

# City Council Meeting

March 06, 2013

35 North 1<sup>st</sup> East  
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CITY OF  
**REXBURG**  
America's Family Community

March 06, 2013

**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**

**Council President Mann** welcomed everyone to the meeting.

**Roll Call of Council Members:**

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

**Mayor Woodland** asked to be excused.

**Boy Scout David Lawrence** led the Pledge to the Flag. Troop 300; 413; 172;

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

**Presentations:**

- A. **Life Saving Award** presented by Fire Chief Child and Mayor Woodland to Community Member Rick Hill, who initiated CPR on a co-worker at Taylor Chevrolet – Deferred until the next meeting.

**Committee Liaison Assignments for 2013:**

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

**Council President Mann** reported the Golf Board met last night. Madison Memorial Hospital Foundation; Chamber of Commerce and the Dare Program are seeking reduced fees for golf tournaments they will hold. Up to three applicants per year may hold tournaments at which the golfing fees are reduced.

**Council President Mann** moved to reduce the tournament fees for Madison Memorial Hospital Foundation; Chamber of Commerce and the Dare Program; Council Member Smith seconded the motion; Discussion: Council Member Benfield disclosed her conflict of interest due to her position on the Chamber of Commerce; Council President Mann asked for a vote:

**Those voting aye**

Council President Mann  
Council Member Benfield  
Council Member Smith

**Those voting nay**

None

Council Member Busby  
Council Member Sutherland  
Council Member Merrill

**The motion carried.**

On call Emergency Services personnel were recognized with a graduation program at the Legacy Flight Museum. MYAB is working on Rexburg Days and the Farmer Merchant Banquet. They are a great group working on many projects. City Attorney Zollinger said old movies are being shown at the Romance Theatre every Wednesday. Council Member Mann asked for input on having a drive around on May 01, 2013 to review budget items.

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

**Council Member Busby** reported the Airport Board is negotiating for work on the Airport apron and runway.

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

**Council Member Benfield** reported the Trails of Madison County met to review new trail proposals from citizens. Council Member Benfield explained the committee invites everyone to give input on trails. Madison Economic Partner met on Monday and had a presentation on Envision Madison.

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

**Council Member Smith** reported the Legacy Flight Museum has not met; the Arts Council will meet next week.

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

**Council Member Merrill** reported the Recreation Department is preparing for spring and summer events. The winter programs are going well. Traffic and Safety met to discuss traffic safety items. They will be installed once the ground warms up. The City Council needs to take action on renewing members for the Urban Renewal Agency. Council Member Benfield explained they were appointed in different years.

**Council Member Merrill** moved to renew the Rexburg Redevelopment appointments for four existing members according to the appointment schedule for each position; Council Member Sutherland seconded the motion; Discussion: Council Member Busby said other members of the community may be interested. Discussion on allowing other members of the community to be appointed to the committee. Council Member Merrill withdrew his motion; Council Member Sutherland withdrew his second to the motion.

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

**Council Member Sutherland** reported Planning and Zoning did not meet. The School Board met; however, he was unable to attend.

**Mayor's Report:** – NONE

**Public Hearings:** – NONE

**Items for Consideration:**

**Staff Reports:**

**Public Works:** – John Millar

**Public Works Director Millar** reviewed city projects.

1. **Approve bid for 5<sup>th</sup> West Storm Sewer Phase 1:** Nature Park to 1<sup>st</sup> South

**Public Works Director Millar** reviewed the bids for the 5<sup>th</sup> West project. TMC was the low bidder.

<b><i>Name</i></b>	<b><i>Amount</i></b>
Engineers Estimate	\$1,628,550.00
<b>TMC</b>	<b>\$1,357,942.50</b>
Jerome Bowen Construction	\$1,433,634.90
HK Inc.	\$1,469,943.00
Depatco	\$1,496,301.50
3H Construction	\$1,520,625.00
Hill & Sons Excavating	\$1,531,446.63
Edstrom Construction	\$1,532,415.50
Knife River	\$1,589,547.00
MD Nursery & Landscaping	\$1,799,606.46

Discussion on the low bidder. It will take most of the 2013 street budget to do the 5<sup>th</sup> West street project.

**Council Member Busby** moved to approve the low bid from TMC for 5th West Storm Sewer Phase 1: from the Nature Park on North 5<sup>th</sup> West to 1st South on South 5<sup>th</sup> West; 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  
Council Member Sutherland  
Council Member Merrill

**Those voting nay**

None

**The motion carried.**

2. **City of Rexburg** and New Sweden Irrigation District recharge delivery agreement

**Public Works Director Millar** reviewed a proposed contract for underground water table recharge. It would cost \$500 a year annually to keep the contract open and valid.

*W. Roger Warner*

ROCKY MOUNTAIN ENVIRONMENTAL ASSOCIATES, INC.

482 Constitution Way, Suite 303

Idaho Falls, Idaho 83402

Telephone: (208) 524-2353

Facsimile: (208) 524-1795

CITY OF REXBURG AND NEW SWEDEN IRRIGATION DISTRICT  
RECHARGE DELIVERY AGREEMENT

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THIS RECHARGE DELIVERY AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_ day of February, 2013, by and between the City of Rexburg, a municipal corporation, whose address is 35 North 1<sup>st</sup> East, Rexburg, ID 83440 (hereinafter, the "City"), and New Sweden Irrigation District, whose address is 2350 West 1700 South, Idaho Falls, ID 83402 (hereinafter, "New Sweden"). Collectively, the above entities are hereinafter referred to as the "Parties."

NOTE: The full agreement is available at City Hall.

**Council Member Sutherland** moved to approve the recharge delivery agreement between the City of Rexburg and New Sweden Irrigation District; Council Member Merrill 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  
 Council Member Sutherland  
 Council Member Merrill

**Those voting nay**

None

**The motion carried.**

**3. Airport project for the Airport apron and runway.**

**Public Works Director Millar** asked to be able to seek to negotiate a contract with Forsgren/GDA.

***\*Selection Chart:***

Selection Criteria	Composite				
	Points	Riedesel	RPA	Armstrong	Forsgren/GDA
a. Capability to perform all or most aspects of the project and recent experience in airport projects comparable to the proposed task.	10	8.7	8.3	8.0	7.7
b. Key personnel's professional qualifications and experience and availability for the proposed project; their reputation and professional integrity and competence; and their knowledge of FAA regulations, policies, and procedures.	10	8.3	9.0	8.3	8.0
c. Current workload and demonstrated ability to meet schedules or deadlines.	10	8.3	8.3	8.0	6.7
d. Quality of projects previously undertaken and capability to complete projects without having major cost escalations or overruns.	10	7.3	6.0	6.0	6.0
e. Qualifications and experience of outside consultants regularly engaged by the consultant under consideration.	5	3.7	3.0	3.0	4.3
f. Capability of a branch office that will do the work to perform independently of the home office, or conversely, its capability to obtain necessary support from the home office. The use of geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.	15	10.7	9.7	9.7	12.7
g. Ability to furnish qualified inspectors for construction inspection and materials testing.	10	8.3	8.7	8.0	8.7
h. Demonstrated understanding of the project's potential problems and the sponsor's special concerns.	10	9.3	8.7	7.7	9.3
i. Degree of interest shown in undertaking the project and their familiarity with and proximity to the geographic location of the project.	15	10.7	9.7	9.3	12.3
j. Evidence that the consultant has made good faith efforts in meeting Disadvantaged Business Enterprise (DBE) goals (49 CFR, § 26.53).	5	4.7	4.0	4.7	4.7
Total	100	80.0	75.3	72.7	80.3
Rank		2	3	4	1

*\*Contract negotiations will begin with the highest ranked firm and on to the next ranked firm until a contract is agreed upon.*

**Council Member Busby** moved to approve the negotiation process for the Airport Apron and Runway project with Forsgren/GDA; Council Member Sutherland seconded the motion; Discussion: If the contract negotiations fail with the first in line for the bid, negotiations would move to the second bidder in line. Council President Mann asked for a vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

**Council Member Busby** thanked the street crew for their good work. He referred to some really big dips in the street where utilities have been installed. These dips are caused by frost heaves and should go away once the ground thaws.

**Finance Department** – Richard Horner

**A. Resolution 2013-02** to amend the Salary Reduction Plan (401K) – Richard Horner

**Finance Officer Horner** asked for a joint meeting with the county.

The meeting will be held on the 20<sup>th</sup> of March at 5:30 p.m. in order to review joint ventures.

**Finance Officer Horner** reviewed the chart on Social Security Refund for FRF employees.

**SOCIAL SECURITY REFUND SCENARIOS FOR ALL EMPLOYEES IN FRF POSITIONS DURING 2007, 2009-2012**

EMPLOYEE POSITION STATUS	EMPLOYEE SHARE OF REFUND		EMPLOYER SHARE OF REFUND (NO REFUND OF INTEREST)		3 CURRENT FRF POSITIONS FROM JULY 31, 2012 TO CURRENT	ALL POSITIONS NOT COVERED BY SOCIAL SECURITY GOING FORWARD
	Returned as Non-Taxable Income	Interest earned returned as taxable income through accounts payable-1099 interest to be issued	Returned as match into 401 K (Match 100% up to 5.86%)	Returned through payroll as taxable income (5.86%)	Match 100% up to 5.86% into 401 K	Match 100% up to 5.86% plus 50% of the next 4% into 401 K
FRF	X	X	X		X	X
FRF and Quit/Retired	X	X		X		
FRF and later Reclassified to non-FRF Position	X	X	X			
Never in an FRF Position*	?	?	?			?

FRF - Fire Retirement Fund as classified by PERSI

\*State Social Security Office determining whether those currently in Non-FRF positions will be able to vote to opt out of social security. We should hear from the state by April and if a vote is held it will likely occur during the Summer at the earliest.

**Finance Officer Horner** reviewed Resolution 2013-02.

**RESOLUTION NO. 2013-02**

A RESOLUTION MAKING A SUPPLEMENTARY AMENDMENT TO THE CITY OF REXBURG SALARY REDUCTION PLAN (401K PLAN).

**SUPPLEMENTARY AMENDMENTS**

City of Rexburg is the employer maintaining the City of Rexburg Salary Reduction Plan (“the Plan”) at this time. The Plan’s principal documentation consists of (a) the Rudd & Company Prototype Defined Contribution Plan Basic Plan 01 (the Lead Document), and (b) an Adoption Agreement dated January 1, 2009, whereby the Lead Document was adopted for the Plan, per the parameters specified in that Adoption Agreement.

City of Rexburg resolves to amend and hereby amends the Plan pursuant to the authority reserved to the employer to do so in section 3.8.1(a) of the Lead Document, in the following ways:

1. Notwithstanding any provisions included in the Lead Document or the Adoption Agreement, this Plan is not intended to be subject to the provisions of ERISA, and any language in the documents referring to ERISA provisions are to be ignored. This has been the intent since the plan was established.
2. Effective for the payroll check issued July 31, 2012, and all paychecks thereafter, in addition to the Matching Contribution provisions elected in Part II.D. of the Adoption Agreement, the Plan will include a special matching provision for firemen and other employees of the City not covered by Social Security. These employees may elect salary deferrals at a rate up to 5.86% and will receive a matching contribution of 100% of such deferrals. If these employees elect salary deferrals in excess 5.86%, such deferrals would be subject to the regular matching provisions in Part II.D. of the Adoption Agreement (currently a match of 50% of deferrals up to 4% of compensation, for a maximum regular match of 2% of compensation). Under this provision, affected employees who defer at least 9.86% of compensation would receive the maximum match of 7.86% (100% of the first 5.86%, plus 50% of the next 4%).
3. The Plan may receive one-time contributions from the Employer on behalf of eligible employees for refunds received by the Employer for the Employer’s share of FICA taxes paid in prior years. For each affected employee, this one-time contribution, when combined with all other employer and employee contributions made to the Plan for the plan year, may not exceed the lesser of \$50,000 or the employee’s gross compensation for the year.

City of Rexburg recognizes that these amendments render the Plan to be an individually designed plan rather than a prototype. Nevertheless, City of Rexburg hereby delegates to Rudd & Company PLLC authority to act as agent of City of Rexburg in making amendments to the Plan, but only to the extent of amending provisions of the Lead Document other than Articles 2 and 3 of Part 2 and Article 2.4.6., as to which City of Rexburg reserves to itself the exclusive right and authority to

amend. Thus, it is City of Rexburg's intent that when Rudd & Company PLLC might amend any aspect of the Lead Document (other than Articles 2 and 3 of Part 2 and Article 2.4.6.), those amendments made to the Lead Document by Rudd & Company PLLC shall effectively be made to the Plan.

Per the terms of section 3.8.2. of the Lead Document, the amendments effective hereby will be made by delivery to the Trustees of a copy of this resolution of City of Rexburg which sets forth the amendments.

NOW THEREFORE, be it resolved by the Mayor and the Council of the City of Rexburg, that such amendments as described above will become effective March 6, 2013.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 6<sup>th</sup> DAY OF MARCH, 2013.

CITY OF REXBURG  
Madison County, Idaho

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

ATTEST:

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

**Council Member Merrill** moved to approve **Resolution 2013-02** to amend the Salary Reduction Plan (401K) as discussed; Council Member Busby 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  
Council Member Sutherland  
Council Member Merrill

**Those voting nay**

None

**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: – NONE
- D. Second Reading:** Those items which have been first read:
  - 1. **BILL 1093 AMENDING ORDINANCE 618** for Backflow Devices

**Council Member Sutherland** moved to second read **BILL 1093 AMENDING ORDINANCE 618** for Backflow Devices; 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  
Council Member Sutherland  
Council Member Merrill

**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 February 20, 2013 meeting
- B. Approve the City of Rexburg Bills

Discussion:

**Council Member Smith** moved to approve the Consent Calendar and pay the bills; Council Member Merrill 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  
Council Member Sutherland  
Council Member Merrill

**Those voting nay**

None

**The motion carried.**

**City Attorney Zollinger** requested an 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; and (c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency.

**Council Member Sutherland** 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; and (c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency; Council Member Busby seconded the motion; Council President Mann asked for a roll call vote:

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

**Executive Session: 7:45**

**Executive Session ended.**

APPROVED:

\_\_\_\_\_  
Council President Mann

Attest:

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