

# City Council Meeting

April 18, 2012



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

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## Mayor Richard Woodland

### Council Members:

Christopher Mann     Jordan Busby  
Donna Benfield        Jerry Merrill  
Bruce Sutherland      Sally Smith

### 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

### **5:30 P.M. – 6:30 P.M. Work Meeting to discuss going paperless – Kelvin Giles**

**Attending:** Council President Christopher Mann, Council Member Jordan Busby, Council Member Donna Benfield, Council Member Jerry Merrill, Council Member Bruce Sutherland, Council Member Sally Smith and Mayor Woodland.

### **Items for Consideration:**

A. Discussion concerning going paperless.

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

**Officer Stubs** led the pledge  
**Richie Webb** gave the prayer

**Mayor Woodland** reported on the work meeting regarding going paperless. A lot of people are going paperless due to the large amount of money and time it saves. It was estimated that at least eight hours go into preparing the City Council packets. After a discussion and presentation, by Kelvin Giles, the City Council decided to go paperless.

### **Roll Call of Council Members:**

**Attending:** Council President Mann, Council Member Busby, Council Member Benfield, Council Member Merrill, Council Member Sutherland, Council Member Smith and Mayor Woodland.

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

**Travis Gugleman** at 20 East Main Street, stated there was an issue in front of his building on Main Street. Construction took place in the fall of 2011 where machinery was used to remove the sidewalk, and the water meter received maintenance. A mess was left in front his studio – sharp objects were sticking up, cement pieces were left, and a hole. A water leak then happened; he did not do anything about it because it was the city's hole and he assumed it was the city's problem. His water was shut off, and he was told the water leak was on his side of the meter, and he was responsible to pay for it. Public Works Director John Millar went by and said the leak was right next to his studio, but it was not. It was directly under the sidewalk panel that was already removed by the city. Mr. Gugleman asked Mayor Woodland for a quote before any work was done; if he's the one to be paying for it. Before he got a quote the city started to work on the sidewalk, and he asked

them to stop. The city finished cutting all the way to his studio without removing one panel at a time. Zollinger Construction already told him they could beat the city's price. After ripping up one panel the leak was found less than a yard away on the other side of the meter. Mayor Woodland went to his studio to discuss the matter and he said there was no way he could prove the city broke the pipe. Realizing it was an old pipe, he was willing to pay for the digging all the way to the studio. They dug under his studio and put brand new piping in because his studio feeds water to other businesses. He feels it would be appropriate for the city to help pay a third or fourth of the work. Mayor Woodland said Mr. Gugleman could sue the city. Mr. Gugleman feels he has been treated unfairly and the city has responsibility in this matter.

**Council Member Busby** asked when the construction in front of his building was started; it was started in February, 2012.

**Council Member Sutherland** asked for information regarding the bills that were presented by Edstrom Construction and Rexburg Plumbing & Heating – the work cost \$3,006.27. Mr. Gugleman feels he went above and beyond to ensure there would be no more mishaps in the future, so it would be unreasonable to have the city pay the whole bill.

**Council Member Merrill** asked about the panel that was removed and he wanted to know if it's the spot the city worked on. Mr. Gugleman reviewed the panel work and the leak in relation to it.

**Council Member Benfield** asked which construction company gave the quote for the repair. Mr. Gugleman clarified it was Edstrom Construction, not Zollinger Construction.

**Council Member Smith** asked if the city did the work or if it was contracted out. The work was contracted out. She wanted to know if the contractor had any liability insurance. City Engineer Keith Davidson said the contractor is responsible for damage, but in this case it's unknown whether or not it's the contractors fault because the pipes along Main Street are old and rotting.

**Council Member Benfield** believes the city could have been the ones to cause the leak. The city has a responsibility to its businesses, and the city should help share the cost.

**Council Member Busby** agreed with Council Member Benfield when it comes to having a responsibility in this matter. He is also willing to share the costs proposed by Mr. Gugleman.

**Council Member Merrill** said pipes rot and need replacement, and agrees that the city may have caused the damage to the pipe.

**Mayor Woodland** asked City Attorney Zollinger if City Council is setting precedence in this case. City Attorney Zollinger said no, a public precedence maybe, but not legally; the city has the authority to evaluate each case.

**Council President Mann** agreed with paying for one third of the cost.

**Council President Mann** moved to pay Travis Gugleman one third of the total cost and to not charge for the cut to the building. Council member Benfield seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Busby  
Council Member Merrill  
Council Member Smith  
Council Member Sutherland

**Those voting nay**

None

**The motion carried.**

**Mike Henneke** introduced himself to the City Council as the new editor for the Standard Journal.

**Presentations:**

- A. Hemming Village Building – Planned for the corner of 1<sup>st</sup> South and 2<sup>nd</sup> West (old location of D&L Cleaners) – Richie Webb

**-Deseret Book Site Plan**



**Richie Webb** at 680 Wheatland Dr. indicated he would like to update the City Council with the progress of Hemming Village. He made the commitment to continually update the City Council and the Planning and Zoning Commission with decisions made on new buildings. A year ago he presented The Willows, housing for women, which is currently under construction. It will be complete this fall with four stories and 360 beds. The shops at Hemming Village are complete with the following shops: Kiwi Loco, Ferrell’s, Lulu Bella’s Boutique, D&L Cleaners, Gator Jack’s, and My Buttercup, who’s taking place of Lulu & Oliver. The corner shops include: Jimmy John’s and Crazy Mike’s Video. The lobby upstairs, over the Hemming Village shops, is being completed. Office tenants have moved in, one being EcoFirst Pest Control. The Atrium is open, a wedding event center, and Namaste Wellness Spa and Salon will be opening in May.

**Richie Webb** proposed a 7,500 sq. ft. Deseret Book store be placed on the corner of 1<sup>st</sup> South and 2<sup>nd</sup> West, where D&L Cleaners used to be located. The store will be across the street from Porter Park. There will be 120 parking spaces, with 95 being the requirement. The store will be one level with a design to give off a higher presence. The sidewalk will be consistent with Jimmy John’s sidewalk. Landscaping will be incorporated to make the corner appealing. The LDS Distribution Center will be combined with the book store, that’s why it will be 7,500 sq. ft. He reviewed the site plan.

**Council Member Sutherland** commended Richie Webb with the architectural design of the building; all of his buildings have been very pleasing. Mr. Webb wants his buildings to be meaningful and lasting to the community.

**Richie Webb** is hoping the Deseret Book store will be completed in October.

**Council Member Mann** is concerned with pedestrian safety. Porter Park is heavily used and pedestrian safety may be a concern. The Deseret Book Store will be open parking.

**Committee Liaison Assignments for 2012:**

- A. Council Member Christopher Mann: *Golf Board · Emergency Services Board · MYAB*

**Council President Mann** reported he visited with the Emergency Service Board; they have two new ambulances. They are currently working on obtaining equipment and data. The Fire Department was called out to a trailer fire and the electrical fire on 5<sup>th</sup> West. The MYAB met today, they are working on the Masquerade Ball, being held on Saturday, April 28<sup>th</sup> at the carousel. They will be holding Rexburg Day’s at

Rexburg Rapids on Thursday, May 3<sup>rd</sup> at 4:30 p.m. The MYAB is also planning a teen activity on Friday, May 25<sup>th</sup> at the Madison Jr. High School tennis courts at 9 p.m. They will be volunteering at the Legacy Flight Museum Air Show on Saturday, June 16<sup>th</sup>. The Golf Board has not met, but he drove by Teton Lakes Golf Course, and he is happy to report they were very busy and they are hoping for great season.

**B. Council Member Jordan Busby:** *Beautification Committee · Airport Board*

**Council Member Busby** did not have anything to report.

**C. Council Member Donna Benfield:** *Trails of Madison County · IBC · Teton Flood Museum Committee*

**Council Member Benfield** reported the Trails of Madison County are waiting to hear back on a grant request before they met again. She met with the Teton Flood Museum curator Jill Spencer. They are working together on designing a coupon for a free Idaho State map and plan to have these coupons at different locations including Rexburg Rapids, Legacy Flight Museum, and the Madison County Library. The coupons will hopefully encourage attendance to the museum. The museum has also set up a website. She would like to see a web-link in the City of Rexburg website to the museum's website. She suggested the same link for the Legacy Flight Museum.

**Council Member Benfield** said a city employee asked her about the family leave policy. She wanted to know if caring for a sick spouse and or child also included caring for a sick elderly parent. This employee was asked by the Employee Committee to ask the City Council. Chief Financial Officer Horner said he would look into the policy and report to City Council.

**D. Council Member Sally Smith:** *Legacy Flight Museum · Rexburg Arts Council (Romance Theatre & Tabernacle Civic Center)*

**Council Member Smith** reported the Legacy Flight Museum Committee met last Friday. They are working hard to get the airshow ready. The Police Department was at the meeting to discuss parking and security. They are asking for more volunteers to help manage the parking at the airshow. She said the airshow will bring many people to Rexburg and should be appreciated. The Rexburg Arts Council Committee met and agreed that the Romance Theater and Rexburg Tabernacle Committees be advisory committees under the direction of the Rexburg Arts Council Committee. They have been busy putting together their calendars for events to be held at both locations. Roger Harris, the Romance Theater and Tabernacle curator, has been busy building and repairing things at both locations. Council Member Smith briefly reported on the Centennial Celebration Committee. IT Director Kelvin Giles attended their meeting and said he had purchased and placed two web addresses online, they are madisoncountycentennial.org and madisoncounty.com.

**E. Council Member Jerry Merrill:** *Parks & Recreation · Traffic & Safety · Urban Renewal Agency*

**Council Member Merrill** reported the Traffic and Safety Committee met, and they were concerned with the upkeep of the pathways; they asked who was responsible for the maintenance of these pathways. He said there is concern with the landscaping on Main Street. He would like to see new trees planted. The new trees would need to be all the same kind, and would be kept maintained so as to not block signage, or other structures of importance.

**Council President Mann** said this suggestion has been brought up in the past; however there is uncertainty of possibly putting in new sidewalks because the new traffic lights have kept this project from going forward. Studies have been done as to which trees would work best at these locations.

**F. Council Member Bruce Sutherland:** *Planning & Zoning · School Board · Police · M.E.P.I.*

**Council Member Sutherland** reported the Planning and Zoning Commission will meet on Thursday April 19<sup>th</sup>. The School Board will also meet on Thursday. He met with Police Chief Turman. The Police Department has acquired a Humvee and one of the old ambulances from the Emergency Services Board. The ambulance will serve as an evidence trailer. The Humvee was acquired by Officer Hirshci from the

United States Army. It was used in Iraq and it will be used for the D.A.R.E program. The army has donated several other vehicles to the Rexburg Police Department. The School District also has a surplus of trailers. They were going to sell them, but after talking to Police Chief Turman they donated one of the trailers to the Rexburg Police Department. The donated trailer will be taken to the shooting range, where the youth NRA classes will be taught.

**Council Member Smith** made the following recommendation to have Mayor Woodland look at the committee assignments and make different assignments to avoid conflicts with over-scheduling.

**Public Hearing:**

- A. **7:20 P.M. Rezone Tru North Development property** from Low Density Residential Two (2) at (52 North 3rd West), and Community Business Center and Light Industrial at (250 West Main) to **Mixed Use 2 (MU2)**

**-2 Story and 4 Story Site Plan**



**Presentation by applicant:** Cory Sorensen at 154 South 3<sup>rd</sup> West, representing Tru North Development indicated the Comprehensive Plan was originally a mix of moderate to high and commercial, and it was changed to a mixed used. The City Council thought it would be a good buffer between the medium to high, and with the zoning on the rest of the block. He reviewed the original plans with the Case property. The Case property, of 1.25 acres, was the only property that was looked at in the beginning to procure. He took this property to the city to see what was allowed. He was told he could request anything up to HDR2 for development. The city also said it would be nice to clean up the other blocks, including the area behind Wolfe Lighting, owned by Brad Wolfe. He is requesting a MU2 Zone, which would be a Mixed Use zone because Wolfe Lighting would create the 10% required for commercial under the Mixed Use zone. Brad Wolfe is in favor and would like to have his business there for at least another 10 years.

**Cory Sorensen** said the neighbors, boarding this property, are willing to work with them.

The neighboring properties don't want to look out at a three story building. His proposal is for a two story building, no higher than a two story home, with 20 units on the Case property, which is less than what MDR2 allows. They would also build a community playground. The building by Wolfe Lighting will be a four story building and it would create a buffer for the neighborhood from the railroad track and Wolfe Lighting. They would also improve the landscaping in front of Wolfe Lighting. He thinks this will preserve the neighborhood and enhance the property. All the parking requirements are met. He understands the local residents were concerned with a lighted crosswalk to cross Main Street. He is also aware of the traffic concerns.

**Cory Sorensen** said with the site currently being an LDR2 Zone would allow for 11 units, and Tru North Development could build that without coming to any committee. He feels the MU2 zone works great. He is willing to condition this site plan. If they can't work with staff to make the site plan work, the way it's presented, then they would revert back to the current zone.

**Council Member Busby** asked when work would begin. They would start construction as quickly as possible on the first phase. He asked who would maintain the community playground. Mr. Sorensen said there are options; they are willing to deed it to the city or Tru North Development would maintain it.

**Council Member Merrill** was concerned about traffic.

**Council Member Busby** asked if the sewer and water capacity would be an issue. Engineer Keith Davidson said the capacity of water and sewer would not be a problem. Mr. Sorensen said they would have to bring in a larger capacity line for the fire suppression system.

**Presentation by staff:** **Val Christensen** said he has worked with Mr. Sorensen on the Mixed Use for this area. Rather than having the commercial, residential, and light industrial as a mixture on three or four lots next to the tracks, he thought this was a good way to clean up the area. It would be better for the neighborhood and better than a Light Industrial zone. The staff agrees the four story building is a better fit by the tracks, than the three story building. He feels the exits are better.

**Written** correspondence: NONE

**Facts to offer** into the record by City Council members: NONE

Public Testimony **in favor** of the proposal (5 minute limit): NONE

Public Testimony **neutral** to the proposal (5 minute limit): NONE

Public Testimony **opposed** to the proposal (5 minute limit):

**Martha Scott** at 37 North 3<sup>rd</sup> West, agreed changes are necessary in Rexburg. However, she is disturbed with the magnitude of this change in their neighborhood. She feels it would stand out. She is concerned about the increase of traffic; it would increase the vehicle traffic by at least 100 cars. It will impact lives on North 3<sup>rd</sup> West. With her experience, it's not a convenient location to walk from because of the varying speed limits, heavy traffic, the railroad, and with the winter months. Most residents back out of their driveways, which are 60 ft. or less, with the increase of traffic it may be difficult for the residents to get out of their driveways. She spoke to the railroad, and asked if they had any other concerns. They are concerned with safety and with the encroachment on the railroad easement - he declined to represent himself. The neighborhood shares these concerns.

**Sharon Christensen** at 27 North 3<sup>rd</sup> West, thanked City Council for their service to the city. She has heard a lot about the need for student housing. She has seen a problem that has risen from this emphasis. Established residents feel they have been crowded out of the city. The thought of "out with the old and in with the new" is running rampant. She is worried, if this rezone takes place, this would hinder the peaceful neighborhood, and their quality of life would be downgraded. She feels if they stay in their homes they would

eventually be surrounded by apartment complexes. She is concerned for home owners who will be trapped and want to move. She begged the City Council and Mayor Woodland to take into consideration the needs of the established residents.

**Ron Gib** at 329 West 1<sup>st</sup> North, asked the City Council to address the safety issues concerned with the corner of 1<sup>st</sup> North and 2<sup>nd</sup> West. The railroad tracks run across the intersection, and with the increase of traffic something should be done to address the safety issue.

**Frank Haderly** at 23 North 3<sup>rd</sup> West, extended his gratitude to City Council. He felt the impact study regarding traffic is huge. The City Council can't make a decision unless they look at the impact study. Martha Scott mentioned at least 100 cars would be added to the area, with that in mind, some leave their homes a minimum five to six times a day, and some younger more enthusiastic people may leave their homes more than that. That would be an extra 1,000 cars going in and out of that area every day. This proposed complex is huge, and it's supposed to be consistent with what is already there, and there is nothing in the area of that magnitude. There is some historical precedence that went through that area with the flood. He is concerned with the physical impaired neighbors. His neighbor is a WWII veteran who is not happy with the proposed changes. He would rather the ten apartments go in from the original plan, he is OK with that. He is concerned with how long his road will be ripped up during construction. He is also concerned with crossing Main Street to get to Porter Park. He appreciates Corey Sorenson, but he doesn't endorse the magnitude of the project. He doesn't want the property values to go down, and he feels it's not fair to build something with such great magnitude.

**Diann Ross** at 271 West 1<sup>st</sup> North, stated there are many children in this neighborhood who use the sidewalks on both sides of North 3<sup>rd</sup> West regularly playing and she highlighted the concern for their safety as the traffic increases. She highlighted another concern directed towards the school bus stop on 1<sup>st</sup> North. Seven to ten children are picked up at this bus stop and the increase in traffic is a safety concern.

**Rebecca Hanson**, librarian at Madison Library, 57 North 3<sup>rd</sup> West, said that the railroad tracks are a safety concern. She said that it is inappropriate to have railroad tracks so close to an apartment complex geared toward housing families that have children. She is concerned with an increase of crime that would originate from the increase in the population in the neighborhood. This includes graffiti, theft, other destruction of property, etc. The neighborhood watch will be difficult to maintain. She explained that there are doubts with the capacity of the sewer and drainage system. She explained that there are existing problems right now with the drainage in that area. She is concerned with decreased property value in the neighborhood. She addressed her concern with the loss of single family residents and the increase of apartments and complexes being built in the community. She explained that development is good but should be done in appropriate places and appropriate times. She proposed that the grounds be used to build a, daughters of the Utah pioneers museum and the surrounding grounds can be used as an arboretum and a founder's park. She expresses her appreciation for the opportunity to voice her concern.

**Neil Evans** at 47 North 3<sup>rd</sup> West, said he agrees with those who have already spoken. He feels that the biggest concern is the economy and disagrees that more housing is needed in Rexburg. He believes jobs are need in Rexburg and not any more housing. He states that those who already live here need jobs and with a new development it will add to the problem. He appreciates the time he was given to voice his concern.

**Gary Taylor** 63 North 3<sup>rd</sup> West, said he likes the neighborhood the way it is. He has lived in this neighborhood for 15 years. He is concerned about how the neighborhood will change with the new development. He wants to keep the neighborhood looking the same. He said that if there is something that is built it should keep the look and feel of the neighborhood. The traffic is also a concern. He said that he rather support those people that live in Rexburg and not those who won't be in Rexburg very long.

**Rebuttal by applicant:** Cory Sorensen thanked those who spoke and voiced their opinion. He said that he has lived in Rexburg for 12 years. When he first moved to Rexburg his neighborhood was going through a similar change. It was all residential homes at that time but in the last 12 years a lot of the area has changed because they live in a university community. He explained that he does studies on smart community growth and it is important to provide housing in strategic locations; locations that are within walking distance of resources. He acknowledged the safety issues that come with increased traffic but he explained that it is a concern in every city. He said that the development won't take away from children playing because it will bring more families in the area; families that include children. Mr. Sorensen would like to see mixed neighborhoods. He doesn't want certain areas of the city only designated to certain types of community housing. He said after meeting with the members of the neighborhood they were able to come up with new ideas and concepts. These new ideas and concepts helped in the planning of a far better project than they originally anticipated or envisioned. He gave thanks for his time to speak.

**Close hearing for deliberations:**

(Once a hearing is closed, don't reopen it unless absolutely necessary and NOT to receive anything which might be rebutted)

**Develop findings and conclusions.**

**Council Member Busby** asked Engineer Keith Davidson if a traffic study has been done. Mr. Davidson explained that when a development project comes in with a plan, a traffic study is required but because this is a rezoning process, it is not required.

**Council Member Mann** said he is concerned with the magnitude of the project. He said that by looking at it, it has a big magnitude. He is concerned that it will have a large impact on a residential neighborhood. He feels that changing the zoning is too much.

**Council Member Merrill** asked Mr. Sorensen for clarification if there is a way for the development to be scaled back. Mr. Sorensen said they are planning on building a 20 unit building for phase one which is one step ahead of what the zoning is at the moment in the front parcel but he does not know how the other phases will play out if they were to decide to build less units on the back parcels because of costs. The Wolfe Lighting sight causes a problem financially if the density of the development is scaled down in the back. Mr. Sorensen clarified that they would have to run the numbers to see if it can be done.

**Council Member Benfield** said she agreed with the residents that stated the neighborhood should be kept harmonious. She said that she wants to represent the people in the community.

**Council Member Smith** said that she voted against the comprehensive plan change. She said the impact of the first phase on the Medium Density One (1) Zone is not as great as the impact that the additional phases will bring.

**Public Testimony opposed to the proposal (5 minute limit):** NONE

**Mayor Woodland** closed the public hearing:

**Develop findings and conclusions:**

**Council Member Mann** motioned to deny to rezone Tru North Development Property from Low Density Residential Two (2) at (52 North 3rd West), and Community Business Center and Light Industrial at (250 West Main) to Mixed Use 2 (MU2); Council Member Benfield seconded the motion; **Mayor Woodland** asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Merrill

**Those voting nay**

Council Member Sutherland

Council Member Smith  
Council Member Busby

**The motion carried.**

**Items for Consideration:**

- A. Development Code Ordinance No. 1026** Amendment: Section 3.7.020-F Conditional Use Permit (CUP) Language for Medium Density Residential One (MDR1): **Change From:** “five (5) and six (6) dwelling units per building” **To:** “Buildings with more than four (4) dwelling units”

**City Attorney Stephen Zollinger** gave a staff presentation on the amendment for Development Code Ordinance No. 1026. He explained that formerly a developer presented to the City why four-plexes are not the best method to develop aesthetically pleasing large apartment buildings. The presentation explained that if more than four units per building were allowed, the development project would be more favorable and aesthetically pleasing. Mr. Zollinger explained that at that time the process to amend the ordinance was started. In the process of amending the ordinance it was amended to be included in Medium Density Residential TWO (MDR2) but not MDR1. It was neglected to be amended into MDR1. He explained that this is the first reading of the amendment. There will be a second and third reading with not much change made to the amendment. He clarified that the change should be done in the first reading.

**Mayor Woodland** gave the idea to suspend the rules and move the amendment forward through the process if the second and third readings would not have any change to the amendment.

**City Attorney Zollinger** clarified that this can be done. He recommended that if the decision to suspend the rules and accelerate the amendment through the process was made, then the opportunity to voice an opinion should be given to those in opposition to the amendment.

**Council Member Busby** asked for information regarding procedure of suspending the rules.

**City Attorney Zollinger** clarified that suspending the rules will only be applied to this amendment only. It is to accelerate the process by eliminating the second and third readings and amend the ordinance as soon as possible.

**Teddie Steiner** at 846 West 7<sup>th</sup> South, had concerns regarding the amendments to the ordinance. She is concerned that the amendment does not have a limit on the size of the type of building that can be constructed in a development and it leaves an open end on the wording of “more than four (4) dwelling units”.

**City Attorney Zollinger** explained the amendments purpose. He explained that it has no effect on the density of a development. The amendment allows for developers to change the configuration of their development to make it more aesthetically pleasing.

**Teddie Steiner** was mainly concerned with the wording of the amendment. She gave hypothetical examples to explain her concerns. She first gave a hypothetical example of a development on an MDR1 Zone that is five acres. If the developer wants to develop this property and by using the new amendment wants to build only one building with 80 units on the property, what is there to limit the developer from doing this?

**City Attorney Zollinger** explained that there would be other limitations and requirements that would prohibit the developer from constructing this development.

**Teddie Steiner** asked what is there in the amendment that the city can do to turn the developer down if he were to meet all the limitations and requirements.

**City Attorney Zollinger** explained that any rational basis that the city has to police the structure is a way for the city to turn them down. He explained that fire

suppression would be very difficult to police in a structure this large and it would be a reason that the city could use to turn down the development.

**Teddie Steiner** gave another hypothetical example. She explained that what if there was a property that was long and narrow that was five acres, and a developer wanted to develop this with 80 units back to back? If they meet all the requirements and limitations what could the city do to stop the development?

**Community Development Director Val Christensen** explained that the building code would stop the development. Only 16 units can be built in a row.

**Teddie Steiner** gave her opinion on purpose of zoning. She described that zoning is for the city to build and develop the community and the City of Rexburg in an aesthetically pleasing way. It is to build the quality of life. She explained that it is also for the purpose of telling the contractor what they are allowed to develop. She further explained that it is also there to protect the people and the community from developers developing buildings and structures that could harm them or their property. She believed that with this amendment that the city may have difficulty turning down a Conditional Use Permit with an ordinance that has an open ended phrase “with more than four (4) dwelling units”. She believed the city is putting itself at risk with this type of wording and if they were to turn someone down that met all the requirements and limitations needed in a development. It also puts the community at risk if they were to accept a development like this because it could affect property values of homes in the area. She explained that MDR2 is limited by the City and High Density Residential One (1) is also limited. She is concerned that the City is advocating their power to the developer with this type of wording and amendment. She believed any open ended law is bad. She is concerned mainly with the risk to the city and the residents.

**Russ Van Allen** at 635 Casper Avenue, agreed with Teddie Steiner. He added that he considers a four-plex like a large house. He believes that MDR1 is a transition area and a four-plex makes this a transition area.

**Teddie Steiner** felt that the parkside development is very nice. She explained that they are four-unit buildings that look nice and are pleasing. She also explained that the current ordinance does not need a correction and that it is fine the way it is worded at the moment. She explained that it fits just fine the way it is between Low Density Residential and High Density Residential.

**City Attorney Stephen Zollinger** clarified that a Conditional Use Permit will not require the City to allow two forty unit buildings to be constructed adjacent to a residential neighborhood. He explained that the City has the power to determine where to build the structure within the five acres. The City can push the two forty unit buildings to the middle of the 5 acres for the interest of protecting the single family residential homes that are next to the 5 acres. He continued to explain that one of the powers given to cities is to determine where to place a structure within a development property.

**Council Member Merrill** asks City Attorney Stephen Zollinger for his professional opinion as an attorney if the city would have enough protection and not be at risk with being sued with this amendment if the city were to deny a development.

**City Attorney Stephen Zollinger** explained that there is no easy answer to that question but in regards to the hypothetical examples given by Teddie Steiner; none of those examples will subject the city to liability.

**Council President Mann** asks Community Development Director Christensen and City Attorney Zollinger if a developer wanted to develop a structure with a 10-plex in the middle and 6-plexes on the outside can they build if this amendment is not approved?

**City Attorney Stephen Zollinger** explained no, the developer cannot build with the way the ordinance is written currently. But they can if the ordinance is amended. The developer is currently forced to build only four-plexes with the current ordinance.

**Community Development Director Christensen** added to the discussion that the developer would still need to meet design standards. This requirement can be considered to be used by the city to deny a developer. Design Standards will also make buildings more practical and anything that will be unusual would not be done by developers that are trying to make money.

**City Attorney Stephen Zollinger** further clarified that there are no legal risks with an open end amendment to this ordinance because in this particular case it is not feasible to maximize the development above what has already been developed.

**Council Member Sutherland** moved to approve for first reading the amendment to the Development Code, Ordinance No. 1026; amending Section 3.7.020-F Conditional Use Permit (CUP) Language for Medium Density Residential One (MDR1): change from: “five (5) and six (6) dwelling units per building” to: “Buildings with more than four (4) dwelling units”. Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Merrill  
Council Member Smith  
Council Member Busby  
Council Member Sutherland

**Those voting nay**

None

**The motion carried.**

**Staff Reports:**

**A. Public Works:** Engineer Keith Davidson reported there will be a bid opening on Friday, April 20<sup>th</sup> at 3:30 p.m. for the 2<sup>nd</sup> East cement reinforced asphalt base stabilization (CRABS) project starting to the North of Arco extending up to US Highway 20. There will be an aerial flight to take aerial photographs on Saturday, if weather permits. He said the quality of photographs will be a three inch pixel resolution, where the best current black and white photograph is at a six inch pixel resolution. The new images will be sharper. Council Member Sutherland asked about the time line of when the new images will be received. Engineer Davidson said in about eight to ten weeks. The City of Idaho Falls originally requested bids for the aerial photographs. We were going to combine with them, but the company wasn't able to keep the price the same. We needed to move quickly on the project and went ahead and requested three different bids. We currently don't have all of the targets surveyed; however we can survey them afterward too. Council Member Busby asked about the cost of the aerial photographs. Engineer Davidson said because they are combining with the City of Sugar City, the cost will be just over \$10,000 dollars. Council Member Busby asked about the 7<sup>th</sup> South project; he understood the Street Department leveled the street out, but there is concern with pot holes. Engineer Davison said he would have the Street Department re-level and fill in the pot holes on 7<sup>th</sup> South. He appreciated the feedback with areas of concern. He said they are moving ahead on the 7<sup>th</sup> South project. They are working on tying in the right-of-way by the Wagon Wheel Apartments; the rest of the rights-of-ways are complete.

**B. Finance Department:** - Finance Officer Richard Horner showed the expenditure report by fund and the budget summary report. He said they are half way through the year. He will rerun the forecast budget report one more time, before the budget meetings start. Overall, the operations report is at 50% of the year; we have spent 41%, even though the revenue is at 38%, half way through the year, which will change when we receive state revenue at the end of April. Mayor Woodland asked how this will change the budget projections. Finance Officer Horner said the general fund projection over all is going to be about one hundred and twenty thousand to the good, with one hundred thousand of it is contingent. He referred City Council to the 3<sup>rd</sup> page; it is a quarterly report and it is set up by fund in alphabetical order; this report will be published, in the newspaper.

**-Budget Summary Report**

**CITY OF REXBURG**  
FY 2012

**BUDGET SUMMARY REPORT**  
6 months ending 3/31/2012

**EXPENDITURES**

	BUDGET	ACTUAL	50%	FORECAST
<b>OPERATING DEPARTMENTS &amp; FUNDS</b>				
Mayor, Council	235,900	116,394	49%	231,500
Economic Development	187,900	88,552	47%	180,600
Cultural Arts	193,800	87,016	45%	287,100
Customer Services	273,800	131,872	48%	264,400
Information Technology	214,200	94,858	44%	205,400
Financial Management	670,800	352,562	53%	667,600
Legal Services	211,800	101,252	48%	210,100
Planning & Zoning	147,500	68,142	46%	139,400
Building Safety	663,100	268,831	41%	566,600
GIS	368,000	183,083	50%	366,800
Emergency Services	2,117,300	1,067,138	50%	2,231,900
Golf Courses	466,900	157,554	34%	475,700
Parks & Ball Diamonds	468,200	163,760	35%	496,300
Recreation Administration & Programs	289,400	99,286	34%	269,600
Riverside Aquatic Center Operations	408,100	57,101	14%	400,500
Miscellaneous: MYAB, Airport, Legacy Flight Museum	208,700	32,199	15%	95,700
<b>Police Department</b>				
Administration Division & Fund 09	960,300	441,519	46%	950,600
Patrol Division & Funds 13	1,843,400	844,026	46%	1,855,800
Investigations Division	606,400	285,393	47%	572,800
Community Services Division & Funds 08,11,14	562,600	237,427	42%	555,100
Total Police Department	3,972,700	1,808,365	46%	3,934,300
<b>Public Works</b>				
Public Works Director & Engineering	443,600	193,259	44%	381,900
Shop	347,700	135,254	39%	319,600
Sanitation	1,580,600	709,418	45%	1,566,500
Water	2,064,000	842,987	41%	2,026,600
Wastewater	3,466,600	1,555,062	45%	3,469,700
Street Operations	1,478,800	611,004	41%	1,398,500
Street Repair Contracts	1,200,600	48,832	4%	1,148,000
Total Public Works	10,581,900	4,095,816	39%	10,310,800
<b>TOTAL OPERATING DEPARTMENTS &amp; FUNDS</b>	<b>21,680,000</b>	<b>8,973,781</b>	<b>41%</b>	<b>21,334,300</b>

**CITY OF REXBURG**  
FY 2012

**BUDGET SUMMARY REPORT**  
6 months ending 3/31/2012

	BUDGET	ACTUAL	50%	FORECAST
<b>NON-OPERATING FUNDS</b>				
General Fund Contingency	111,500		0%	
General & Street Fund Transfers	1,869,300		0%	1,859,600
Construction 06,30,31,32,36,39,41,42,44,46,49,51-58,85	12,367,300	1,430,485	12%	11,239,900
Contributed Capital	3,200,000		0%	3,200,000
Capital Reserve Funds 07,18,20,33,34,35,38	5,719,100	124,654	2%	762,400
LID Debt Service Funds 59-69	437,800	145,887	33%	93,000
Trust & RLF Funds 15,16,19,21,22,90,91	744,500	252,933	34%	606,100
<b>TOTAL NON-OPERATING FUNDS</b>	<b>24,449,500</b>	<b>1,953,959</b>	<b>8%</b>	<b>17,761,000</b>
<b>TOTAL EXPENDITURES FOR ALL FUNDS</b>	<b>46,129,500</b>	<b>10,927,740</b>	<b>24%</b>	<b>39,095,300</b>

**FY 2012**

**REVENUES**

	BUDGET	ACTUAL	50%	FORECAST
General Revenues	11,072,000	4,378,436	40%	10,853,500
Building Safety & P&Z	810,600	166,748	21%	575,100
Golf	466,900	97,568	21%	439,100
Parks, Recreation, Museums, Arts	942,900	21,746	2%	1,048,400
Street	2,689,400	913,575	34%	2,661,900
Utility	7,511,200	3,320,495	44%	7,506,600
<b>TOTAL OPERATING DEPARTMENTS &amp; FUNDS</b>	<b>23,493,000</b>	<b>8,898,568</b>	<b>38%</b>	<b>23,084,600</b>
Contributed Capital	2,800,000	0	0%	2,800,000
Construction Funds	12,016,100	0	0%	12,227,200
Capital Reserve Funds	5,719,100	477,472	8%	5,299,100
LID Funds	437,800	209,336	48%	824,600
Trust Funds	744,500	37,753	5%	773,500
Fund Transfers In	919,000	0	0%	919,000
<b>TOTAL REVENUES ALL FUNDS</b>	<b>46,129,500</b>	<b>9,623,129</b>	<b>21%</b>	<b>45,928,000</b>
<b>NET REVENUES OVER EXPENDITURES</b>		<b>-1,304,611</b>		<b>6,832,700</b>

-Treasurer Quarterly Report

CITY OF REXBURG TREASURER'S EXPENDITURE REPORT BY FUND FISCAL YEAR TO DATE ENDING 3/31/2012 @ 50% of the fiscal year 2012								
#	FUND	WAGES	CAPITAL	OTHER	TOTAL	BUDGET	BUDGET	END BAL.
47	AIRPORT OPERATIONS	2,400	473	3,161	6,034	174,900	3%	(68,593)
36	ARTS PROMULGATION			0		157,100	0%	96,260
31	BEAUTIFICATION			0		40,300	0%	29,685
28	BUILDING SAFETY/P&Z	170,606		166,368	336,974	810,600	42%	(121,047)
32	CITY HALL CONSTRUCTION	2,966	20,402	1,299	24,667		0%	(24,667)
85	COMMUNITY SAFETY LIGHTING			27,785	27,785	293,700	0%	282,245
30	DOWNTOWN REVITALIZATION		519,129	0	519,129	700,000	74%	(169,973)
83	EI BUSINESS COMPETITION			11,655	11,655	11,000	106%	(1,632)
92	FIRE ARCHER EMPLOYEES			0		10,000	0%	8,610
19	FIRE DISTRICT		12,409	214,024	226,433	635,900	36%	693,286
18	FIRE EQUIPMENT			0		295,200	0%	340,905
20	FIRE IMPACT FEES			0		30,000	0%	(570)
17	FIRE OPERATIONS	512,648	99,139	450,658	1,062,445	2,017,300	53%	(417,239)
21	FIRE PAID CALL			10,214	10,214	43,000	24%	28,784
37	FIRE PARAMEDIC CARE UNIT	784		3,908	4,692	100,000	5%	(64,132)
93	FIRE PIPES & DRUMS			650	650	7,000	9%	3,341
01	GENERAL	1,688,206	48,759	1,424,244	3,161,209	7,820,500	40%	2,853,236
29	GEOGRAPHIC INFORMATION	98,408	4,543	80,132	183,083	368,000	50%	(44,373)
51	GOLF COURSE CONSTRUCTION			0		60,000	0%	(642,340)
50	GOLF COURSE OPERATIONS		24,700	132,854	157,554	466,900	34%	1,437,719
24	LEGACY FLIGHT MUSEUM			10,343	10,343	168,700	6%	14,470
56	LID CONSTRUCTION		2,880	(10)	2,870	500,000	1%	(2,870)
60	LID DEBT SERVICE			145,887	145,887	437,800	33%	(922,904)
45	MAYOR'S YOUTH COMMITTEE			2,101	2,101	4,300	49%	1,021
38	PARKS IMPACT FEE		40,697	0	40,697	357,000	11%	373,296
14	POLICE ANIMAL CONTROL	21,155		27,124	48,279	136,400	35%	12,863
08	POLICE D.A.R.E.			2,891	2,891	23,300	12%	(421)
09	POLICE DRUG ENFORCEMENT			149	149	33,600	0%	23,465
13	POLICE GRANTS	10,708		5,960	16,668	168,600	10%	(28,959)
07	POLICE IMPACT FEES			0		38,300	0%	(255,064)
03	RECREATION	1,053		57,706	58,759	189,000	31%	(62,311)
22	REVOLVING LOAN FUND		1,897	0	1,897	34,000	6%	1,603,175
81	REXBURG ARTS COUNCIL	1,800		7,961	9,761	16,700	58%	(773)
23	REXBURG RAPIDS	1,471		55,630	57,101	408,100	14%	90,682
41	RIVERSIDE PARK CONSTRUCTION		78,906	0	78,906	200,000	39%	(678,302)
40	ROMANCE THEATER	8,179	9,573	25,562	43,314	53,700	81%	(202,926)
46	SEWER & WATER LINE EXTENSION		410,870	0	410,870	2,200,000	19%	(410,870)
35	SEWER CAPITAL RESERVE			83,956	83,956	2,710,000	3%	2,280,196
52	SEWER PLANT CONSTRUCTION		102,579	0	102,579	5,002,000	2%	(4,279,618)
33	STREET IMPACT FEES			0		400,000	0%	95,633
44	STREET NEW CONSTRUCTION		127,940	0	127,940	2,508,700	5%	458,048
02	STREET OPERATIONS	202,586	4,262	404,156	611,004	2,407,800	25%	304,579
43	STREET REPAIR CONTRACTS		3,777	5,705	9,482	1,200,600	1%	181,397
04	TABERNACLE (Audtm. /Museum)	9,041		21,698	30,739	109,000	28%	101,059
05	TABERNACLE ORCHESTRA			3,201	3,201	14,400	22%	7,556
39	TRAILS OF MADISON COUNTY			103	103	51,700	0%	(145)
25	UTILITY (Water, Sewer, Garbage)	425,873	953,826	2,023,973	3,403,672	8,311,200	41%	31,111,311
90	VETERANS MEMORIAL		13,737	0	13,737	14,600	94%	5,198
34	WATER CAPITAL RESERVE			0		1,888,600	0%	1,719,963
42	WATER TANK AND WELL		83,871	0	83,871	2,500,000	3%	(83,871)
<b>TOTAL</b>		<b>3,157,884</b>	<b>2,564,369</b>	<b>5,411,048</b>	<b>11,133,301</b>	<b>46,129,500</b>	<b>24%</b>	<b>35,674,383</b>

Citizens are invited to inspect the detailed supporting records of the above financial statement.

**Council Member Sutherland** asked if the one hundred and nine thousand in the Tabernacle fund included the cost of the tabernacle windows. Finance Officer Horner said about eighty thousand is for the cost of building the windows. He said there is enough money to replace the basement windows too. Engineer Keith Davidson said they have ordered the glass to start building the windows.

Discussion regarding when to set the budget public hearing for City Budget. The budget public hearing was discussed to be set on Aug 8<sup>th</sup>, 2012.

**Council Member Merrill** moved to set the 2012/2013 City Budget public hearing for August 8<sup>th</sup>, 2012; Council Member Busby seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

- Council President Mann
- Council Member Benfield
- Council Member Sutherland
- Council Member Merrill

**Those voting nay**

- None

Council Member Smith  
Council Member Busby

**The motion carried.**

**Calendared Bills and Tabled Items:**

**A. “LAND USE ACTION” – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE: – NONE**

**B. BILL Introduction: – NONE**

**C. First Reading:** Those items which are being introduced for first reading:

1. **Ordinance 1084** amending Ordinance 1026 for larger buildings in MDR1: (*This motion was made under **Items of consideration – A.***)

**Council Member Sutherland** moved to first read Ordinance 1084 amending Ordinance 1026 for larger buildings in MDR1 by allowing more than four (4) dwelling units per building with a Conditional Use Permit; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

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

1. **Ordinance 1082** to Rezone 415 and 437 West 6th South from High Density Residential 1 (HDR1) to High Density Residential 2 (HDR2).

**Council President Mann** moved to second read Ordinance 1082 to rezone 415 and 437 West 6<sup>th</sup> South from High Density Residential 1 (HDR1) to High Density Residential 2 (HDR2); Council Member Smith seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

**Public Works Engineer Keith Davidson** commented on the property owners that he visited with concerning LIDs. The proposed plan to change the location of the sidewalk by Norma Westwood, who lives on the corner of 4<sup>th</sup> South and 3<sup>rd</sup> East was changed; instead of the sidewalk being moved against the curb, it is proposed to offset the sidewalk by seven feet. Norma is fine with this decision. All the other property owners were okay with the decision to take out the trees along the sidewalk. Taking out the trees will be a cost born by the property owners. The property owner Melvin Rudd on 1<sup>st</sup> East by the canal has accepted an offer on the sale of the property. The person buying the property is planning to develop this summer. They

will be kept on the LID and a time constraint will be given to them to put in a sidewalk. The Ferguson property that was swapped with city property had an outstanding billing for storage of a fuel tank; Engineer Davidson researched how much it would cost for the storage. In the time frame that needs to be paid, Engineer Davidson determined that it would cost \$1,200. The Ferguson's would like \$2,500.

Discussion by the City Council to determine an equitable settlement for storage of the fuel tank. They discussed paying \$1,800.

**Council President Mann** moved to authorize a onetime payment of \$1,800 towards the storage expense of the fuel tank on the Ferguson property; Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

2. **Ordinance 1083** for the creation of LID 42.

**Engineer Davidson** reviewed the need to consider suspending the rules for Ordinance 1083 for the creation of LID 42.

**Council Member Busby** motioned to suspend the rules for **Ordinance 1083** for the creation of LID 42; Council Member Sutherland seconded the motion; Mayor Woodland asked for a roll call vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

**Council Member Merrill** moved to approve Ordinance 1083 for the creation of LID 42; Council Member Smith seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

**E. Third Reading:** Those items which have been second read:

1. **Ordinance 1081** to sell 10 yr. warrants in the amount of \$300,000 through a bid process for LID 40.

**Council Member Sutherland** moved to third read Ordinance 1081 to sell 10 yr. warrants in the amount of \$300,000 through a bid process for LID 40. Council President Mann seconded motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

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

**Mayor's Report:**

1. **Proclamation** – Child Abuse Prevention Month

**Council President Mann** moved to ratify the Proclamation proclaiming April, 2012 as Child Abuse Prevention Month; Council Member Smith seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith  
Council Member Busby

**Those voting nay**

None

**The motion carried.**

**Council President Mann** reviewed the all-day City Council “drive around” on May 2<sup>nd</sup>. He would like everyone to email him what they would like to see in the city. It is from 10:00 a.m. to 4:00 p.m.

**Council Member Sutherland** suggests moving City Council meeting that day to 4:00 p.m. or an earlier time. Council President Mann decided to move it to 5:00 p.m. on May 2<sup>nd</sup>.

2. **Appoint GIS Oversight Committee**

**Finance Officer Richard Horner** discussed the GIS Oversight Committee. He explained there will be three members from the county and three members from the city. The members from the city will be Engineer Keith Davidson, Finance Officer Richard Horner, and Council Member Busby.

**Council Member Merrill** moved to approve the appointment of the city members of the GIS Oversight Committee; Council Member Sutherland seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Sutherland  
Council Member Merrill  
Council Member Smith

**Those voting nay**

None

Council Member Busby

**The motion carried.**

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

- A. Minutes from April 04, 2012 meeting
- B. Approve the City of Rexburg Bills

**Council Member Sutherland** moved to approve the consent calendar; Council Member Benfield Seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

- Council President Mann
- Council Member Benfield
- Council Member Sutherland
- Council Member Merrill
- Council Member Smith
- Council Member Busby

**Those voting nay**

None

**The motion carried.**

**Council Member Benfield** asked if everyone could read the letter she received about Rexburg Rapids. She also asked Engineer Keith Davidson if there was anything to report on the Wastewater Treatment Plant. City Attorney Zollinger commented on the plans made to get the technology needed to take care of the city’s waste. City Attorney Zollinger and Mayor Woodland will be traveling to Germany to look at technology that will be able to treat waste in a more cost effective manner.

**City Attorney Stephen Zollinger** asked the City Council members to allow time in the next couple meetings for himself and City Clerk Blair Kay to explain Roberts Rules and City Council Policy on how to conduct meetings. Council President Mann proposed to schedule a time at the end of the City Council Meeting on May 16<sup>th</sup>.

**Council Member Smith** moved to adjourn the meeting; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

- Council President Mann
- Council Member Benfield
- Council Member Sutherland
- Council Member Merrill
- Council Member Smith
- Council Member Busby

**Those voting nay**

None

**The motion carried.**

**Adjournment**

\_\_\_\_\_  
Richard S. Woodland, Mayor

Attest:

\_\_\_\_\_  
Marianna Gonzalez, Deputy City Clerk