sup>th</sup> South – Staff**



**Public Works Director Millar** reviewed the request. The portion of the right-of-way adjacent to the roundabout that is owned by the city has been maintained by Christensen Auto Body. Council Member Erickson was concerned with loss of valuable right-of-way. Community Development Director Christensen explained CBC Zoning has a setback of 10 feet.

**Council Member Mann** appreciated the improvements to the property made by a private business. The sidewalk, curbing, and landscaping did not use any city funds.

**Council Member Erickson** moved to have a public hearing; Council Member Stout seconded the motion;

**Those voting aye**

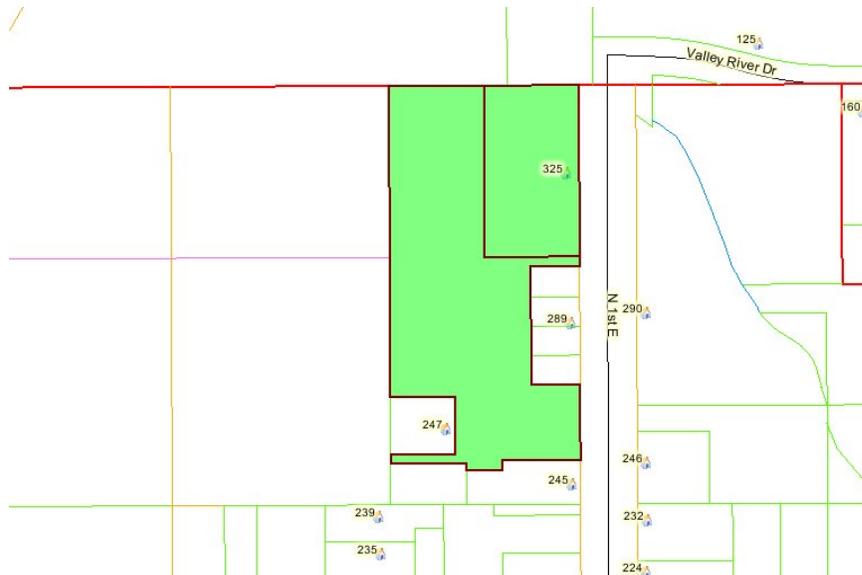
- Council Member Erickson
- Council Member Sutherland
- Council Member Egbert
- Council Member Mann
- Council Member Benfield
- Council Member Stout

**Those voting nay**

None

**The motion carried.**

B. **Conditional Use Permit** to increase the density in Mixed Use Two (MU2) from 30 units per acre to 40 units per acre and decrease the commercial component to zero percent. The property is located at 275 & 325 North 1<sup>st</sup> East – Steve Kelly



**Steve Kelly** from Orem Utah asked to discuss the proposal to add density to the property at 275 & 325 North 1<sup>st</sup> East. He reviewed the proposal on the overhead screen. The zoning was recently changed from Light Industrial/Professional Office to Mixed Use 2. The Development Code allows residential density to increase to 40 units per acre, as well as 0% commercial, with a Conditional Use Permit. The architectural design was reviewed on the overhead screen with 100% apartments without any commercial development on the ground floor.

The site plan was presented. They are planning two identical buildings with one bedroom apartments. Mr. Kelly said there is a shortage of one-bedroom apartments that are within walking distance to the University for young married students. The site is conveniently located close to existing commercial development as well. Each building will have 62 one-bedroom and 27 two-bedroom apartments. 294 parking stalls are required for this complex. There will be 202 standard stalls and 26 compact stalls on the surface and 66 underground stalls. Two accesses are planned on 1<sup>st</sup> East. The parking requirements will control the units per acre.

**Council Member Egbert** reviewed the easement requirements as discussed in the previous City Council meeting. He asked why the commercial portion was eliminated. The request for no commercial space will be addressed later in the presentation.

**Council Member Stout** asked about the joint use parking clause. It would be an idea to seek a joint use parking agreement with adjoining commercial development if possible to meet the parking requirement. There would be 124 one-bedroom units at 584 square feet each and 54 two-bedroom units at 767 square feet. The increased density proposed is about 30% due primarily to changing the apartment configurations from 1-3 bedroom apartments to 1-2 bedroom apartments while increasing the number of 1-2 bedroom apartments. The second bedroom adds \$900 additional revenue per year. The extra density makes the project viable.

**Council Member Erickson** asked about storm drainage. The storm water will be contained with French drains.

**Steve Kelly** indicated the commercial part of the project was deleted because similar complexes with the commercial component are not successful. He referenced single student complexes with commercial on the main floor at UVU, (Utah Valley University). Much of the commercial space is vacant except "\$5.00 Pizza" and a "comedy club". Another complex by BYU Provo on a street with 27,000 cars per day has the entire bottom commercial floor vacant. He did not think the commercial space on 1<sup>st</sup> East project would rent out at the present time. Landscaping and parking requirements will control the density of this project.

**Council Member Egbert** asked if they have done any studies in deciding so quickly to drop the commercial component. Steve Kelly responded that the Mix Use component was all that was available on the initial proposal. He did not necessarily think the commercial component would work out, however, he knew it was a requirement. Mixed Use 2 gives the option to drop the commercial component with a CUP (Conditional Use Permit).

**Council Member Stout** asked about the vacancy rates with the referenced residential space of the mixed use complexes in Utah. Mr. Kelly did not know the exact numbers on vacancy rates; however, they are so close to college campuses they do seem to be filled. Both of the examples given are single student housing complexes, which would seem to attract more business considering the increased social activity among single students.

**Council Member Mann** asked about receiving public input even though it is not required to have a second public hearing. Council Member Benfield commented the plans look beautiful and asked if they have any plans to purchase adjoining property and build more. Mr. Kelly responded it is not economically feasible at this time. The square foot price they are paying for the land is all they can afford right now.

**Cody Howard** at 642 Harvest Drive had two concerns. Parking is a concern; underground parking is a concern due to cost. Elevation is a concern for drainage, etc. The road right-of-way is not blocked off. He has parking concerns with his business too. Snow removal is an issue for parking too. Garbage removal is a concern; dumpsters will have to be situated somewhere on the property. The green area does take into account all of the road right-of-way. The canal company has right-of-way for consideration. The site was a dumping area for the old Spori building that was removed from campus. He needs be sure the soil samples to make sure the ground is stable. As long as his road right-of-way is not affected, he does not have a problem with Mr. Kelly building this project.

**Council Member Egbert** asked about the entry into the development; if it is a problem if the apartment cars are not parking in his right-of-way.

**Cody Howard** said that area is used for access. There are times when big trucks come in and turn around and might block the cars when making deliveries. It is not a problem if the apartment cars do not park there. Definite distinction needs to be made for residents so they know where they are allowed to park. He has no problem with the development if his concerns are addressed.

**Attorney Phil Packer** said the University would be concerned with this development in the PEZ zone. Mayor Woodland said it would be difficult to require the commercial component if it would not fill up with businesses. Community Development Director Christensen responded indicating Planning and Zoning did not feel it was viable to have commercial at this time in this development in this area.

**Council Member Mann** was in favor of this higher density in this area. He hopes students will walk to the University.

**Council Member Erickson** asked if the commercial component is dropped, is the setback different. Community Development Director Christensen responded the MU2 Land Use was extended into this area of 1<sup>st</sup> East because MU2 is more flexible than Downtown Commercial. Council Member Erickson asked again if MU2, with only residential, would have a different setback. Mr. Christensen said no, the PEZ Zone would require a 10 foot setback. Council Member Erickson asked about buffering the canal and the property zoned Light Industrial. Mr. Christensen responded the ordinance does not require it; however, for this project adequate buffering with adjoining properties is required per the Planning and Zoning's recommendation No. 11, which included landscaping, canal, trash, etc. Val Christensen discussed with Mr. Kelly during the Planning & Zoning public hearing that the land uses in this area are not greatly compatible. That is why a condition was put on Mr. Kelly to buffer all surrounding edges. These issues will be discussed more at the time of development.

***Planning and Zoning Public Hearing on July 15, 2010  
Conditional Use Permit – Steve Kelly  
Proposed Conditions of Approval***

- 1. Trash dumpsters/receptacles shall be located within the interior (behind front building line, but in required setbacks) of the lot and shall be enclosed.*
- 2. A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, snow storage, drainage, etc. shall be submitted and approved by the City prior to the issuance of a building permit.*
- 3. Lighting shall be low (under 15-feet in height) and not create glare, and as a minimum shall adhere to the City's lighting ordinance.*
- 4. Storm drainage and other Engineering considerations to be reviewed and approved by the City Engineer.*
- 5. Applicant to demonstrate that adequate parking is provided and buffered from the street. This includes having landscape buffers of at least 10 feet from public ways. The current site plan does not meet the requirements of the Development Code.*
- 6. Staff recommends that as part of the CUP the Planning and Zoning Commission review conformance to the Design Standards as found in the Development Code. The proposal is the first one applied for under the new MU2 requirements.*
- 7. Provide adequate buffering of subject property from all adjacent developed parcels.*

8. *Have an agreement with Rexburg Canal Company addressing set-backs, access, and landscaping along the canal.*
9. *Preserve and protect recorded easement; any improvement or development of the easement shall be in agreement with the property owners served by said easement.*
10. *There shall not be any grade changes that would adversely affect adjacent property owners.*
11. *The final site plan and elevations shall be reviewed by the Planning & Zoning Commission.*

**Mayor Woodland** stated there is protection for neighbors in the plans; there are not any changes that would adversely affect them.

**Council Member Mann** wanted to acknowledge a letter from Dennis Ficksted at 55 East 2<sup>nd</sup> North, a neighboring property owner. He wanted to state his disapproval of the increase in density.

**Council Member Erickson** reiterated that Planning & Zoning had no problem with City Council approving this CUP with the conditions they set in place. He moved to approve the CUP subject to Planning & Zoning's conditions; Council Member Sutherland seconded the motion; Discussion; the motion was stated to include staff conditions as well.

<u>Those voting aye</u>	<u>Those voting nay</u>
Council Member Erickson	None
Council Member Sutherland	
Council Member Egbert	
Council Member Mann	
Council Member Benfield	
Council Member Stout	

**The motion carried.**

**C. Sewer hookups** for eight (8) existing homes in the area of 300 West 1<sup>st</sup> South – Staff

**Public Works Director Millar** reviewed the locations that are not connected to the city sewer lines. No. 7 below requested a connection paid for in 1975; however, they were never connected. If the line is within 300 feet, the connection is required. They have been paying sewer bills for 35 years without the connection. The residents discovered they were not connected to the sewage lines when their septic tank filled up. There are 8 locations that are all in the same situation; two businesses, and six residences. The residents on 1<sup>st</sup> West are insistent that the city should pay to have them hooked up to the sewage system. They could be required to connect to the city's system. He asked the City Council for direction.

The locations include:

1. 247 North 1<sup>st</sup> East
2. 247 East 2<sup>nd</sup> North
3. 257 East 2<sup>nd</sup> North
4. 115 North 2<sup>nd</sup> West
5. 239 West 3<sup>rd</sup> North
6. 221 West 3<sup>rd</sup> North
7. 365 West 1<sup>st</sup> South
8. 211 West 3<sup>rd</sup> South

**Council Member Mann** said they should be connected. He would support the Mayor and Staff's decision. Council Member Benfield and Sutherland would support the connections as negotiated by the Mayor and Staff.

**Council Member Sutherland** moved to require connections with the Mayor and Staff having the latitude to make the arrangements. Council Member Benfield seconded the motion.

<u>Those voting aye</u>	<u>Those voting nay</u>
Council Member Erickson	None
Council Member Sutherland	
Council Member Egbert	
Council Member Mann	
Council Member Benfield	
Council Member Stout	

**The motion carried.**

**Staff Reports:**

**B. Public Works:** – John Millar

1. Riverside Park Project is under construction with bids coming forward for concrete, etc.

**Public Works Director Millar** shared a handout of pictures of the fill area prepared by Johnny Watson. A schedule is prepared for bids opening in the next month. August 4<sup>th</sup> is the bid opening for the structural concrete. Most of the site is down to grade. It is moving along well. The sewer line will be installed tomorrow.

2. 12<sup>th</sup> West excavation material is being moved to use as fill for the city’s portion of the project.

**Council Member Sutherland** pointed out how quickly the green space areas have been leveled out by the city. This city has been moving fill from the 12<sup>th</sup> West excavation, outside of what Johnny Watson’s team is doing, in preparation for a bid that opens Friday. The bid will include the final grading, the top soil, the sprinkler system and seeding all the area outside of the pool site.

Additional parking has been added to help with the ball field venues. Council Member Erickson asked if the drawings represent the actual amount of space available for parking. There was discussion on availability of parking when multiple events will be happening at the same time in the park, as well as the need for pool parking.

3. 12<sup>th</sup> West Project widening is 60-70% complete. The state portion is in the bid bond process. It will open to contractors as a Public Works project. If the lowest bidder does not accept the project, they must be willing to sacrifice 5% of their bid to cover the costs for the next highest bidder. The city is pushing the project as fast as possible.
4. 7<sup>th</sup> South signal is installed and working. 2<sup>nd</sup> East extension to the south of the light will be under construction next week.
5. 2<sup>nd</sup> South Hemming Street project will start next Monday. The contract is with Jerome Bowen. The project needs to be completed during the 7-week break. Council Member Benfield asked about parking. The parking component has room to go either way (regular or reverse angle). Public Works Director Millar will provide the City Council with reverse angle statistics at the next meeting.
6. Wastewater bio-tower is starting next week. The bond hearing for judicial review is scheduled.

**C. Finance Department:** – Richard Horner

1. Resolution 2010 – 11 Adopt updated Health Reimbursement Arrangement Plan

**Finance Officer Horner** reviewed Resolution 2010 – 11 for the HRA Plan. It brings the Plan up to federal requirements. It does not cost any more money than before.

**Council Member Mann** moved to adopt Resolution 2010 – 11 Health Reimbursement Plan; Council Member Erickson seconded the motion;

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert  
Council Member Mann  
Council Member Benfield  
Council Member Stout

**Those voting nay**

None

**The motion carried.**



**RESOLUTION ADOPTING CITY OF REXBURG'S HRA PLAN**

**Resolution 2010 – 11**

The undersigned Principal of City of Rexburg (the Employer) hereby certifies that the following resolutions were duly adopted by the board on **July 21, 2010**, and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, that the Health Reimbursement Arrangement effective January 1, 2010, presented to this meeting is hereby approved and adopted and that the proper officers of the Employer are hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

RESOLVED, that the Administrator shall be instructed to take such actions that are deemed necessary and proper in order to implement the Plan, and to set up adequate accounting and administrative procedures to provide benefits under the Plan.

RESOLVED, that the proper officers of the Employer shall act as soon as possible to notify the employees of the Employer of the adoption of the Health Reimbursement Arrangement Plan by delivering to each employee a copy of the summary description of the Plan in the form of the Summary Plan Description presented to the meeting, which form is hereby approved.

The undersigned further certifies that attached hereto is a true copy of the Health Reimbursement Arrangement and the Summary Plan Description approved and adopted in the foregoing resolutions.

**NOW THEREFORE**, the City of Rexburg does hereby accept and adopt the Health Reimbursement Arrangement and the Summary Plan Description effective January 1, 2010.

RESOLVED this 21<sup>st</sup> day of July, 2010 by the City Council, City of Rexburg, Idaho.

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**SIGNED BY: Richard S. Woodland  
Mayor**

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**ATTEST: Blair D. Kay  
City Clerk**

**SUMMARY OF MATERIAL MODIFICATIONS**  
for the  
**SCHIP & ARRA Amendment**  
**HRA PLAN**

(1) *General.* This is a Summary of Material Modifications (SMM) regarding your HRA Plan ("Plan"). This is being provided to comply with the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (State Children's Health Insurance Program (SCHIP)) and the COBRA provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). This Summary of Material Modifications supplements and amends the Summary Plan Description (SPD) previously provided to you. You should retain this document with your copy of the SPD.

**FOR HRA PLANS:**

(3) *Description of Modifications.* The Employer has amended your Plan effective as of April 1, 2009 to allow the following:

Special Enrollment Rights under SCHIP

Generally, you cannot change the elections you have made after the beginning of the Plan Year. However, there are certain limited situations when you can change your elections. Federal law provides Special Enrollment provisions under some circumstances.

If an Employee has declined enrollment in the Plan for him or herself or his or her dependents (including a spouse) because of coverage under Medicaid or the Children's Health Insurance Program, there may be a right to enroll in this Plan if there is a loss of eligibility for the government-provided coverage. However, a request for enrollment must be made within 60 days after the government-provided coverage ends.

In addition, if an Employee has declined enrollment in the Plan for him or herself or his or her dependents (including a spouse), and later becomes eligible for state assistance through a Medicaid or Children's Health Insurance Program which provides help with paying for Plan coverage, then there may be a right to enroll in this Plan. However, a request for enrollment must be made within 60 days after the determination of eligibility for the state assistance.

If you have any questions regarding the application of this provision to you, contact the Plan Administrator.

**FOR SELF-FUNDED PLANS:**

(4) *Description of Modifications.* The Employer has amended your Plan effective as of April 1, 2009 to allow the following:

Special Enrollment Rights under SCHIP

If an Employee has declined enrollment in the Plan for him or herself or his or her dependents (including a spouse) because of coverage under Medicaid or the Children's Health Insurance Program, there may be a right to enroll in this Plan if there is a loss of eligibility for the government-provided coverage. However, a request for enrollment must be made within 60 days after the government-provided coverage ends.

In addition, if an Employee has declined enrollment in the Plan for him or herself or his or her dependents (including a spouse), and later becomes eligible for state assistance through a Medicaid or Children's Health Insurance Program which provides help with paying for Plan coverage, then there may be a right to enroll in this Plan. However, a request for enrollment must be made within 60 days after the determination of eligibility for the state assistance.

If you have any questions regarding the application of this provision to you, contact the Plan Administrator.

**FOR CAFETERIA AND SELF-FUNDED PLANS:**

(5) *Description of Modifications.* The Employer has amended your Plan effective as of March 1, 2009 to allow the following:

The 2009 American Recovery and Reinvestment Act (ARRA) provides for a reduction of COBRA premiums for group health plans other than health flexible spending accounts. If you are an "assistance eligible individual," there will be a 65% reduction in your COBRA premiums for up to fifteen months. An "assistance eligible individual" is a qualified beneficiary who:

- Becomes eligible for COBRA coverage at any time during the period beginning September 1, 2008 and:
  - Elected coverage during the original COBRA election period; or
  - Elects COBRA within 60 days of receiving the additional COBRA election notice described below; AND
  - The COBRA qualifying event is the employee's involuntary termination beginning September 1, 2008.

OR

- Is involuntarily terminated after March 2, 2010 immediately following a reduction in hours which began on or after September 1, 2008.

For those Assistance Eligible Individuals who are eligible under this provision, the length of COBRA eligibility (18-36 months, depending upon circumstances) is computed from the date the individual loses coverage under a group health plan due to a reduction in hours, regardless of whether COBRA is elected at that time. Eligibility for the premium reduction begins from the date of involuntary termination.

However, if you are eligible for other group health coverage, including a spouse's plan or Medicare, you are not eligible for the premium reduction. There is also no premium reduction for periods of coverage that started prior to February 17, 2009.

If you have already elected COBRA, you must apply for the premium reduction. You will receive a notice from the Plan describing how to apply.

If your qualifying event was an involuntary termination that occurred on or after September 1, 2008 and before February 17, 2009, and you either did not elect COBRA during your original COBRA election period, or you elected COBRA and then dropped the coverage, you may have the right to elect COBRA now at the reduced premium rate. You will receive an additional COBRA election notice from the Plan describing how to apply for this coverage. If this second election period applies to you and you elect COBRA within the 60 day election period, then any gap in coverage from the date of your original qualifying event and the effective date of your COBRA coverage will be disregarded for purposes of determining any pre-existing conditions limitations that may apply.

If you are determined to be eligible for the reduced premium and you become eligible for any other core group health coverage or Medicare, you MUST notify the Plan in writing. If you do not, you may be subject to a tax penalty equal to 110% of the premium reduction.

You should note that electing the premium reduction disqualifies you for the Health Coverage Tax Credit. If you are eligible for the Health Coverage Tax Credit, which could be more valuable than the premium reduction, you will have received a notification from the IRS.

You should also know that the amount of the premium reduction is phased out for certain high income individuals. If the amount you earn for the year is more than \$125,000 (or \$250,000 for married couples filing a joint federal income tax return) all or part of the premium reduction may be recaptured by an increase in your income tax liability for the year. If you think that your income may exceed the amounts above, you may wish to consider waiving your right to the premium reduction. However, your waiver is irrevocable and permanent, which may affect your ability to claim the premium reduction in the next tax year. For more information, consult your tax preparer or visit the IRS webpage on ARRA at <http://www.irs.gov/newsroom/article/0,,id=204505,00.html>

If you request to be treated as an assistance eligible individual and are denied this treatment, you have a right to appeal to the Department of Labor.

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**Finance Officer Horner** reviewed the quarterly expenditure versus budget report. The year is 75% complete. The operating funds have been expended to 67% of budget. He reviewed the Expenditure Report by fund.

**Council President Mann** asked if the expended portion is so low because the ball park fees have not been paid yet. Park activities occur during the last three months of the budget year; they will be reported on at the end. Street repair contracts are exceeding the allotted budget. City Council will have to decide in January where they want the funds to be dispersed and which projects to complete.

The next report is a forecast of expenditures. It is published quarterly in the newspaper. This report includes a breakdown of wages and capital. Council Member Benfield asked if these reports are published on the website. They will be published online when they are approved.

**Council President Mann** moved to accept the Treasurer's Expenditure Report by fund and the Budget Summary Report; Council Member Egbert seconded the motion;

**Those voting aye**

Council Member Erickson  
Council Member Sutherland  
Council Member Egbert  
Council Member Mann  
Council Member Benfield  
Council Member Stout

**Those voting nay**

None

**The motion carried.**

**Calendared Bills and Tabled Items:**

- A. **BILL Introductions:** - NONE
- B. **First Reading:** Those items which are being introduced for first reading.
  - 1. **BILL 1049** to rezone Kartchner Homes from LDR2 to LDR3

**Council Member Erickson** moved to approve BILL 1049 to rezone Kartchner Homes from LDR2 to LDR3; Council Member Sutherland seconded; all voted aye, **the motion carried.**

**Council Member Stout** did not vote.

**2. BILL 1050 Appropriation 2011 Budget**

**Council Member Sutherland** moved to first read BILL 1050 Appropriation 2011 Budget; Council Member Egbert seconded the motion; all voted aye. **The motion carried.**

- 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

**Mayor's Report:**

**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: July 07, 2010
- B. Approve the City of Rexburg Bills

**Council Member Mann** moved to approve the Consent Calendar, the minutes, and the city bills; Council Member Sutherland seconded the motion;

<u>Those voting aye</u>	<u>Those voting nay</u>
Council Member Erickson	None
Council Member Sutherland	
Council Member Egbert	
Council Member Mann	
Council Member Benfield	
Council Member Stout	

**The motion carried.**

**Adjournment**

Attest:

\_\_\_\_\_  
Richard Woodland, Mayor

\_\_\_\_\_  
Blair D. Kay, City Clerk