

City Council Meeting

December 05, 2012



CITY OF
REXBURG
America's Family Community

35 North 1st East
Rexburg, ID 83440

blairk@rexburg.org
www.rexburg.org

Phone: 208.359.3020 x2313
Fax: 208.359.3022

December 05, 2012

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

6:00 P.M. Work Meeting

A. Policy discussion on Seasonal Businesses.

Council President Mann asked the City Clerk to review the application process.

City Clerk Blair Kay reviewed Ordinance 1029 and the definition for seasonal businesses. Seasonal businesses are required to change locations every six months to maintain the seasonal status. Seasonal businesses additionally follow health department regulations and fire code regulations. The International Fire code requires certain standards and regulations on businesses that allow occupants to enter into their structure; seasonal businesses are included. Seasonal businesses are required to pay a licensing fee of twenty dollars every year. Most brick and mortar businesses also pay the same licensing fee.

Natalie Powell continued the discussion on the inspection process. She mentioned the review process included a zoning review. The inspections process includes an electrical inspection of the structure (inside and out) and each business is required to be inspected by the health department in order to operate. She additionally explained the difference between the definitions of a temporary and a seasonal business.

Economic Development Director Scott Johnson reviewed the economic background for businesses in Rexburg. He indicated the market is a free market system. Someone may come in with a bigger and better product to compete with their product and service. He gave examples like J-Dogs in Provo have been successful. Blister's Barbeque in Rexburg has moved into a brick and mortar business. Recently \$900,000 a month is spent on fast food in Rexburg. People are looking for variety, etc. He counted 19 brick and mortar businesses that sold ice cream, yogurt, frozen desserts, etc. Our market is based on competition. We are open to letting new businesses experiment in the free market process to start a new business. His job is to help all businesses succeed. There is a happy medium that can be reached for all businesses. Twizzle Berry's did go out of business in the free market competition process. He indicated the City loves the business investment in the Community. Government needs to be careful to keep the playing field workable for everyone.

Council Member Benfield believes in new business startups; however, she has done some research concerning temporary businesses. Most of the temporary businesses are located in college towns. It is very interesting; the county should have the buses licensed in Madison County; the buses should pay a personal property tax; Pocatello is charging a personal property tax of \$10,000 to mobile vendors. She wanted to make it fair and equal for the vendors.

Council President Mann indicated he calls them parking lot businesses. He thought they serve a purpose in Rexburg. What is the limit of seasonal business; do we have design standards for them; He did not want to go to the extreme; however, he was recommending a limit on the number of portable businesses. He gave the example from Madison County on property taxes being charged for two businesses on a car lot. There are ways to level the playing field. A four month business selling hot dogs may only be a day's profit at the University Crossroads. He questioned the requirement to require a seasonal business to move every six months. He is also concerned about signage and design. There needs to be some common sense in the regulations.

Council Member Smith said the clientele for mobile businesses are different than that of brick and mortar businesses. She supported the free enterprise system. New businesses need some where to test their business. She wanted to be really really careful and keep the entrepreneurial spirit alive.

Council Member Busby supported the ideas; however, he wanted to have more discussion in a work meeting. He wanted input from everyone to make it work for everyone. The input heard from the presentations, correspondence and the attendees in the meeting tonight has been very informative. He reiterated the topic should continue to receive input and continue to be discussed.

Economic Development Director Scott Johnson said the county should be involved if taxes are the issue. The city is not a taxing entity.

Mr. Ryan Ballard asked 'What changed since Ordinance No. 1029 was approved.' His wife said she appreciates having the opportunity to be an entrepreneur. She is a teacher and she employs her students. She cares about her business and she thinks competition is good.

Council President Mann said a new City Council may have questions with existing policy. In addition new City Council members may not agree with existing policy.

Jorge Pelayo owns a bus on 4th South and he said when he initially came to Rexburg, the license was for a year; now the six month requirement is hurting his business. He explained these regulations are making him sell his house and take his children out of school. The regulations are pushing them out. He explained that a complaint changed city policy and laws and now another one is doing the same. Mr. Pelayo explained this is not fair to him.

Robert Coray at 31 North 4000 West said the issue is taxes; he pays \$10,000 in taxes for his restaurant rental property for his brick and mortar business. He did not want the city to be a constant carnival with mobile businesses.

Council Member Busby said he wanted to plan for a work meeting to have continued discussion.

Council Member Smith agreed; more dialog is needed.

Council Member Benfield said more dialog is needed to avoid a snap decision.

Additional Public Input:

Dear Mayor and City Council:

I have read Dr. Coray's letter to you from the November 7, 2012, council meeting. I share many of his concerns and have expressed this in the past. Please see my letter to Winston Beard and Donna Benfield dated July 13, 2011.

From: Randall Porter

Sent: Wednesday, July 13, 2011 6:17 PM

To: Winston Dyer

Cc: Donna Benfield

Dear Winston: I read your recent letter to the City re. temporary businesses and whole heartedly agree with your point. Had I known this issue was on the agenda, I would have argued for even stronger measures.

I can hardly believe what I see as I drive around Rexburg. It is reminiscent of the food trailers at the Blackfoot Fair. They're fun at carnivals but they don't fit the image we want to portray as a serious city with design standards.

I can't understand how these get licensed from the Health Department. Where are the hot running water, restroom facility, food inspections and other requirements etc. that Jamba Juice and other brick and mortar food places are lawfully required to comply with???

Rexburg must have a dozen plus of these "temporary" businesses that have trickled into the commercial zones. Had they all arrived on the same day, we would be shocked. What's to stop a hundred more from trickling in?

Food establishments without restroom facilities on site are not permitted in Nevada and perhaps other states also. I'm certain many communities ban these outright except for one or two day events ie. a little league baseball tournament, a farmer's market etc.

Please keep the pressure on the City. Randall Porter”

Continuing; the broader point I want to make is this: If we can justify these trailers selling food, then we should also allow any and all other enterprises to bring trailers to Rexburg (in seasons most convenient to them) to compete in non-food businesses as well.

Sincerely,

Randall Porter

Fire Department Input:



26 North Center Street, Rexburg, Idaho 83440 * 209-359-3010

December 3, 2012

*Mayor Richard Woodland
Rexburg City Council
35 North 1st East
Rexburg, ID 83440*

Mayor Woodland,

In consideration of the City Council's work meeting concerning temporary vendors, Madison Fire Department appreciates the opportunity to express our concerns. Temporary food vendors often create their places of business from structures/vehicles not originally intended for the assembly of people or the preparation/consumption of food. Vendors that sell their food through a window to the patrons outside are not as large of a concern as the vendors that require their patrons to enter into the structure or vehicle.

Firstly, occupant egress is the primary concern with vendors that allow patrons to enter their structures/vehicles. The 2009 International Fire Code (IFC) specifically addresses the requirements for occupant egress in Chapter 10:

- Specifically, headroom must be at a minimum of 80" (1008.1.1),*
- The size of door must be at a minimum of 32" wide (1008.1.2)*
- The door must be hinged as a swing type of door (1008.1.2)*

Requirements for occupant egress applies to permanent or temporary structures with an occupancy of 49 occupants or less and by no means covers all requirements.

Secondly, preparing food that produces grease laden vapors requires a Type I hood (609.3). A Type I hood is designed to remove and filter the grease laden vapors safely from the premises while providing an automatic fire-extinguishing system. A Type I hood is engineered, based upon the appliance(s) it protects, to provide the necessary fire protection to minimize damage to the structure and allow occupant egress. Temporary vendors should also provide the appropriate size and type of fire extinguishers for the type of food preparation taking place including class K extinguishers for grease fires (906.3).

The intent of Madison Fire Department is to provide a reasonable level of safety for the patrons and owner/operators of all businesses, both permanent and temporary.

Please feel free to contact me with further questions and concerns.

*Kind regards,
Dale Pickering
Fire Inspector, Madison Fire Department*

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Council Member Merrill gave input:

*Dear Ms. Despain,
I do believe the mobile businesses around Rexburg should be subject to the same standards as brick and mortar businesses as far as can be reasonably expected. For example, cleanliness and safety standards to protect the public from food-borne diseases and accidents on their premises are reasonable expectations in my opinion. There have been opinions expressed that the transient businesses are "junky-looking" and "not what we want Rexburg to look like." It is also my opinion that, just like the permanent businesses, these business Owners/Managers should be required to keep their place of operation neat, clean and safe and possibly provide some "green space" to make the city more attractive. This could be accomplished by adding some planters with flowers or other ornamental plants to their space to tie in with the flower program that the City of Rexburg operates. Permanent businesses or their Landlords are required to have landscaping on their properties to help beautify the city and the planters could be done without a major cost burden on the transient businesses.*

I do not believe that these businesses should be banned from the city. Some of them have existed in the city longer than many of the permanent businesses and I am a definite "free enterprise guy" so I think if a person can "build a better mousetrap", he or she should be free to do so but they should be subject to the same regulations as reasonably possible to make the competition as fair as possible.

These proposals should not be so burdensome as to cause problems for the mobile businesses but I believe will help ensure the public safety, promote the image that we want and even out the requirements between the two types of businesses. Hopefully the Owners of these businesses will look at these as positive things to help the business climate in general in the City of Rexburg.

*Sincerely,
Jerry Merrill/Rexburg City Council*

*Subject: City Council
Date: Wed, 28 Nov 2012 18:15:48 +0000*

Mr. Merrill,

My name is Ainsley Despain, I am a News reporter for the BYU-Idaho school paper, The Scroll. I noticed on the City Council minutes from November 7th that Robert Coray expressed a concern regarding mobile business in Rexburg. You suggested that those companies have the same inspections as permanent businesses. How do you feel this will affect these smaller businesses?

How do you predict those owners would react to this change?

Thank you for your time,
Ainsley Despain
919.457.8724

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

Council President Mann welcomed everyone to the meeting.

Roll Call of Council Members:

Attending: Council President Mann, Council Member Benfield, Council Member Smith, and Council Member Busby.

Mayor Woodland, Council Member Sutherland and Council Member Merrill asked to be excused.

Council Member Benfield led the Pledge to the Flag.

Boy Scouts were welcomed to the meeting. They were invited to explain which merit badge they are working to achieve.

Public Comment on non-controversial issues: not scheduled on the agenda (limit 3 minutes) None

Presentations: None

Committee Liaison Assignments for 2012:

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

Council President Mann reported the Golf Board did not meet. The Emergency Services Board met last week and was reported in the last City Council meeting. MYAB is working on Shop with a Cop. This year’s money will be spent this next year. Monday, December 17th will have Santa at the Carousel from 7:00 p.m. to 9:00 p.m.; It will be a fun event for the children.

B. Council Member Jordan Busby: *GIS Oversight · Airport Board*

Council Member Busby reported the Airport Board met today; Mr. Taylor expressed appreciation for the joint city county meeting. GIS has not met and will meet next Tuesday December 11th.

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

Council Member Benfield reported Trails of Madison County did not meet. MEPI met last Thursday and reviewed the winners of the business competition. The Rexburg business competition is a model program for the state. The state would like to replicate the program throughout the state.

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

Council Member Smith reported the Arts Council will meet next week.

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

Council Member Merrill was excused.

F. Council Member Bruce Sutherland: *Planning & Zoning · School Board · Police*

Council Member Sutherland was excused.

Mayor's Report: Mayor Woodland was excused.

Council President Mann reviewed the work meeting on seasonal businesses.

Public Hearings: – NONE

Items for Consideration:

A. **Neibaur Properties on Block 34 discussion:** Mitch Neibaur

Mitch Neibaur said he represented businesses on Block 34. He thanked the city staff and elected officials for their service for the city. They passed out some items from the local florist.

He reviewed the history on meetings to improve the alley on Block 34. It turned out better than they could have dreamed. Public Works Director Millar was thanked for adding value to the parking lot and alley project. He read a letter of appreciation from the businesses on Block 34.

November 16, 2012

It is really great to look out our office/business doors and appreciate the wonderful parking lot that we have been able to complete. It has added so much interest and value in our neighborhood and the downtown community. The additional focus and attention from the Farmer's Market has really been well accepted and will prove to be an exciting "community gathering place" and an additional economic benefit to all.

What an incredible cooperative project this has turned out to be; we know and recognize that there was a lot of "give and take" to accomplish this. It was really encouraging and so very much appreciated as we saw all the many respective interests and entities come together to promote a one-common-cause, our downtown, our city. We do know and understand that there are many great needs and interests and limited time and resources to service them. Please know that we greatly value what you have given to us and will take this opportunity to encourage the continued growth and development of our downtown Rexburg.

One of the main focal points of the project was securing a grant from the State of Idaho, Department of Economic Development via job creation. As businessmen and women we are determined and committed to seeking and promoting the creation of new jobs. Yes, the creation of new jobs is a mandate in receipt of the grant; more importantly, it is a recognized need and mandate of all our associated business neighbors and partners to participate in job creation, as a stimulus to the growth, development and support of our city, community and economy.

We thank each of you once again for all that you have done and continue to do.

Sincerely,

*Donna Benfield
Executive Director*

*Mitch Neibaur, Manager
Rexburg Development*

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The letter reviewed the grant to help with the project. One requirement needed for the grant money required the project to create fourteen new jobs; fifteen and a half jobs have been created. Contributors to the grant application were the city, county, sheriff's department, local businesses, Urban Renewal, State of Idaho, etc. The all came together to allow the project to be built.

Council Member Benfield thanked Mitch for his efforts to keep the project going.

Council President Mann said the parking lot has improved this part of the city and it has created more traffic in this area.

Mr. Neibaur said there are other parking lots needing improvement too.

Staff Reports:

Public Works: – John Millar

He reviewed the changes to this area in the last eight or ten years.

Same report and list as last week.

1. *Moving canal on West Main Street to allow a sidewalk along West Main Street.*
2. *New street lights on 2nd East and other locations.*
3. *Pedestrian vehicle accidents were reviewed.*
4. *Nine pedestrian lights will be added around the University by the University.*
5. *Burton School crossing pedestrian light will be added.*
6. *Trejo crossing pedestrian light will be added.*
7. *Wastewater plant upgrade is continuing.*
8. *Pinnacle building on South 1st East is under construction for apartments.*
9. *Water line failures on Main Street were reviewed.*
10. *Firewood from trees being removed is being given to requestors.*
11. *Kartchner's 5th West project needs caution signage for large trucks entering onto 5th West.*
12. The Airport snow plow needs some alterations; the county will participate.
13. The Rexburg Municipal Golf Course canal is being moved 22 feet north to allow for a sidewalk on West Main Street. The sidewalk will be a joint effort.
14. \$30,000 generator is needed to allow standby power as needed for the lift stations at the waste water treatment plant.

Finance Department – Richard Horner

Deputy Finance Officer Matt Nielsen reported LID participants have until February to be on the LID.

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: – NONE
- D. Second Reading:** Those items which have been first read:
 1. **Bill 1095 – Amend Ordinance 1026** to include Infill and Sign Heights.

Council Member Smith moved to second read **Bill 1095 to amend Ordinance 1026** to include Infill and Sign Heights; Council Member Busby seconded the motion; Council President Mann asked for a vote:

Those voting aye

Council Member Busby
Council Member Benfield
Council Member Smith

Those voting nay

Council President Mann

The motion carried.

2. **Bill 1096 – Amend the International Fire Code Ordinance 1063.**

Council Member Benfield moved to second read **Bill 1096 to amend the International Fire Code Ordinance 1063**; Council Member Smith seconded the motion; Council President Mann asked for a vote:

Those voting aye

Council President Mann
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

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

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 November 28, 2012 meeting
- B. Approve the City of Rexburg Bills

Council Member Smith moved to approve the Consent Calendar and pay the bills; Council Member Benfield seconded the motion; Council President Mann asked for a vote:

Those voting aye

Council President Mann
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

Adjourned at 7:29 P.M.

Council President Mann

Attest:

Blair D. Kay, City Clerk