

City Council Meeting

May 15, 2013

35 North 1st East
Rexburg, ID 83440

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CITY OF
REXBURG
America's Family Community

May 15, 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

Mayor Woodland welcomed everyone to the meeting.

Roll Call of Council Members:

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

Bennett Baiamonte led the Pledge to the Flag.

Nila Uriostegui said the Prayer.

Mayor Woodland asked to have the proposed hotel discussion on Item 8-B, page 10 first.

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

Presentations:

A. Automated external defibrillator (AED) is a portable electronic device that automatically diagnoses the potentially life threatening cardiac arrhythmias of ventricular fibrillation and ventricular tachycardia in a patient. AED awareness is essential because usage of an AED greatly increases a patient's chances of survival; CPR alone is not enough for true cardiac arrest victims. They are very safe for public use. **Goal:** Develop and advertise a free Phone App. to show the location of AED's around town. – Matt Haugen (Paid-call EMT at Madison Fire Department and a paramedic student at BYU Idaho) 949-309-1120



City Hall has this AED installed in the hallway in the center of the building.

Rexburg AED Awareness



Matt Haugen and Stephen Shepro presented the AED Smart Phone Application proposal on the overhead screen. They want to have public awareness about the location of AED's in the community. CPR alone is not enough for most heart attacks; however, it does buy some time for the patient. There are 62 known AED's in Rexburg with 32 of them on the BYU-Idaho campus. They are promoting an iPhone Application called crowdsaveAED. There is minimal training needed to use an AED. Even children can be trained to use an AED. They plan to advertise the program in the newspaper and on the city's web page.

Facts about AED's

- For every minute a person goes without a pulse their chance of survival decreases by about 10%.
- The most common heart rhythm after sudden cardiac arrest is Ventricular Fibrillation (V-Fib).
- CPR alone generally does not convert V-Fib into a "normal" rhythm.
- An AED is needed to convert V-Fib.
- The faster an AED delivers a shock the better the chance of survival.

Rexburg's Automatic External Defibrillators

- **Currently 62 known locations of AED's around town**
 - 32 AED's on BYU- Idaho campus
 - 30+ AED's around town
 - Approximately 24 of them are owned by the county
 - Each one costs about \$1,000
 - We want to put them to use when needed

Problem

Citizens do not know the locations
Misunderstanding of the importance of an AED
Not familiar with how an AED works

Solution

- **AED Locator App for iPhone and Androids**

“Shownearby AED”

Goal of the App

- **Advertising on Rexburg website, Fire Department website, and local Media**
 - Citizens will have the proper resource when they download this free App so they are aware of the closest AED’s to them in case of an emergency
- **Madison Emergency Dispatch will be mindful of locations and guide citizens to them if they are an effective distance to an AED Location.**

Council Member Busby asked how long the battery would last. Mr. Shepro said it would last about five years. Council Member Busby suggested setting up a booth at the Farmers Market. Mr. Shepro said they want to do some public classes and encourage others to join the effort. Council Member Merrill suggested doing the training in Neighborhood Block Parties. Council Member Sutherland thanked Mr. Haugen and Mr. Shepro for their service in the community.

Council President Mann moved to approve the Community Service Project for the Madison Fire Department mapping out the locations of local Automatic External Defibrillators (AEDs) in Rexburg to allow a smart phone APP called "Shownearby AED" to identify AED locations; Council Member Busby seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

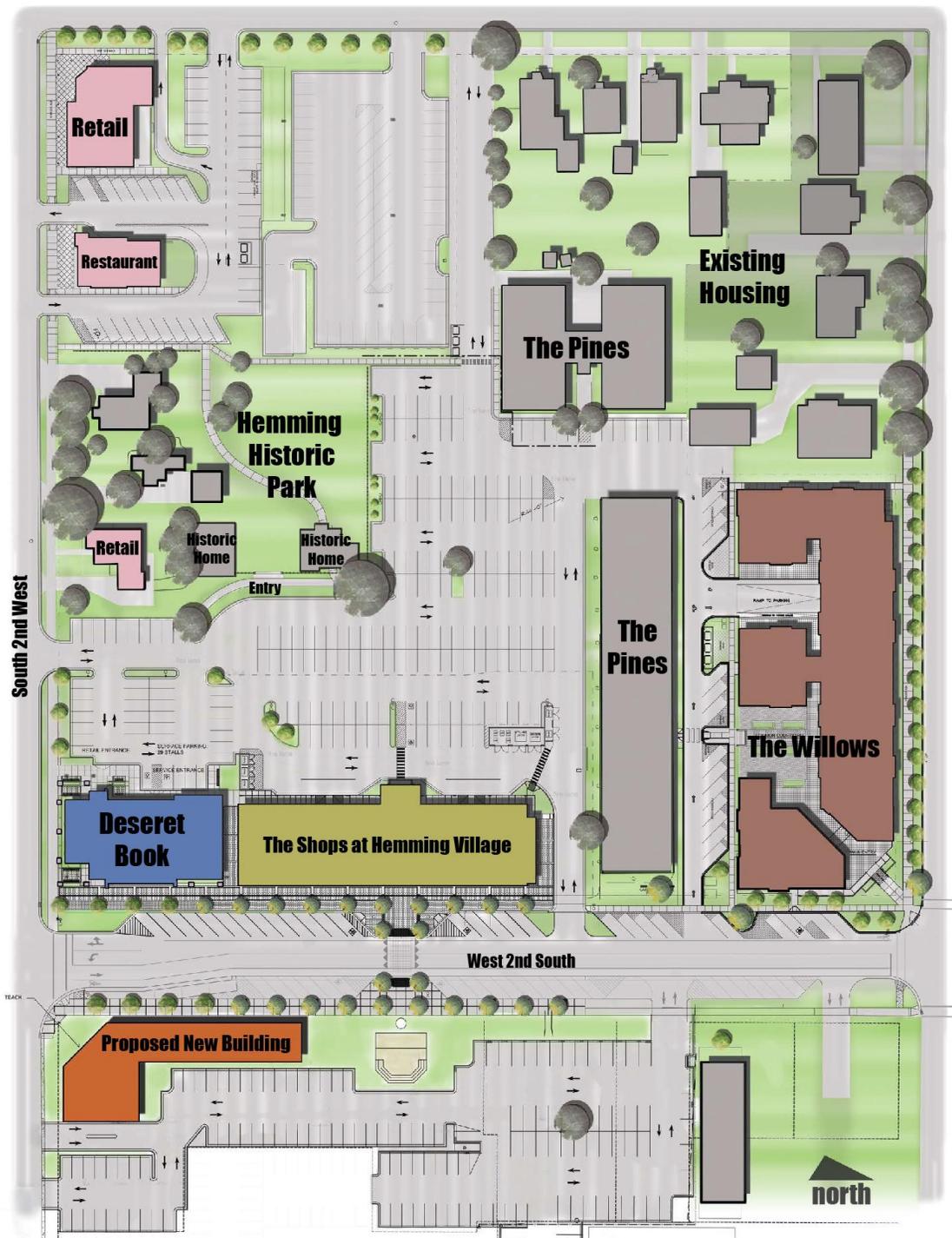
The motion carried.

B. Hemming Historic Park - Richie Webb

Richie Webb at 680 Wheatland Drive presented a proposal to provide public access to a small park in the Hemming Development. He proposed to exchange public access to the park with Park Impact Fees due on the Hemming Development. It was agreed to set aside \$25,000 for the proposed park which will include future green space. The proposed park location is adjacent to 2nd West between 1st South and 2nd South. He showed some murals they have installed in the Willows Apartments to preserve some Rexburg History. The park will help celebrate good solid people who are the history of Rexburg. One idea would be to move the old Seller’s home to the proposed park.



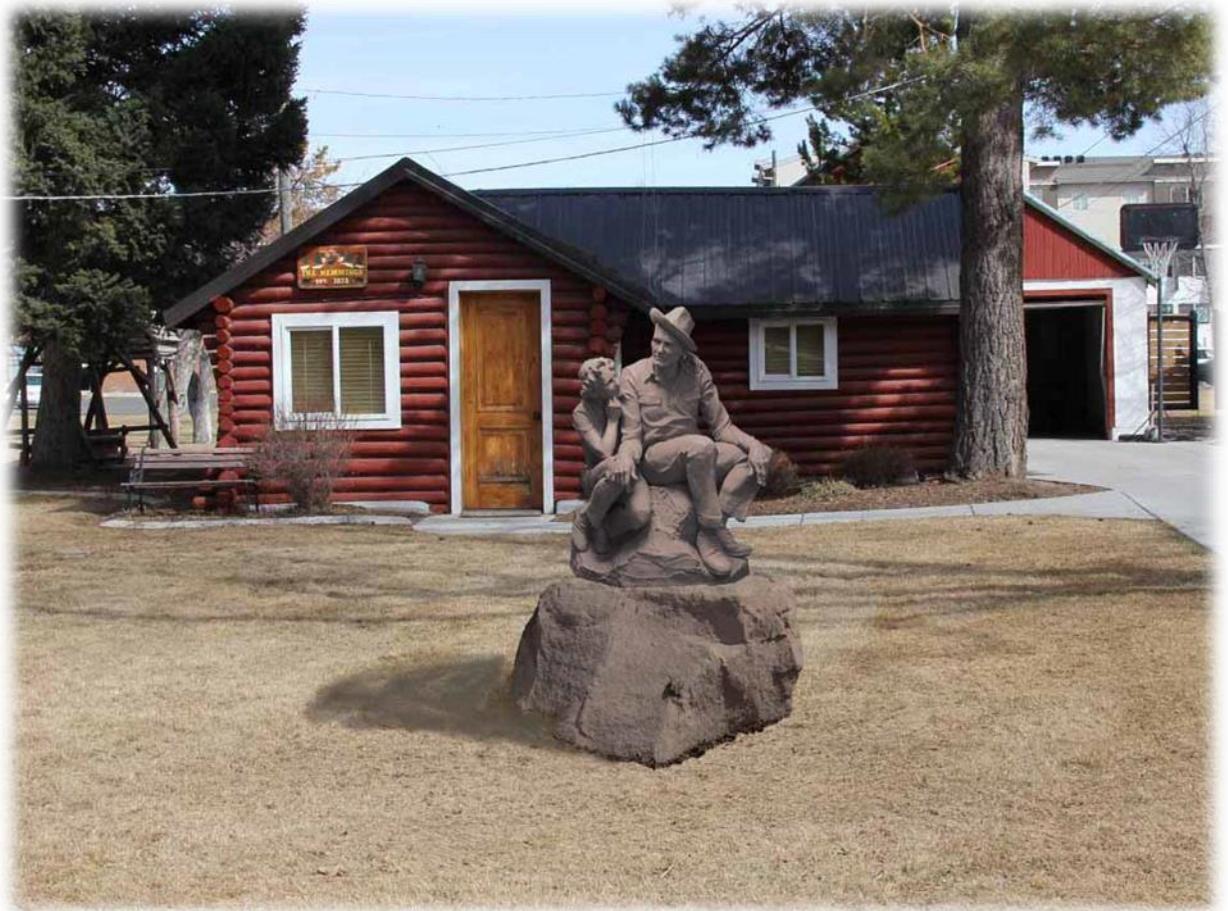
The Hemming Grandparent’s home



Proposed location of the Hemming Historic Park



Hemming Grandparents 2nd Home



Sculpture of a pioneer couple in the proposed Hemming Historical Park

Council President Mann was concerned with taking money away from other parks. He was concerned with the longevity of the proposed park in a private development. Richie Webb said the total Park Impact Fees were \$53,000 of which they have paid all but \$25,000. Council Member Merrill said this is in a private development outside of city control. Council Member Busby asked about the liability issues. Council Member Sutherland indicated it would be a great segue into the (PEZ) Pedestrian Emphasis Overlay. He suggested moving the old steam farm tractor from Smith Park to this location. Council Member Smith asked about security for the proposed park. They would be open to have camera surveillance.



Council Busby moved to delay payment of the Hemming Development Park Impact Fee of \$25,000 until the final completed Hemming Historical Park could be evaluated to make an exchange; Council Member Benfield seconded the motion; Discussion: City Attorney Zollinger explained the exchange would be a park for park exchange. Council Member Sutherland asked for a time line. **Council Member Busby** amended his motion to a time line of 24 months; Council Member Benfield seconded the amended motion; Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

The motion carried.

Committee Liaison Assignments for 2013:

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

Council President Mann reported Emergency Services will be meeting tomorrow evening and discussing several issues such as budgeting and the recent fires that have made the news. MYAB met at Smith Park for the Park to Park city clean-up project. They raked, cleaned, planted flowers, etc. It was a great event with over 100 participants. Parks Director Greg McInnes did a great job organizing the tools and locations to clean. The Golf Board met; the \$7.00 Municipal Golf Course fee has been going very well. IT is working on getting computer terminals at the Golf Courses. There has been progress on that as well.

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

Council Member Busby reported the Airport Board has not met; GIS met and discussed the budget.

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 meets tomorrow evening; the Teton Flood Museum Committee has not met (except for today's budget meeting); M.E.P.I. met last Monday. There was an "Envision Madison" update and a broadband report. She called for support for the Idaho Falls Regional Airport; also, she requested more activities for adult recreation and senior citizens. Some ideas are computer, cooking, and art classes.

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

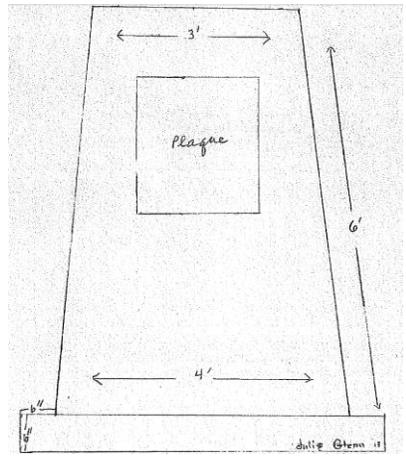
Council Member Smith reported the Legacy Flight Museum has not met; however, on June 15th there is a fly-in planned. The airplanes will be flying for the public and there will be a free pancake breakfast provided from 8-11 am. The Arts Council did not meet; however, they are requesting a new historical monument at the Tabernacle.

Request: Bill Eckersell and Jerry Glenn are seeking approval for a monument at the Tabernacle. The Monument would be donated by the Upper Snake River Valley Chapter of the "**Sons of the Utah Pioneers**" (Bill Eckersell) and the Upper Valley Chapter of the "**Historical Society**" (Jerry Glenn)

Jerry Glenn presented the proposal to honor the monument. He asked the city to prepare the site by removing the grass, installing a light, and possibly laying a gravel base. It will be located just north of the volunteer sign. They are responsible for pioneer signs in the area including the Fort Henry monument. It will not have a planter around it.

Plaque Wording:

REXBURG TABERNACLE
100 YEARS
1912 – 2012
Ground Broken May 14, 1911
Cornerstone laid July 15, 1911
Dedicated January 07, 1912
By President Joseph F. Smith
Cost of Building \$29,000
City of Rexburg
Upper Snake River Valley Historical Society
Upper Snake River Valley Chapter Sons of Utah Pioneers



Discussion:

Council Member Busby moved to approve the new historical monument at the Tabernacle; Council Member Sutherland seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

The motion carried.

Roger Harris said the last hitching post has fallen apart at the Tabernacle. They will fix it along with the new historical monument.

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

Council Member Merrill reported there are some ideas for the entryways to the city; Parks are looking good; the Teton Dam Marathon is moving forward; The pool is being cleaned, the winter pool expenses are way down from last year. He asked Public Works Director Millar about the parking along the intersections on Main Street and 1st East where parallel parking was installed to allow turn lanes. City Attorney Zollinger asked to have warning tickets given until the parking lines can be redone. The new Mesa Falls Development has street widening that will narrow down to the existing street until future development on the street is developed. Council Member Smith was concerned with traffic-pedestrian conflicts during the Teton Dam Marathon run. The county roads are a concern because they are narrow roads.

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

Council Member Sutherland reported Planning and Zoning met two weeks ago with the zone changes on tonight’s agenda. The police have three new patrol cars coming on line soon. Madison High School Graduation is next Thursday evening in the BYUI-Center.

Mayor’s Report:

A. Recovery, Reinvestment & Renewal – Association of Idaho Cities Annual Conference (June 18-22) Showcase Rexburg’s success stories.

City Achievement Awards Project/Program

*[Submittal Template]
Due May 31, 2013*

City: Rexburg

Contact Name: Blair D. Kay
Title: City Clerk
Mailing Address: 35 North 1st East, Rexburg, Idaho 83440

Email Address: blairk@rexburg.org

Phone Number: 208-359-3020; 208-716-1313

Please submit photos in electronic format as attachments in an email or on a CD, do not paste them into the submittal form. If you are unable to send photos in an electronic format then send the original documents to GayDawn at the AIC Office, 3100 S. Vista Ave, Suite 310, Boise, ID 83705. All original documents will be scanned and sent back within 1 week.

“BUILDING FOR TOMORROW”

Each submittal should have a 3 – 4 paragraph description of the project that could touch on improving the quality of life, solving a community problem, reducing the cost of government or increasing city services with a minimal additional dollar outlay.

Rexburg has been working to fulfill the current needs of its citizens while laying the foundation for an expanding population.

The following information may be included in an appendix:

- Why was the project/program needed?
- How is the project/program set up?
- What does it cost?
- Did the project/program solve/prevent a city problem?
- How did the project/program contribute to community enhancement?
- Describe the level of cooperation and collaboration involved in the project/program.
- Can other cities implement a similar project/program?

Submit all information to GayDawn Olyer at goyler@idahocities.org (preferred) or:

Association of Idaho Cities
Attn: GayDawn Olyer
3100 S. Vista Ave. Suite 310
Boise, ID 83705

Mayor Woodland asked City Clerk Blair Kay to review the “Showcase Rexburg” display for the AIC Annual Conference in Boise on June 18th to June 21st. City Clerk Kay explained the conference has an agenda item to showcase cities that have made improvements or changes that could benefit other cities in Idaho. Some ideas to showcase Rexburg are the following:

1. The Tower at the Wastewater Treatment Plant Saved plant expansion
2. Hawke Traffic Signal to save pedestrian lives
3. Alert ID to help protect neighborhoods
4. Redevelopment and Infill to save expanding city infrastructure saving millions of dollars
5. **Envision Madison to plan for the future at the grass roots level**
6. Rexburg Rapids and the Spray Park
7. Pedestrian Emphasis overlay to promote growth adjacent to BYU-I University

City Council will meet on June 26th due to this annual conference instead of June 19th.

Public Hearings: – NONE

Items for Consideration:

A. Rezone – 814 North Yellowstone Hwy – Medium Density Residential 1 (MDR1) to Medium Density Residential 2 (MDR2) – On April 18, 2013 Planning and Zoning recommended to City Council to deny the rezone request for Blue Ox Development.



Aaron Robertson at 83 North Cambridge Dr. in Rigby said it was unusual to disagree with city staff. They purchased the property and increased the MDR1 Zoning from the Commercial Zone to make enough room for a residential development. Since purchasing the property, they have plans to develop both the commercial and the MDR1 Zone. They are seeking MDR2 Zoning for the development to increase revenue by about \$150,000. Staff has recommended denying the proposal due to several concerns including the lack of sewer capacity and setting a precedent. He asked to treat his property differently than other properties in the area. He has commercial on three sides of his proposal; therefore, they are seeking an MDR2 Zone. It is a difference of 13 additional units for his development of three acres, which will be a benefit to existing property and will not impact the rest of the City's infrastructure. His neighbors support the proposal. They are unique in this area due to the three sides of the property being commercial.

Council Member Merrill asked what type of housing is planned. It is not decided at this time. They will have access to the property from the highway. They do not have a design at this point; they are exploring options for a new road. They want to maximize the development.

Public Works Director Millar explained the problem with the capacity of the jointly owned sewer line from Sugar City is running at 80% to 85% capacity. He reviewed the zoning map showing the changes to MDR1 from Commercial requested by the developer earlier. This proposal is against the planning that has been done. It is not the right time to change the planning that has been done. If exceptions are made, the sewer line will not have the capacity to accommodate additional exceptions in the future. A precedent must be made to set a fair standard for all future developers.

Community Development Director Val Christensen said 60 acres of property to the north owned by Dale Thompson requested a residential development; however, staff discouraged the development due to the pending issues. He suggested waiting on any changes until Envision Madison has been completed.

City Attorney Zollinger explained other entities including utility companies rely on the city's planning efforts to expand their services. This area has been planned in such a way that allowed for commercial property to develop on three sides; however this does not create a unique situation because it was the property owner's choice. Any other property owner along the road could do the same thing; it just so happens that this area is surrounded by land whose owner chose to build commercially. Therefore, there is nothing unique about this property that would merit an MDR2 rezone.

Council Member Benfield asked about the Peterson property; when will it be developed.

Mr. Robertson did not want to speak to other development proposals. He explained the area is being looked at by developers for development. The north end of Rexburg is becoming very attractive for development as the economy improves.

Mr. Robertson continued to explain his desire to have MDR2 Zoning. Due to the improving economy and plans for Rexburg to grow as its own, stand-alone city, there will be high demand for new development on the north end of Rexburg; thus, he claimed that certain rezoning exceptions have merit. He believed that his piece of property is in fact unique; therefore the city could grant his proposal for higher density and then deny that request to another developer because his property is currently the only area surrounded by three sides of commercial property. He reemphasized the fact that this proposal would not mean a large difference in zoning density, so the current sewage system would be able to accommodate for it. The City should not be averse to allowing some but not all developers rezoning privileges.

President Mann referred to the planning minutes; he agreed with staff. It's not the right time.

Council Member Merrill voiced concern for going against the City's plan of keeping development close to the University.

Mayor Woodland commented that a denial of this rezone does not mean it will not happen one day. The zone should be kept as is until "Envision Madison" can pick up some speed.

Council President Mann moved to deny the rezone at 814 North Yellowstone Hwy from Medium Density Residential 1 (MDR1) to Medium Density Residential 2 (MDR2); Council Member Merrill seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

Council Member Smith

The motion carried.

B. Conditional Use Permit – for a Hotel – Approximately 75 Pioneer Road
(12 00554 – May 02, 2013 Planning and Zoning recommended approval by a split vote)

Jeremiah Bigelow at 5035 East 34 North in Ririe, managing member of Pioneer Rentals, LLC. reviewed the proposal on the overhead screen. He asked the City Council if they had the packet of information that went through the Planning and Zoning Public Hearing process. They indicated they did have the packet. The property is just less than two acres south of the airport and soccer fields and zoned commercial. In the original Planning and Zoning Public Hearing, they did not own the property. They proposed a 60 unit hotel. At that time there were a few questions concerning FAA and a few more questions on the site plan. Two weeks ago they came back to Planning and Zoning with letters of approval from the FAA giving them the ability to build on the property with a height restriction of 26 feet. Planning and Zoning continued the tabled Public Hearing for the proposal on May 02, 2013. The Planning and Zoning Commission took public comment and reviewed the new site plan for the proposal. It is a 60 unit hotel and it is in accordance with the commercial zoning laws. Planning and Zoning approved their proposal for a hotel. Mr. Bigelow is willing to comply with all other stipulations on matters such as shrubbery and fencing.



Location of proposed hotel is at the end of the airport "Runway Protection Zone".

Written Public Input:

14 May 2013

Rexburg, Idaho 83440

To the Mayor and City Council;

I want to comment regarding the process by which a Conditional Use Permit (CUP) was approved by the Planning and Zoning Commission on May 2, 2013 regarding the construction of a hotel on the property at 75 South Pioneer Road. I was at the public hearing and was dismayed by the approach of the commission in granting this particular use.

As you are aware, much input was received by the commission, all of which, except for input from the developer himself, was opposed to the proposed use. Valid questions and concerns were raised regarding safety (both for the young people at the adjacent park and in the residential

neighborhoods and for aviation), the appropriateness of the location for a hotel, and the proximity of a two story hotel to residential homes.

My disappointment with the deliberation process that ensued was the fact that, to a person, the commissioners all expressed their opinion that the construction of a hotel on this site was not an appropriate use for this particular parcel of property. They then proceeded to deliberate not on whether the use should be allowed, but on how best to mitigate the impact of a use they all felt was not appropriate. For some reason or the other, certain members of the commission felt that, because the use was listed under CBC zoning as an allowable use after approval of a CUP, somehow their hands were tied in allowing the use of the property for the construction of a hotel. (By the way, radio and TV transmitting towers, natural gas storage and railroad yards are also listed as allowable in CBC zoning with a CUP.)

I take exception to this approach in the granting of a CUP. My understanding of the purpose of conditional use permits in the planning process is that they are a tool to be used for basically two purposes. First and foremost, the CUP is a tool to be used to determine the appropriateness of a use that is not a listed, allowable use in a particular zone. That determination alone should establish whether further deliberation needs to take place. Secondly, and only after the appropriateness of a use is determined, the commission decides the factors that should be considered to mitigate the impact of the use to the surrounding neighborhoods and community.

My recommendation to the City Council is either:

- 1) That you vote with the citizens impacted by this decision and also with the desires of the members of the P&Z Commission and deny the issuing of a CUP in this circumstance

or

- 2) That you remand this back to P&Z with instructions to deliberate the appropriateness of this use and its impact on the neighbors and community and to further instruct them that they not only can, but should, deny a use if they determine the use to be incompatible with the needs and desires of the community.

Thank you for your consideration,

Eric Erickson
897 Widdison Lane
Rexburg, ID 83440
erice@ericksonet.com
(208) 351-7055

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Motion from Planning and Zoning Minutes (May 02, 2013)

Dan Hanna motioned to recommend to City Council approval of a Conditional Use Permit for a hotel at approximately 75 Pioneer Road, to include three conditions:

1. *East and south property lines shall have appropriate privacy fence, trees such as evergreens, and berm necessary to maintain a line of sight 10 to 1 ratio.*
2. *On north side of property, there shall be fencing to match the City's existing soccer field fence.*
3. *There shall be full cut off lights, with no lights allowed on the south side of the building.*

Mary Ann Mounts seconded the motion; Jedd Walker wondered if a member of the community could be part of the Design Review Committee for this matter. Stephen Zollinger clarified that it not anticipated that an interested party would be put on the Design Review Committee. Val Christensen suggested adding a condition stating that a Design Review Committee meeting would be required for this project, if that is something the Commission wants. Dan

*Hanna amended his motion to add a **fourth condition:***

4. *A Design Review Committee meeting for the project will be required.*

Mary Ann Mounts seconded the amended motion.

Richie Webb stated that this effort is better than when we started. The project defies good planning. It is the Commission's responsibility to determine good planning. This project does not qualify. Can that be mitigated? No.

There is still the issue with semi-truck traffic. A truck misses the turn, and the trucks are right in that neighborhood. That is a safety issue and concern. It was also brought up that there could be affected property values. It is a fair concern of the neighbors.

The Commission did not mitigate these issues. There is not a compelling reason not to have this, but there are multiple reasons that are valid, and for that reason he feels this CUP should be denied.

Jedd Walker said the Commission has at least had a shot at it; some of the permitted uses by right could have even more impacts. It is not the right zone in the right place, as Mr. Webb stated.

Val Christensen noted that there is no semi parking shown on the plan, and it would likely not be allowed on that parking lot.

Those in Favor:

*Mary Ann Mounts
Winston Dyer
Thaine Robinson
Dan Hanna
Jedd Walker
Mark Rudd*

Those opposed:

Richie Webb.

The Motion carried.

=====
Council Member Sutherland indicated he was at the Planning and Zoning public hearing and he has done a lot of thinking and reading on the situation. It troubled him greatly due to the proposed location of the hotel on the edge of the airport (RPZ) Runway Protection Zone; which is the flight zone for the airport. He said, quite frankly, he was troubled with the location. He felt like the proposed location and the height of the proposed building would affect the flight path of airplanes coming in and out of the airport.

Council Member Sutherland moved to deny the Conditional Use Permit request for a Hotel at approximately 75 Pioneer Road until and if the airport board deems it appropriate to move the airport; Council Member Merrill seconded the motion.

Discussion:

Council Member Smith thanked the neighbors for attending and participating on this matter. She noted that the City Council has paid close attention to their letters and input. She asked them to continue to be proactive as a community and stay attentive to local issues. This property has been for sale since the road changed and it has always been zoned commercial, so watching issues such as this and being proactive in the neighborhood will prevent future issues like this from occurring. The City Council encourages them to be involved and participate in matters that concern them, such as the project, "Envision Madison." This plan is an opportunity for local community members to participate and have an input on the future of Madison County. The project's goal is to get ahead of issues such as this before they become a much bigger problem. She encouraged community members to know what they want in their neighborhood. Small concerns can become a larger, more complicated issue that concerns more people when these concerns are not addressed promptly.

Council Member Benfield also commended the neighborhood on being proactive and getting together. She appreciated the public letting City Council know how they feel. She believes this is the first step in "Envision Madison" because the project aims to be able to hear more from the community. In this situation, the community has let the City Council know that this is not the right time or the right place for this project; she agrees with the public. She sits on those soccer fields every Saturday and she watches those planes go over; she hopes that nothing happens just when those kids are there playing soccer. She cannot imagine having a hotel there with people staying on the second floor with those airplanes flying overhead. She seconds, thirds, and fourths the motion. She feels strongly about it.

Council Member Merrill said he struggled with this decision because he is in the business industry and it is frustrating for him when government gets in the way of what he wants to do. He thought about this and pondered until 4 am reading letters and reading Mr. Bigelow's comments. He wants Mr. Bigelow to know that these types of concerns are not taken lightly; the City Council weighs everybody's comments. The City Council wants to invite a business-friendly community; if a businessman feels as if his hotel will do well in the area, the City Council wants it here. But, Council

Member Merrill said that he cannot in good conscience approve this project at the height of the summer when the airport is the busiest and 60 families would be in danger if, heaven forbid, something were to happen. There is a 60 family inferno right there if something were to happen. With “Envision Madison,” officials are trying to make good plans. Local officials may have messed up by not zoning the way they should have before, but he does not want to follow one mistake with another. Having said that, Council Member Merrill said he would like to throw in his hope that the Ready Team would help the Bigelows find another location here in town that would be a more suitable location if the Bigelows feel strongly that they would like to have a hotel here (which he believes that they do). So, he would hope that the Economic Development Department would help, especially since they are always looking for businesses that want to come into Rexburg and develop.

Council President Mann went along with that statement by agreeing that this is simply the wrong project in the wrong place. He believed this from the beginning. He appreciated Richie Webb for his comments on planning and zoning. He took those comments greatly into consideration as he thought about this and tried to read through everything, as he was sure that the rest of the City Council did as well; they want to be fair with everybody; however, sometimes it is just the wrong project in the wrong place and wrong for future planning and growth for the community.

Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

The motion carried.

Staff Reports:

Public Works: – John Millar

Public Works Director Millar reviewed city projects.

1. **City Hall** air conditioning has failed. He reviewed the following bids. Three bidders provided a number of options:

The three bidders were Judco, Rexburg Plumbing and Heating, and Mountain West Mechanical.

20 ton unit

Judco \$21,945, Rexburg plumbing \$23,885, Mt. West \$33,926

7 ½ ton unit

Judco \$18,400 for 2 units, Rex. Plumbing \$8,400 each, Mt. West \$23,760

10 ton unit

Judco \$19,600 for 2 units, Rex. Plumbing \$10,195, Mt. West \$27,126

15 ton unit

Judco \$19,999, Rex. Plumbing \$17,465, Mt. West \$19,610

Dycon 1.5 unit

Judco \$2,345, Rex. Plumbing \$3,495 (Mitsubishi), Mt. West \$6,800

Public Works Director Millar indicated we decided on one 20 ton unit from Judco for the roof and one Dycon 1.5 unit from Judco for an interior room.

Judco \$21,945 - 20 Ton Unit
\$ 2,345 – 1.5 Ton Unit
 \$24,290

Part of the cost (\$14,600) will need to come from contingency.

Council President Mann moved to approve the low bid from Judco for the air conditioning at City Hall; Council Member Smith seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

The motion carried.

2. Seal coating project

Chip Seal Bids 2013	Quantity	Units	Unit Price	Total
Intermountain Slurry Seal	47200	SY	\$ 2.07	\$ 97,704.00
TMC	47200	SY	\$ 2.52	\$ 118,944.00
HK	47200	SY	\$ 2.60	\$ 122,720.00

Type III Slurry Seal				
Intermountain Slurry Seal	47200	SY	\$ 1.90	\$ 89,680.00

Council Member Busby moved to approve the low bid for the seal coating project; Council Member Sutherland seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

None

The motion carried.

3. 5th West Project (discussion on the contractor treating the public in construction areas with respect): the project is moving better now.

Council Member Merrill asked how the garbage is being picked up. As need be, the drivers are dragging the cans to where they need to be in order to pick them up.

4. Wastewater Project is moving along as scheduled. Buildings are going up and things will be finished within the time allocated.

5. Water rights are moving ahead.

Finance Department – Richard Horner

Finance Officer Horner asked for a public hearing to increase some city fees on June 26th.

Council Member Benfield moved to approve a public hearing on city fees on June 26th at 8:00 P.M.; Council Member Merrill seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
 Council Member Benfield

Those voting nay

None

Council Member Smith
Council Member Sutherland
Council Member Merrill
Council Member Busby

The motion carried.

A. Financial Management Policy

Finance Officer Horner reviewed the proposed changes to the Financial Management Policy.

3. Drug Enforcement Fund Procedures

a. The Drug Enforcement Fund receives revenues by way of Fines and Forfeitures that are turned over by the court to Prosecuting Attorneys. As revenues are received they will be accounted for on the City of Rexburg books as city revenue and deposited in a special checking bank account used only for this fund. Expenditures in this fund, other than drug buys, are to be budgeted, approved through Purchase Orders (POs), expensed, paid for and audited like any other City expenditure. Non-drug buy expenditures in this fund will be reimbursed by this special bank account to the City's General Checking Account and NOT paid directly from the special bank account.

b. Drug buys may be made and accounted for using appropriate operating procedures approved by the Mayor, City Attorney, Police Chief and Chief Financial Officer. Signors on this special bank account shall be: the Chief of Police, the City Attorney, the Chief Financial Officer (CFO) and the head Police Records Clerk. The Chief Financial Officer and/or Deputy Financial Officer shall be able to audit the drug buy transactions whenever they deem it necessary, which should be done at least once per year.

4. Budget Amendments

a. A Department Head may request a budget amendment using the Budget Adjustment Form for any budget line item within their responsibilities, which must be approved by the CFO and Mayor.

b. City Council approval is required if:

i. \$10,000 or more is taken from contingency.

ii. \$50,000 or more is a change in object or year of purchase for a capital purchase.

iii. New Full-Time Regular personnel positions, additional Full-Time Regular personnel, and new types of major programs.

Discussion:

City Attorney Zollinger referred to the State Statute concerning drug enforcement funds as unbudgeted funds being controlled in a drug account. The drug fund is used to fight drug cases with Drug Task Forces in other jurisdictions including state entities. Finance Officer Horner was concerned with drug enforcement funds being outside the City Council's review process.

Council Member Merrill asked where the funds come from and requested clarification on the nature of the account.

City Attorney Zollinger explained that changing the drug fund to a formal policy is not a good idea. It is a statutory account that is created specifically not to be a part of the City's budget; if it appears as City revenue, that would directly contradict the statute. The account is formally the prerogative of the City Attorney's Department and the Police Department is the administering branch; they are allowing the Finance Officer to be involved for oversight purposes. In typical jurisdictions, these funds never pass through the City Clerk, the Treasurer, or City Council to provide a confidentiality divider between elected officials and the accused in a court of law. The City Attorney and Chief of Police would be opposed to any change that would make a formal policy different than the current statutory authorization. The issue is reducing the process to a formal procedure, taking away the confidentiality process and jeopardizing court authority to appropriate these funds. He requested that the City Council leave the drug fund as is.

The City Council was comfortable with the current process of handling drug funds. Section 3 dealing with the drug fund is to be kept as written, which is the current process.

5. Changing Objects of Budgets

- a. The Mayor is authorized to change the object of capital expenditures under \$50,000.
- b. Department Heads may not change a capital expenditure object or add a new capital expenditure without approval from the Mayor. They may, however, be over on one line item and short on another, as long as their total is under budget.

6. Standalone line items

- a. Certain sensitive line items may not go over budget without the Mayor's approval, even when compensated for by being under budget in another line item, including: Salaries, Benefits, Overtime/Part-time wages, and Travel and Training.

16. Developer Agreements

- a. Finance Officer Horner proposed that all developer agreements must be pre-approved by the Mayor, City Council, City Attorney and the CFO, and with all related city liabilities included in the budget. The approvals must be attached to the agreement with signature and date from each. Before approvals are obtained, the CFO must compile a report of the financial impact of the agreement; this will preempt unexpected City bills in the future and make record keeping easier.

Public Works Director Millar was concerned with budgeting Developments Agreements because he does not have the numbers to take them through the budgeting process.

City Attorney Zollinger explained the need for a Development Agreement Summary Sheet to ensure that commitments made on behalf of the City are passed on to Richard and the City does not miss obligatory payments.

City Council Member Sutherland did not see a need for a final City Council approval after all of the review processes have been approved and concluded. Finance Officer Horner will remove the City Council final approval from the Development Agreement process. Therefore, only the Mayor, City Attorney, and the CFO are responsible for authorizing developer agreements.

18. Subsidies or Donations

Finance Officer Horner reviewed the policy to have full costing.

- a. Full Costing should be applied to all donations or subsidies of in-kind services, cash, supplies or capital (herein called subsidies) provided to entities outside or inside City government. This will ensure that the revenue lost due to such subsidies does not fall on the back of the department that would otherwise be required to furnish such items or services for free.

b. To Outside Entities

- i. Whenever it is decided by the City Council and/or Mayor to provide a subsidy to another entity outside the City government, the normal cost for those items or services should be paid out of the Mayor's "Protocol Expenses" account or a transfer from the General Fund using budget from the General Fund Contingency Account. Example: Donated or subsidized Building Permit Fees should always be either paid by the applicant or, if subsidized by the City, paid by the General Fund of the City.

c. To City Funds or Departments

- i. Whenever it is decided by the City Council and/or Mayor to provide a subsidy from one City department or fund to another, the normal cost for those items or services should be paid out of the appropriate fund and department that benefits from the transaction. Example: Rexburg Rapids punch passes given to employees should be paid for out of each department's budget in employee benefits.

B. REVENUE BUDGETS

3) Grants

- a) Any required matching funds, in-kind work and/or ongoing maintenance costs related to a grant must be first approved by the Mayor and City Council before a grant is accepted.

C. FEE SETTING

2) Capacity & Impact Fees

- a) Capacity and Impact Fees shall be reviewed and adjusted at least every five years to provide revenues sufficient to replace the capacity previously sold or to build capacity to be used in the future.

D. RESERVES

2) Utility Capacity Cash Reserves

a) Utility Capacity Cash Reserves shall be maintained for capacity replacement through sufficient Capacity Fees to replenish reserve flow capacity as needed. Reserve flow capacity shall be maintained at a level of 10% or greater in the water and wastewater systems at their peak level. Capacity Fees should be at a level sufficient to totally cover the cost of replacement of the amount of capacity sold.

3) Utility Operating Reserves

a) These reserves should be maintained between 25% and 33% of the current year’s Utility Expenditure Budget. This reserve is meant to provide a prudent and sufficient cash flow during months with lesser revenue stream, to provide for capital replacement, and to guard the citizens against service disruption due to unforeseen events or emergencies.

Calendared Bills and Tabled Items:

A. “LAND USE ACTION” – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE:

1. **Ordinance 1105** to rezone approximately 278 North 2nd West from Light Industrial (LI) to Medium Density Residential 2 (MDR2) **(City Council approved the rezone request on May 01, 2013)**

***SECTION I:** That the zoning map of the City of Rexburg, Idaho, which is filed with the city clerk thereof, be, and the same is hereby amended and changed to provide that the hereinafter described property situated in the City of Rexburg, Madison County, State of Idaho, (#13 00092) be rezoned from Light Industrial (LI) to Medium*

Density Residential 2 (MDR2).

The said property is located at approximately 278 North 2nd West, in Rexburg, Madison County, Idaho, and more particularly described as follows:

Legal Description:

Lot 1 Block 6 of the Original Rexburg Townsite of the City of Rexburg, Madison County, Idaho, as per the recorded plat thereof. ALSO: That portion of Third North Street between Lot 1 of Block 6 and Lot 1 of Block 13; and that portion of First West Street between Lot 1 of Block 6 and Lot 2 of Block 5, of the Original Rexburg Townsite of the City of Rexburg, Madison County, Idaho, as per the recorded plat thereof.

Council Member Benfield moved to suspend the rules for Ordinance 1105 to rezone approximately 278 North 2nd West from Light Industrial (LI) to Medium Density Residential 2 (MDR2); Council Member Sutherland seconded the motion; Mayor Woodland asked for a roll call vote:

Those voting aye

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

Those voting nay

- Council President Mann

The motion carried.

Council Member Sutherland moved to consider Ordinance 1105 approved and third read to rezone approximately 278 North 2nd West from Light Industrial (LI) to Medium Density Residential 2 (MDR2); Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

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

Those voting nay

- Council President Mann

The motion carried.

- 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

Consent Calendar: The consent calendar includes items which require formal City Council action, however they are typically routine or not of great controversy. Individual City 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 May 01, 2013 meeting
- B. Approve the City of Rexburg Bills

Discussion:

Council Member Busby moved to approve the Consent Calendar and pay the bills; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

<p><u>Those voting aye</u> Council President Mann Council Member Benfield Council Member Smith Council Member Sutherland Council Member Merrill Council Member Busby</p>	<p><u>Those voting nay</u> None</p>
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The motion carried.

Council Member Busby 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 Merrill seconded the motion; Mayor Woodland asked for a roll call vote:

<p><u>Those voting aye</u> Council President Mann Council Member Benfield Council Member Smith Council Member Sutherland Council Member Merrill Council Member Busby</p>	<p><u>Those voting nay</u> None</p>
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The motion carried.

Executive Session: 9:42 P.M.
Executive Session ended. 10:09 P.M.

APPROVED:

 Richard S. Woodland, Mayor

Attest:

 Blair D. Kay, City Clerk