

# City Council Meeting

January 18, 2012



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

35 North 1<sup>st</sup> East  
Rexburg, ID 83440

blairk@rexburg.org  
www.rexburg.org

Phone: 208.359.3020 x2313  
Fax: 208.359.3022

January 18, 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

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

**Shane Turman** led the Pledge to the Flag.

**Heidi Green** from Montana said the prayer.

### Roll Call of Council Members:

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

**Council Member Sutherland** asked to be excused.

**Public Comment:** on 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 MYAB met today at 4:00 p.m. on Rexburg 101, which is a 4-5 week program that teaches individuals about Rexburg. They will be working on advertisements to promote the program. He reported that the MYAB will be working on Community Service Rexburg Days and the annual Masquerade Ball. He reported the “Shop with a Cop” event was very successful.

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

**Council Member Busby** reported Beautification Committee did not meet; The Airport Board is working on a grant.

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

**Council Member Benfield** reported the Trails of Madison County has not met since last October. Keland Drainey has been the Chair for eight years. They would like to have a new committee appointed. The IBC Committee has only met two times in the last 16 years; they only meet if there is

a disagreement in life safety issues. The Teton Flood Museum Committee has not met since September, 2008. City Attorney Zollinger said the Tabernacle Committee has merged with the Teton Flood Museum Committee. There is a Teton Flood Museum Committee representative on the Tabernacle Committee. Council Member Benfield asked to send a thank you letter to the past Teton Flood Museum Committee members to start afresh. The Museum hours are 11:00 A.M. to 7:00 P.M. Monday and 11:00 A.M. to 5:00 P.M. Tuesday through Friday. It's also open on Holidays.

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

**Council Member Smith** reported on the Rexburg Arts Council. The Romance Theatre is having a lot of success with their events. The Tabernacle windows are being replaced. Modifications are being made to the stage to fit the growing Orchestra. The Legacy Flight Museum is planning an air show on Father's Day Weekend.

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

**Council Member Merrill** reported the Recreation Department is beginning their winter programs. Winter Fest has been rescheduled for February 11, 2012. The Teton Dam Marathon plans for 2012 are ongoing. Winterization is taking place at Rexburg Rapids to prevent the pool from freezing. The Traffic and Safety Committee has not met.

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

**Council Member Sutherland** was excused.

**Mayor Woodland** asked Chief of Police Shane Turman to report on the Police Department's arrest of two men from Florida who were using stolen credit card numbers. They were using the credit card numbers to purchase gift cards, electronics, etc. They have warrants coming from all over the nation. The Police Department was able to recover \$16,000 worth of stolen merchandise. Chief Shane Turman reported that he was appointed the Regional Vice President for the Police Chiefs Association in Idaho. Council Member Busby asked to alert the public with a newsletter concerning the stolen credit card numbers.

#### **Items for Consideration:**

**A. Conditional Use Permit** to allow buildings with more than four (4) units for 51 apartments in nine buildings – Rockwell Court at 796 West 7<sup>th</sup> South (Hutchison Smith Architects)

**Bob Smith** with Hutchison Smith Architects, 270 N. 27<sup>th</sup> street Boise, ID, explained the use is approved in this zone. MDR1 allows this type of residential use. It was originally approved for condos by a different developer for four-plexes.

His company is proposing to use the current infrastructure in place; however, instead of four-plex condo's, they would like to do rental apartments with larger buildings, which is an allowed use in MDR1. Mr. Smith presented an overhead presentation of the development containing 12 buildings. Nine of the buildings would be larger than a four-plex. There would be several six-plexes, a ten-plex and a four-plex. A playground and picnic area would be available to the residents. A snow retention area and a water run-off area have already been developed. They would like to take out some of the asphalt and create planters for trees to shade the parking lot. They are exceeding the required number of parking spaces in this development.

They are proposing to locate the trees along 7<sup>th</sup> South. There is vinyl fencing planned on the east and west property lines requested by the neighbors. Ornamental shrubs are around each building. They have lowered the number of units from the original plan from sixty units to fifty-one units. Mr. Smith reviewed the floor plans for the buildings. There is a combination of three and four bedroom townhouses and two and three bedroom apartments. There will be a community building with a common area containing a computer room and an exercise room. The manager will live on-site next to the community building. There will be coin operated laundry facilities in the community building. Each unit will have hook-ups for laundry facilities. The buildings will exceed the energy efficiency codes. The project is partially funded with federal tax credits. The apartments will be available for reduced rent for person who income falls below a designated

threshold. The owner will be required to own the property for at least 20 years to maintain the tax credits.

There is a great need for this type of development in Rexburg. Mr. Smith asked for the City Council's approval of the project.

**Council Member Merrill** appreciated the developers plan and changes made to accommodate the neighbor's requests. He was concerned with the long term maintenance level of the development; versus the curb appeal. He asked what reassurance he could be given that the buildings would be maintained at a level to maintain the property values in the neighborhood.

**Mr. Smith** said the state and federal programs have addressed the exterior finishes on the buildings requiring high quality, low maintenance materials. The onsite manager will also add to the ongoing maintenance of the property. There will be onsite tools to help maintain the property as well as a maintenance staff. There will also be a maintenance building to hold the tools necessary for maintenance.

**Council Member Merrill** said he was concerned with the slow draw down of the quality of the curb appeal if the development is not maintained appropriately. Mr. Smith said their company does an annual inspection of their properties to maintain the quality of the development.

**Mr. Smith** said there is a fully automated irrigation system. The plants will have a one year warranty. Council Member Merrill asked for a written plan to have ongoing maintenance of the property for curb appeal. He would also like to see a city wide maintenance compliant code. There needs to be something in writing to require adequate curb appeal of the property.

**City Attorney Zollinger** explained the developer does not need City Council approval for the type of tenants living in the units. Legally the City Council is only allowed to approve the size of the buildings and the reconfiguration of the buildings. Council Member Merrill was concerned with keeping the property maintained. City Attorney Zollinger explained the property will be monitored for the maintenance issues discussed.

**Mayor Woodland** commended Mr. Smith for consolidating the project to give residents more space to park and the quality of the building material is very good. He liked the development.

**Council Member Smith** asked where the four bedroom units would be located. Mr. Smith said they will be at the end of the 6-plex buildings in the townhouses.

**Council Member Busby** asked about the concerns the Planning and Zoning Commission had over the photos presented in the Planning and Zoning meeting. Mr. Smith explained the photos were from other projects that didn't use the same finishes as the current development. He reviewed the 20 year ownership requirement. City Attorney Zollinger explained there is a process to maintain the taxing status including penalties.

**Russ Van Allen** at 635 Casper Avenue reviewed the location of the development in reference to his neighborhood. The adjoining developments are four-plex developments and larger apartment housing and townhome units. They would like to have the property developed as private property ownership as originally planned for 60 condos. He requested not to be surrounded by apartments, he mentioned he used to be 80 acres away from the city, and he would like to have balance in the neighborhood.

**Teddie Lou Steiner** at 846 West 7<sup>th</sup> South was concerned with the impact the buildings would have on the property value and quality of life of those neighboring the buildings. They are being segregated from other owner occupied properties in Rexburg. They have a difficult time selling their homes; there are two homes on the market that are not selling. There is no privacy for homeowners to use their backyards. She was concerned with the loss of value of their homes. She said MDR1 Zoning does not have a SIC Code for Low Income Housing in Rexburg. She wants single family housing instead of the multifamily housing.

**City Attorney Zollinger** addressed the SIC Code mentioned by Mrs. Steiner. He explained that Rexburg has not adapted the revised code because the city did not want to continue purchasing the revised codes. The city relies on the 1987 SIC Code 1112 Single-Family Attached Dwellings. The SIC code Mrs. Steiner references is a code for a property management company. The development is not a property management company. City Attorney Zollinger furthered the

discussion on the SIC Codes from 1987. Single Family Attached Dwellings are allowed in MDR1 Zones in Rexburg.

**Council President Mann** reviewed the proposal. He wanted to have additional discussion from the neighbors before he can move on the proposal.

**Gordon Rhiger** at 621 Casper Avenue said they have been choked off. Mr. Rhiger feels because of the developments around them they are not getting the services they used to get from the city. He feels the police don't even patrol the area anymore. He Advised that the city take responsibility and follow-up with the development conditions, if approved.

**Council Member Merrill** wanted to make sure the property is maintained appropriately with the city standards.

Neighbors in their neighborhood indicated that the Andrews Place Apartments did not put in a fence as discussed. Council Member Merrill concurred with the neighbors' concerns requiring the development to comply with the conditions of development.

**Mrs. Smith** asked for a transitional area with owner occupied units. A condominium would be great for students; students can buy then sell to other students. A strong condominium association would allow the neighbors to not be blocked out from the city.

**Community Development Director Val Christensen** explained there was a public hearing to change the property to MDR1 in an earlier time years ago. This discussion is covering a recent public hearing held before the Planning and Zoning Commission to change the size of the buildings.

**Council Member Benfield** asked for additional enforcement when it comes to conditions for maintaining the properties. She asked for better enforcement or more enforcement to comply with city standards.

**City Attorney Zollinger** explained the city does have a compliance officer that visits properties to require maintenance of the properties for failure to maintain their yards. If a tree dies, the city can require the tree to be replaced. Council Member Merrill said the compliance could be similar to a building code violation.

Discussion on having a city wide property maintenance ordinance. Mr. Rhiger's property damage was discussed. He had property damage from a development adjacent to his property. The city has stepped up oversight of construction projects to maintain their building projects. The city may need a better management plan on how the city addresses landscape deficiencies.

**Council Member Busby** explained he is sympathetic to living on an Island; He lives on an Island too.

**City Attorney Zollinger** explained the city's reasoning for using the 1987 SIC Codes. The city did not maintain current SIC Codes over the years. The codes the city uses are accurate and have a description of what that code allows. The SIC Code used is 1111 for single family units. The next code is 1112 for single family homes with apartments (Single-Family Attached Dwellings). This includes apartments, condominiums, townhouses or two families dwelling in one-compound structure. Apartments in a basement are considered to be an attached dwelling. The city did not maintain the new changes to the SIC Codes due to costs of changing the codes. The current uses are identified in the city's code by description.

**Council Member Merrill** moved to approve the recommendation of Planning and Zoning to approve the **Conditional Use Permit** to allow buildings with more than four (4) units for 51 apartments in nine buildings for Rockwell Court at 796 West 7<sup>th</sup> South subject to conditions from Planning and Zoning; Council Member Smith seconded the motion; Discussion on conditions applied by Planning and Zoning and allowing larger buildings. City Attorney explained the developer is required to comply with existing city code relating to ordinances, staff approvals for streets, etc. has to be done to execute a building permit. The City Council is acting on conditions that are unique to consolidating these building down from the number of four-plexes a fewer number of six-plex or ten-plex buildings plus adopting the conditions set by Planning and Zoning and the Design Review Committee.

**Planning and Zoning Commission Public Hearing 01/05/2012.**

*Scott Ferguson* motioned to recommend to City Council to grant a Conditional Use Permit for the property located at 796 West 7<sup>th</sup> South, to allow buildings with more than four (4) units, to **include that a design review meeting will be held (before issuance of a building permit) that will address the structures, the fence, and the landscaping of this project.**

*Jedd Walker* seconded the motion.  
None opposed. **Motion carried.**

Discussion: **Community Development Director Val Christensen** indicated the conditions were applied in the Design Review Committee meeting concerning the fencing, looks of the building and landscaping. Those conditions should be part of the City Council's approval. Mayor Woodland agreed the conditions from the Planning and Zoning Commission and the Design Review Committee should be part of the motion from the City Council.

***Design Review Committee Meeting  
#11 00423 CUP Rockwell Court Apartments – 796 West 7<sup>th</sup> South  
January 18, 2012 3:00 pm***

**Attendees**

*Design Review Committee:* Thaine Robinson, Johnny Watson, Chris Mann

*Applicant:* Bob Smith of Hutchison Smith Architects

*Staff:* Val Christensen, Elaine McFerrin

*Val stated that the purpose of this meeting is to address the structures, the fence, and the landscaping of this project, as was stated in the January 5, 2012 P&Z Commission motion recommending to City Council to grant this request for a Conditional Use Permit to allow buildings with more than 4 units.*

*Bob Smith provided exterior elevation drawings, a landscape plan, and a site plan. He said he is willing to do whatever the neighbors would want in regard to fencing.*

*An 8-foot vinyl fence will be constructed on the west side of the project to buffer the neighboring homes as the neighbors requested.*

*The rest of the vinyl fencing around the rest of the property will be 6-feet high tapering to (3-feet high on the frontage of the property facing W. 7<sup>th</sup> S.).*

*The structures were discussed. Trees will be planted on all sides of the buildings as buffers. Trees will also be planted along West 7<sup>th</sup> South fronting the project. The parking areas will be landscaped with trees, plants, and grass. There will be one carport and one regular parking space for each unit.*

*Stone will be used up to 4-feet on the buildings, and "Hardy"- brand siding and trim will be used.*

*The ten-plex is broken up in the front, but the roof needs variation - cable or dormers.*

*Bob Smith proposed that the applicant put dormers on the 3 buildings visible to the street and then not having to have stone on the building walls that face the back fence (3 buildings on north side).*

*The Design Review Committee was agreeable to this proposal. Buildings #200, #300, and # 400 (in drawings presented at this meeting) will have dormers to break up the back.*

*The Committee was agreeable to the landscaping plan as shown at this meeting (Landscape Plan L1.0).*

*Staff will review this project's plans when submitted, prior to the issuance of a building permit.*

*Design Review Committee members thanked Bob Smith for his willingness to work with them and with neighbors of the project.*

**Council President Mann** discussed the past rezones and the policy to change the land back to its original zone if the development for the zone change did not materialize. This proposal is not developing as planned. He indicated that he would vote no due to the change in use from condos to rentals. There was no opposition to condos; now it has become a bait and switch. City Attorney Zollinger explained the zone change was done earlier and it was independent of the application to do condos. The use the applicant is seeking is an allowed use.

**Council Member Smith** asked if the decision is site specific for larger buildings verses allowing other developers to change the use. City Attorney Zollinger said the applicant could increase the density from 51 units to 60 units as an allowed use as apartments even though they were previously approved for another developer for 60 condos. Nothing in the ordinance would stop the project. This request is for a particular project. Council Member Merrill indicated his motion included the approval based on the Planning and Zoning Conditions and the Design Review Committee's conditions.

**Mayor Woodland** asked for a vote:

**Those voting aye**

Council Member Busby  
 Council Member Smith  
 Council Member Benfield  
 Council Member Merrill

**Those voting nay**

Council President Mann

**The motion carried.**

**Staff Reports:**

A. **Public Works:** – Keith Davidson

1. Award bid for the 7<sup>th</sup> South Bridge Replacement and Widening Project; the low bid was DL Beck Construction for \$99,836.00. **City Engineering Keith Davidson** explained the bids.

7th South Bridge Replacement and Widening	DL Beck	Cannon Builders	Hill & Sons	Vern Clark & Sons	TMC Contractors	Jerome Bowen	Edstrom Construction	Depatco Inc.
Bridge Replacement	\$84,000.00	\$107,000.00	\$115,019.35	\$134,000.00	\$139,133.00	\$159,500.00	\$178,900.00	\$177,000.00
Irrigation Ditch Realignment	\$11,898.00	\$12,000.00	\$17,097.00	\$13,400.00	\$24,049.00	\$18,000.00	\$16,820.00	\$22,350.00
30" Irrigation Headgate	\$1,942.00	\$1,975.00	\$2,257.05	\$2,500.00	\$2,464.00	\$2,500.00	\$2,117.00	\$2,150.00
18" Irrigation Headgate	\$998.00	\$835.00	\$1,211.00	\$1,400.00	\$1,418.00	\$1,250.00	\$1,001.00	\$1,100.00
18" Irrigation Headgate	\$998.00	\$835.00	\$1,211.00	\$1,400.00	\$1,418.00	\$1,250.00	\$1,001.00	\$1,100.00
<b>Total</b>	<b>\$ 99,836.00</b>	<b>\$122,645.00</b>	<b>\$136,795.40</b>	<b>\$152,700.00</b>	<b>\$168,482.00</b>	<b>\$182,500.00</b>	<b>\$199,839.00</b>	<b>\$203,700.00</b>

Discussion on the width of the bridge being narrower than the existing bridge. The other bridges upstream are 16 feet wide. There will be a seven foot offset and a five foot sidewalk on either side of the bridge. The bridge will need to be constructed by and around April 1, 2012. Council Member Busby asked about the lower bid being adequate verses the other bids. Engineer Davidson indicated DL Beck was comfortable with the numbers.

**Council Member Busby** asked if he needed to excuse himself from the vote due to his association with the canal company. City Attorney Zollinger explained Council Member Busby would be part of a larger group of water users impacted by the canal company. He would not be a single benefactor of any decision made with the canal company.

**Council President Mann** moved to approve the low bid for the 7<sup>th</sup> South Bridge Replacement and Widening Project; (the low bid was DL Beck Construction for \$99,836.00); Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

**Council Member Busby** asked if the parking lot on 1<sup>st</sup> East was completed across the street from City Hall. There is debris that needs to be cleaned up. (*Note: The new parking lot owned by the county is still under construction.*)

**Council President Mann** asked to review the street projects for 2012 with the new City Council. Maybe the City Council could do a drive around to review needed street projects for 2012 on Feb 02, 2012 at 5:30 p.m.

**B. Finance Department:** - Richard Horner

**Finance Officer Horner** reviewed the city budget on the overhead screen. He reviewed the revenue and expense budgets for the first quarter of fiscal year 2012. 16% of the expense budget has been spent in the first quarter. Most of the Capital has not been spent yet. The budget review contained the departmental budgets too. The lack of snow has caused some savings in the snow removal budget and remains in the street department budget. If the money does not go for snow removal it will remain in the street budget for street projects. Most of the revenue will show on the next quarterly report because the tax money is received in January. Discussion on the revenue coming into the Parks and Recreation and Arts Council Budgets. The budget will be published in the newspaper every quarter. Other sources of revenue were discussed including gas tax, impact fees, etc..

**Council Member Benfield** reviewed the billing for Tabernacle Ornaments. The expense was covered by the Upper Snake River Valley Historical Society. The revenue for the sale of the ornaments will cover the expense plus add additional revenue to the museum budget. Ninety of two hundred ornaments have been sold. The sale of the first 100 ornaments will cover the expense.

**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 – NONE
- E. 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:**

A letter of support for TRPTA for regionalized busing.

**Council Member Benfield** said TRPTA wants a discussion on bus routes around the City of Rexburg. The Chamber of Commerce will have the meeting on the 2<sup>nd</sup> week in February.

*January 18, 2012*

*Lynn Seymour  
Executive Director  
T.R.P.T.A.  
1810 West Broadway #7  
Idaho Falls, ID 83402*

*RE: Letter of Support for T.R.P.T.A.'s FY 2012-13 Rural Grant Application*

*Dear Lynn,*

*The Rexburg City Council would like to support T.R.P.T.A.'s FY 2012-13 rural grant application for continued service to the citizens of Rexburg. There are many requests for funding support, and the City Council will consider T.R.P.T.A.'s request for funding during the normal FY 2012-13 budget process. At this time it is too early to determine if any funding will be available to support T.R.P.T.A.'s service.*

*However, the City Council encourages T.R.P.T.A. and the Idaho Department of Transportation, Division of Public Transportation, to continue working together to develop funding sources to support the transit needs of rural citizens. An aging population and increased living costs are putting more and more pressure on developing mobility alternatives, including public transportation.*

*Sincerely,*

*Richard Woodland*

*Mayor*

**Council Member Busby** moved to ratify a letter of support for TRPTA to provide regionalized busing; Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried**

**Council Member Benfield** asked for a report from the Recreation Department to be on the upcoming agenda.

Discussion on the maintenance standards for housing projects.

**Council Member Benfield** moved to go into Executive Session per Idaho State Statute 67:2345(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement; Council Member Busby seconded the motion; Mayor Woodland asked for a roll call vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

Executive Session: 9:00 P.M.  
Executive Session ended 9:24 P.M.

**Council Member Busby** asked about Airport Property ownership. The planes have been gifted to the city. The city does pay insurance premiums of about 1/2 of \$15,000 to protect the airport investments including the Airport Museum Building and contents. A property agreement on the museum property allows the planes to be flown. If the rotors are in motion, the plane operator pays the insurance premium. The museum building is being leased from a private owner for a \$1.00 per year; however, the city owns the land. The city is in the museum business.

Discussion on the date for the State of the City address. It could be held at the Romance Theatre.  
The monthly new letter was discussed.

The City Council could do a news letter from each member. It would be due by the 25<sup>th</sup> of the month.

Discussion on a goal setting meeting.

Discussion on a meeting with the Planning and Zoning Commission.

Discussion on having a meeting with the Madison County Commissioners. It is held quarterly.

Discussion on the committee chairs and committee realignment due by the next city council meeting.

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

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

**Council President Mann** moved to approve the Consent Calendar; Council Member Busby seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

**Adjournment at 9:47 P.M.**

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

Attest:

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