



April 19, 2006

Mayor Shawn Larsen

Council Members:

Donna Benfield – Council President
Farrell Young Christopher Mann
Rex Erickson Randy Schwendiman
Bart Stevens

City Staff :

Stephen Zollinger — City Attorney
Richard Horner – Finance Officer
John Millar — Public Works Director
Val Christensen – Building Official
Kurt Hibbert — Planning & Zoning Administrator
Blair Kay — City Clerk

6:00 P.M. Work Meeting (Impact Area & Annexation discussion)

Planning and Zoning Administrator Hibbert reviewed the Impact Area map with the City Council. There is an applicant requesting annexation of 254 acres west of 12th West. This request has excluded the associated properties where there are residential homes. P&Z Administrator Hibbert reviewed another request from an individual to annex 160 acres south of the first request. Both requests are adjacent to 12th West. In the most recent annexation hearing before the City, the City Council denied the request that excluded residential properties in the annexation proposal.

Mayor Larsen reviewed the issue of the land being in the City Impact area and the County. He noted the discussion with the County concerning this area. The area is close to Rexburg services, so the County was amenable to moving forward with this annexation into the City of Rexburg. Because part of the requested land was outside the City's Impact Area, it was important to have the County's permission to proceed with this annexation proposal. On the north side of the City, Sugar City has overlaid Rexburg's Impact Area with their own Impact Area. The County has the authority to grant Impact Areas for Cities inside of the County.

Mayor Larsen reviewed the City policy for extending services outside of the City limits. The City Council amended the policy last year to allow hookups outside the City if they met certain criteria.

Mayor Larsen asked the City Council if they were willing to allow the City to grow into the Impact Area and beyond into the County. See attached:

***RESOLUTION FOR ESTABLISHING THE POLICY
FOR SERVICES OUTSIDE THE CITY LIMITS
Resolution 2005-14***

WHEREAS, on the 05th day of *October*, 2005, the City Council for the City of Rexburg was duly convened upon notice properly given and a quorum was duly noted; and

WHEREAS, the City Council desires to provide those services necessary for the safe and orderly growth of the areas immediately adjacent to the City of Rexburg;

NOW THEREFORE, by resolution duly adopted on the date first above written, be it resolved by the Mayor and the City Council as follows:

The City of Rexburg shall accept application from any property within the Rexburg Area of Impact for services including water and sewer; and

The City of Rexburg shall evaluate any such application based upon the need, the threat to health and safety, and the ability on the part of the City of Rexburg to provide for the requested services; and

The City of Rexburg shall cause such evaluation to be accomplished by the public works director or his designee; and

The Council of the City of Rexburg shall ultimately act upon such application based exclusively upon the will of the Council after having received a report from the public works department either approving the extension of services outside the City limits, or denying the extension of services; and

Should the Council vote to approve the extension of the services, the applicant shall execute written verification and acceptance in the form provided at the time by the City of a willingness and desire to be annexed to the City of Rexburg at such time as the City deems annexation to be appropriate; and

The applicant shall be responsible for all costs associated with the extension of any service outside the City of Rexburg.

RESOLVED this 05th day of October, 2005; City Council, City of Rexburg, Idaho

SIGNED BY: Shawn Larsen, Mayor

ATTEST: Blair D. Kay, City Clerk

Planning and Zoning Administrator Hibbert reviewed three aspect of annexations that needs to be part of the review process. 1. Trade (economic issues) 2. Geographic issues 3. Is it reasonable growth?

Council Member Mann reviewed the prospects of squaring up the City boundaries requiring additional Impact Area and the annexation of addition properties.

Council Member Young pointed out areas in the City where there are Islands surrounded by the City. He asked Planning and Zoning Administrator Hibbert why these Islands are included in this discussion. P&Z Administrator Hibbert responded that it was due to a prior City Council directive to include Islands for the next annexation.

Mayor Larsen reiterated his question to the City Council on how should the City grow. Council Member Stevens responded with a question for Public Works Director Millar: "How much does John think the City can handle?"

P&Z Administrator Hibbert indicated the City has plant capacity and line capacity on 12th West for this growth to happen. He went on to identify the three exits into the City of Rexburg as primary nodes of growth for the City. He said the City will grow around these exits.

Council Member Mann took some time to walk around the property included in this current annexation request. He noted how large it was to visualize it on site.

P&Z Administrator Hibbert commented further on his visit with the County Commissioners last Monday. They were really supportive of the concept of "Planning for Growth."

The City Council discussed requesting the County to expand the City's Impact Area for the growth purposes.

Council Member Mann did not want to do anything that would be a concern to the City on North 2nd East where the City recently annexed property.

Jerry Jeppesen explained there is a new Ordinance pending at the County to allow clustering developments. The properties would be on 1/3 acre lots with a larger area in the development set aside for future expansion as the Cities expand into the County. The larger areas could be developed into City parks, etc. There is a current request before the County to develop a subdivision one and one half miles east of Rexburg, in the County. He was concerned with developments leap-frogging their growth in the County.

Council Member Young asked Jerry if the County is aware of the water issues that would impact these new developments.

Jerry Jeppesen indicated District Seven Health Department looks for the County to set the standards for development in the County. The County policy needs to assimilate the Cities into the County's standards for growth.

Mayor Larsen wanted to have a good buffer around the City of Rexburg for growth concerns.

The City Council reviewed an Impact Area map and drew boundary lines for the possible expansion of the Impact Area around Rexburg. Some of the areas of concern have been identified as high nitrate areas in the County.

P&Z Administrator Hibbert asked the City Council if they would like him to proceed with the annexation proposals. He asked for direction in the following areas:

1. Approval of the applicants Comprehensive Plan expansion request.
2. Do the annexation requests have merit
3. Proposed Impact Area of expansion to present to the County

P&Z Administrator Hibbert reviewed Sugar City's proposed expansion of their Impact Area. On the east side of Rexburg, their Impact area comes south across the Teton River to the Sugar City Cemetery. The City Council drew some possible lines for the Rexburg Impact Area that would adjoin the Sugar City Impact area.

The City Council requested a work meeting to continue the discussion on the Impact Area map.

7:00 P.M. – Pledge to the Flag

Roll Call of Council Members: All Council Members were present except Council Member Schwendiman. He asked to be excused.

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 March 22nd, April 05, 2006 meetings - Deferred
- B. Approve the City of Rexburg Bills

Mayor Larsen called for a motion to approve the Consent Calendar.

Council Member Young thanked the City Clerk for his thoroughness in putting the minutes together.

Council Member Young moved to approve the Consent Calendar; Council Member Erickson seconded the motion; Council Member Benfield asked to defer approving the minutes until they can be reviewed. Council Member Young withdrew his motion and Council Member Erickson withdrew his second to the motion.

Council Member Benfield moved to approve the City Bills; Council Member Young seconded the motion; all voted aye, none opposed. **The motion carried.**

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

Tracy Winn presented a letter from the Ricks/Palmer residents to the City Council concerning the flooding on February 28, 2006. It has been fifty two days since the flooding. The letter expressed the feelings of the neighborhood residents that were flooded as an unpleasant experience in all areas.

Letter from Ricks/Palmer residents
to City Council members 4-19-06

It came to our neighborhood's attention that during the last City Council meeting, Richard Horner presented to the City Council that those affected by the sewer and canal flooding in the Ricks/Palmer Addition area on February 28, 2006 were pleased with how things were being handled. That it has been a positive experience for us.

The neighborhood, would like to express exactly the opposite of what Richard Horner reported to you. It has not been and remains to be, an unpleasant experience in all areas.

Today marks the 52nd day since raw sewage and muddy water entered, uninvited and of no fault of our own, into our homes.

We have had only two official times of communication with the City in the past 52 days. Any other communication with any officials have been due to our instigation. There have been confusing, mis-directed and unorganized communication from City employees, taking away our valuable time in our trying to figure out what's going on and what to do next- only to leave us even more frustrated than before. Those living in the Millhollow Trailer Community have yet, to receive any communication from the City or School District.

Our lives have been disrupted. Children and parents are living in cramped areas upstairs with no place to play. For example, one family has 5 children under the age of 9 living in bunk beds in the living room while their father is spending any available minute he has, repairing extensively his basement. Family treasures are lost forever. Stress levels & tension are high. Reports are in of sinus infections documented as bacteria coming only from airborne sewer situations such as this. Lost wages & lost vacation hours as extra time is used in cleaning up on our own, saving money where we can. Large bills have come due already with no way to pay for them or no extra money to make payments on them. While the offered \$4,000 advancement has been helpful, it no where near covers the expenses that are incurring.

We are aware that our situation is in the hands of at least two insurance companies: ICRMP and CNA. We are gratefully aware of the part ICRMP is playing in trying to orchestrate a mediation meeting with CNA to resolve this problem, yet we also know that CNA is grossly irresponsible in dragging their feet in this matter. We, as a neighborhood, have been talking with the School District about this & their insurance carrier.

Our neighborhood is very concerned for our future of living here and the value of our homes. Will this happen again? What steps will be taken immediately so this never happens again to us or any other tax payer in this city? This should be a huge eye opener to how the City handles emergencies. That decisions made in 'panic mode' only add to the problem already at hand. Protocols should be established, practiced, followed and constantly improved upon for situations such as this.

No, City Council members, this has not been a pleasant experience for the tax payers of the Ricks/Palmer housing area and want the city records to hear it straight from the affected residents.

Thank you

Mayor Larsen asked for a discussion on the matter. The City has been working with their insurance carrier; Idaho Counties Risk Management Program (ICRMP) to mitigate the situation with the School District's insurance carrier is CNA.

Council Member Erickson explained it was a sad situation. It is tough to work with two insurance carriers. The \$4,000.00 City loan program was a temporary amount. He asked the citizens what they would like to see.

Karen Arritt explained she received a packet from the City to give forms to residents of Millhollow Mobile Home Community. The forms in the packet were addressed to the Ricks-Palmer residents. She wanted the Mobile Home Community residents to receive personal letters from the City. Council Member Erickson wanted them to file claims with the City. Mayor Larsen explained the Insurance Company has copies of those claims that have been filed with the City. The City is waiting for the insurance companies to resolve liability issues.

Council Member Mann asked if the City could apply more pressure on the Insurance Companies.

Tracy Winn explained the ICRMP adjuster is frustrated with resolving the issue. She explained Gary Archibald was the one person that took the time to communicate the problems. She was unhappy with the communication received from the City. It would be nice to keep up on the communication effort. The affected residents do not have money to pay out on loans. She wanted a letter sent by the City to the contractors to explain the lag in payment was due to the problems with resolving the insurance claims.

Council Member Erickson asked if the residents had insurance. Tracy said maybe four or five homes had insurance for this type of claim. Not all of them were covered for a sewer backup.

Council Member Benfield apologized to the residents. She and Council Member Mann did go to the homes in the area to see first hand the flooding problems. Tracy said CNA has hired a local adjuster.

Council Member Benfield asked if the suppliers knew it would take more than thirty days to resolve the insurance issues. Tracy asked for a letter from the City to explain the situation concerning the insurance claims.

Marilyn Walker asked about the next step. Will this flooding happen again? She understood the ditch was going to be abandoned. She asked for some steps to follow to see a resolution to the issue. It is called the Rexburg City ditch.

Public Works Director Millar said run off water would still go into the ditch. It was not going to be abandoned. Marilyn Walker said the ditch needs weeds cleaned out of it. Tracy did concur that the snow in the ditch caused the problem.

Council Member Erickson said there were lawn clippings in the ditch too. The City is resolved to keep the ditch clean. Tracy explained the manhole cover was taken off which allowed runoff water to over flood the sewer. He noted ICRMP was aware of the situation with the manhole cover.

Council Member Mann asked if the City could write a letter to the school district. Mayor Larsen has contacted the School District to resolve the issue. Mayor Larsen said the City does not have plans to cover the ditch.

Karen Arritt asked about silt in the ditch from Hidden Valley. The ditch is closed between Barney Dairy and Hidden Valley. She asked the City to remove the silt. Street Supervisor Bill Blair had contacted Wayne Parkinson to remove the silt. She has been keeping the ditch area clean, level and mowed. She wanted to have the ditch restored to the level she maintained it in the past. She can't burn the ditch due to the new landscaping at the High School. Debris comes from everywhere on the wind into the ditch.

Council Member Erickson said the ditch should be cleaned up each year with a back hoe.

Bart Smith wanted to plant greenery around the ditch and he offered to mow the property. Public Works Directory Millar was concerned with getting equipment into the area. Mayor Larsen liked the idea of having residents maintain the ditch in the summer. Bart Smith lives on the east side of the ditch.

Council Member Benfield said two weeks ago she thought the City would send a letter to the Millhollow residents. She requested the City send the residents of Millhollow a letter.

Jacob Burke wanted to know what the City was going to do to resolve the problem.

Council Member Erickson said ICRMP is not the one holding it up. He recommended residents contact the school district to ask them to hurry up the resolution.

Council Member Mann said one insurance company can't pay the claim until the liability issues are resolved; otherwise, they accept responsibility for the whole claim. Jacob Burke said the restoration companies mentioned the City would be paying for the Claims.

Mayor Larsen said there were some mistakes made and the City has learned some lessons. He apologized to the residents and committed to be a better communicator for the City.

Council Member Stevens asked if there was a possibility of sending a letter to the suppliers. Mayor Larsen will review the letters that the City could send to vendors.

Karen Arritt asked for a written plan between the school district and the City.

Mayor Larsen indicated the City could commit to cleaning the ditch. The letter from Millhollow residents was presented to the City Council last week and a letter from the Ricks/Palmer residents was presented to the City Council this week.

Mayor Larsen welcomed the Scouts to the meeting.

Presentations: - NONE

Presentations:

A. Rexburg's Children's Museum:

Stephen George noted he was president of the Rexburg Children's Museum. He gave the City Council a packet on the Museum organization. They have well qualified people in the organization. They have tried to put a Museum at the City Pump House. It is a very extensive proposal for a Children's Museum. The packet has letters of support from several political, private, and educational individuals. He read a letter from the Organization and a request in the letter to have the City continue the support of the Children's Museum. Community support is strong with eighty seven percent of those polled stating they would visit the Museum. The Organization asked the City to take over the Museum effort because the City is in the Museum business. The LDS clothing building would be a better site for the Children's Museum. A resident in the meeting noted the plan to use University students to put on productions at the Museum. He noted Rexburg is a good central location for the Museum in this part of the State. It would benefit the children.

Marsha Bjornn related what a Children's Museum is all about. It is for the children's education. It was noted that the LDS building would be inexpensive compared to fixing the City Pump House. Children need a place to go in Rexburg.

Council Member Mann discussed the size of the building. They need to use a \$2,000 grant this year. Council Member Young asked why they did not go with the Pump House proposal. They noted it was too expensive.

Mayor Larsen commented on some of the conversations he has had with the LDS Church concerning the on the LDS building at the Library site. He reviewed the possible future funding. There has been a lot of effort and work put into the Children's Museum. He did not want it to go away.

Council Member Erickson asked if the Committee for the Children's Museum if they had the grant for \$10,000 from the Community Foundation. The Committee did receive it with a few small donations; now they need a place to start the Museum.

Council Member Benfield asked if the Teton Dam Flood Museum would ever move to a new location. A move was discussed without anything anticipated in the near future.

Mayor Larsen explained the prior City Council gave the go-ahead to purchase the building. Council Member Benfield asked to look at the financials before making a decision. Council Member Mann thought it was reasonable to purchase the building. He wished we had all the money we needed to fund all of the worthy projects. Council Member Stevens asked for all of the costs before making a decision. Council Member Young asked if the building could be donated. Mayor Larsen indicated the City was waiting for a reappraisal amount from the appraiser. Discussion on this site being a temporary site for the Children's

Museum. The Library District would be agreeable to let them use the building for up to five years.

B. Arts Promulgation Fund

Gerald Griffin serves on the Beatification Committee. He referred to a City Ordinance that earmarked 1.25% of some construction projects to go towards the Arts. He reviewed some lighting designs for Rexburg and the interior of the round-about. The proposal is to install some sculptures in the center of the round-about.

Mayor Larsen went over the Millennial Monument fund which was set up to have some sculptures at the east end of Main Street. This proposal was not pursued for lack of funding. Some of the individuals who donated to the fund were willing to keep their donations in the fund for Art on other locations. This money could only be used for the sculptures. Mayor Larsen explained Art Work proposal has already gone through the Committees; the City Council makes the decision on what Art work is approved for the City.

Council Member Erickson asked for an installed cost estimate for the total package to avoid later installation costs and shipping costs. Gerald would be willing to help negotiate the total cost for the sculptures for the round-about.

Council Member Mann asked if they were original sculptures. They are considered multiple originals. The original plan was to put five sculptures in the round-about; however, due to the costs, the Committee decided to request three sculptures.

Council Member Stevens was concerned with students going into the area for pictures. Gerald agreed that it would be a focal point for people; however, there are ways to discourage it with landscaping, lighting, and signage.

Council Member Young moved to approve the project in concept before giving a final approval after reviewing the total cost for the sculptures; Council Member Benfield seconded the motion; all voted aye, none opposed. **The motion carried.**

Committee Liaison Assignments for 2006: - NONE

- A. Council Member Chris Mann: *Parks & Recreation · Museum Committee;*
- B. Council Member Donna Benfield: *Beautification Committee · Police Department update;*
- C. Council Member Rex Erickson: *Airport Board · Planning & Zoning;*
- D. Council Member Randy Schwendiman: *Golf Board · Traffic & Safety · Emergency Services Board;*
- F. Council Member Farrell Young: *Tabernacle Committee · Rexburg Arts Council;*
- G. Council Member Bart Stevens: *Trails of Madison County · IBC Committee;*
- H. Mayor Larsen: *Mayor's Youth Advisory Board.*

The Council Members did not report on the Committee items.

Report on Projects: John Millar

- A. Award bid contract on **Pathway (bike path) bridge** over the Teton River
Continental Bridge and Roscoe bids

Public Works Director Millar reviewed a project to place a walking bridge over the Teton River near the rail road bridge. The City is bidding some of the work separately to save money. The grant is for a \$90,000 grant; the City would provide \$50,000 from the appropriate budget plus in-kind work to complete the funding. The bridge is part of a walking path to tie into the pathway to Sugar City.

The City Council approved a grant application July 05, 2005 for the pathway project.

Council Member Mann was concerned with children falling off the foot bridge into the Teton River.

Council Member Young explained it would inhibit crime in the area versus encourage it in that area if the area is made pleasing to the eye.

Public Works Director Millar indicated Rick Miller is the low bidder who represents Continental Bridge Company.

Council Member Young moved to accept the low bid to construct a bridge across the Teton River; Council Member Benfield seconded the motion; Discussion: Council Member Erickson asked if it was budgeted. \$50,000 of the total project cost is going to be in-kind work or cash. The in-kind work for the City could be engineering work or grading the surface area. Public Works Director Millar said in order to get the grant it can be multi tea red. Sources for the funding can come from Urban Redevelopment monies or an EPA Congressional appropriation. He explained the funding formula for the project. Mayor Larsen called for a vote on the motion.

Those voting aye

Council Member Benfield
Council Member Young
Council Member Erickson
Council Member Stevens
Christopher Mann

Those voting nay

None

The motion carried.

B. Public Works Director Millar explained a letter was sent to the Millhollow Road residents and the Shoshone Avenue residents showing the proposed road layout for the Millhollow Road project. Council Member Benfield was concerned with a route to her home. The map did not show how her driveway would reach the proposed road. Public Works Director Millar explained there would be better detail on a future map.

Council Member Young asked about the unused property. It will be landscaped and some of the neighbors have asked to take care of it.

Public Works Director Millar explained the Animal Control Shelter has had some change orders that were fairly minor. The floor covering and a septic pumping system were not in the budget. The total amount with change orders was \$355,000 and the City applied for a grant on the interior equipment for \$35,000.

The streets are being swept and the roads are ready to strip.

Public Works Director Millar referred to a loader that was purchased last year. The new Caterpillar loader replaces an old loader. He asked the City Council to excess the old loader.

Council Member Stevens moved to declare the old loader as surplus equipment; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

Council Member Benfield asked if a letter had been sent to the Millhollow Mobile Home Community Park residents. It had not been sent yet. She asked to get a copy of the letter tomorrow for review.

Public Hearings: - None

New Business:

A. Preliminary Plat for Henderson Addition Division #3

Planning and Zoning Administrator Hibbert reviewed the Henderson Addition Division #3 plat on the overhead screen. Council Member Erickson referenced the Planning and Zoning Commissions review of the proposal. They approved the Preliminary Plat if approved by the City Staff. Public Works Director Millar said the City

Staff review has been done with the sewer and storm drain. The development is tied into the City Storm drain system west of the Hibbert road.

Council Member Erickson moved to approve the Preliminary Plat for Henderson Addition Division #3; Council Member Stevens seconded the motion; Discussion: Mayor Larsen asked about fencing on Pioneer Road. There won't be additional access to Pioneer Road. They will access Mariah Avenue. Mayor Larsen asked for a vote on the motion. All voted aye, none opposed. **The motion carried.**

B. Final Plat for Parkside Plat "D" for a Planned Residential Development
The owner reviewed the Plat on the overhead screen. He reviewed the Staff report. The legal description must be reviewed so it can be accepted by the surveyor. They are checking the addresses and changing them as needed to comply with City addressing. The addresses were addressed on the back of the homes in the alley.

Council member Benfield commented on the indoor pool in the development.

Council Member Erickson said Planning and Zoning recommended the Final Plat if the addressing and other items were fixed.

Council Member Benfield asked how many of the lots were completed. They are all sold in Phase Four. Phase Five is being pre-sold with nineteen lots remaining to be sold.

Council Member Benfield moved to approve **the Final Plat for Parkside Plat "D"**; Council Member Stevens seconded the motion; Discussion: The City Council discussed the pocket park on the south west corner of the project. It is used as Pocket Park and a waste water collection site. There is a Homeowners Association in the development. All voted aye none opposed. **The motion carried.**

C. Budget Adjustment Request Form for Customer Service – City Clerk

The Customer Services Department was under budgeted due to a retirement at the end of 2005 and a pregnancy at the beginning of 2006. The labor replacements for these two occurrences totaled nearly \$30,000 over the twelve month budget in 2005/2006. The City Clerk asked the City Council to take \$30,000 out of the Contingency Budget for the labor replacements.

Council Member Erickson questioned the reason the budget was off by \$30,000. He questioned the reasoning for leaving the money for the retired position out of the budget. The City Clerk explained the reasoning for the budget short fall was a lack of understanding of how coverage for a retired position and coverage for a pregnancy in the department would affect the budget. There was a lack of funds to put excess monies in the budget to cover this contingency.

City Attorney Zollinger explained the Customer Services Department is used by his office to do secretarial work too. The budget short fall is for coverage of a full time employee who retired and a part time employee to replace the full time position.

The City Clerk explained Nancy Lusk was the anchor of the front office for the City. During the time she was retiring, the office had been going through a major data conversion, utilizing University students to fill in where schedules would allow their coverage. Nancy came back from retirement to work as a contract employee while Natilyn was off for family leave.

City Attorney Zollinger explained the City was paying for the vacation and sick leave for the retiring position in addition to paying the regular salary. The City was paying double for two positions to cover the retirement and the pregnancy.

Council Member Erickson asked the City Clerk if the City was reinstating monies that were removed from the budget as a wind fall for a retired position. This money should have been budgeted in the original budget. The City Clerk commented on taking steps to verify the budget for his department when Council Member Schwendiman noted he would like to see budgets if they were a dollar over budget.

The City Clerk apologized to the City Council for not being more involved in the budgeting process to anticipate the necessary funding for a retirement and a pregnancy.

Mayor Larsen summarized the discussion stating the money would need to be taken out of the Contingency Budget for the request.

Council Member Mann moved to take \$29,984 budgeted money out of the Contingency Budget to cover the Customer Support Services' labor budget; Council Member Young seconded the motion; Discussion: Council Member Erickson was still unclear why the money to cover Nancy's full time was not budgeted. He asked if this is \$29,984 more than what was budgeted last year. The City Clerk was not able to answer the question. City Attorney Zollinger explained there were not any extra employees added to the Department. Council Member Erickson understood the \$10,000 to cover contract labor for the pregnancy; however, he was unclear what the additional \$19,000 was covering. The City Clerk explained it was for the unbudgeted employee to replace Nancy and other retirement expenses. All voted aye, none opposed.

The motion carried.

D. Joe's Filling Station, LLC. at 747 North 2nd East – on premises sales of beer and wine

Mayor Larsen reviewed the approved State and County licenses that are required in an application before a City license can be approved. The City Clerk explained it is a license for the restaurant for the on premises sales of beer and wine. It is not an on premises license for the (convenience store) gas station next door. This license does not allow for the sale of beer or wine on Sunday in the restaurant. The convenience store next door has been allowed to have off premises sales of beer on Sunday due to an annexation agreement.

Council Member Erickson moved to approve the request to sell on premises beer and wine at Joe's Filling Station, LLC. at 747 North 2nd East; Council Member Mann seconded the motion; Discussion: Council Member Young requested the clarification that Sunday beer and wine sales would not be allowed. The City Council reviewed two other restaurants in the City that have the same license, namely the Hard Hat Café and Me & Stan's Restaurant. Jalisco restaurant was another business that had the on premises license. They have gone out of business. All voted aye, none opposed.

The motion carried.

E. Rexburg Housing Signs – Staff

City Attorney Zollinger reviewed past sign permits for eight or nine properties. Compliance Officer Powell has met with Rexburg Housing to bring some signs into compliance. Autumn Winds has moved their sign out of the right-of-way. Two of the properties are not in compliance with the Sign Ordinance. Alpine Chalet and Summerset Apartment signs are in the City right-of-way. Both signs were installed further from the street to replace existing signs. They are both behind high back curbs and the sidewalks. He asked the City Council if the new signs could remain partly in City right-of-way. Council Member Stevens asked if that would set a legal precedence. The City still has the right to have them removed for the right-of-way at a later date. The City has absolute control of the right-of-way. City Attorney Zollinger explained they are replacing existing signs; thus, it is a temporary exception due to a City approval by a past City employee. The owners understand the City could require them to be removed at any time.

Council Member Young asked if it was an exception or a variance. City Attorney Zollinger said it was an exception to City policy.

Council Member Young moved to approve the exception to the Sign Ordinance; Council Member Erickson seconded the motion; all voted aye, none opposed.
The motion carried.

City Attorney Zollinger discussed warning sticker for cars with the City Council. They would be used to warn motorists if their vehicles were parked in areas that violate the City's Ordinances. The stickers can be placed on car windows by the Compliance Officer or the Planning and Zoning Commission for violators to City's nuisance Ordinances. It does not constitute a citation. It is a warning to the motorist.

Enforcement Officer Powell mentioned the stickers could be passed out to violators by Police and members of the Planning and Zoning Commission. She would keep track of the violators by having the public fill out a form for a paper trail.

Council Member Stevens questioned the wisdom of having others besides the Police passing out these violation stickers. He felt it was an Enforcement employee's responsibility, not a Planning and Zoning member's responsibility. Mayor Larsen agreed it should be the job of the Enforcement Officer.

City Attorney Zollinger will have the Enforcement Officer do the stickers from the violation form that will be filled out by the complainant.

Council Member Erickson noted it is seldom used by the Planning and Zoning Commission. City Attorney Zollinger will follow the City Council's directing in this matter.

Council Member Erickson noted the Planning and Zoning Commission members do not confront the owners with the stickers. It is used very seldom by the Planning and Zoning Commission.

Council Member Stevens was not in favor of others passing out the violation stickers.

Enforcement Officer Powell noted anyone can fill out the violation form. City Attorney Zollinger noted the Enforcement Officer has received law enforcement training for this process. It is a criminal approach instead of a civil approach. This is a new compliance sticker.

Calendared Bills and Tabled Items:

A. First Reading: Those items which are being introduced for first reading. – NONE

B. Second Reading: Those items which have been first read.

1. **BILL 958** – Business Registration

City Attorney Zollinger apologized to Rexburg Housing for being unavailable to meet concerning their questions with this BILL. They want to meet with him to get some questions answered concerning the BILL. He noted Virginia Pratt from Rexburg Housing was present at the meeting. He has not received any specific feed back from the apartment owners at this time concerning any changes. Mayor Larsen reminded the City Council of the process for three readings. The City Council could make changes to the BILL in the third reading.

City Attorney Zollinger expects input from the Apartment Owners Association on the BILL; i.e. fees. He mentioned the possibility of leaving in home businesses (customers getting services at the home) and taking out home occupations (home is not frequented by customers.) He asked for written comments for requested changes to the BILL.

Council Member Mann has three renters this year. He brought his renter contracts to the meeting for anyone to review. He referred to three example Cities the City Attorney referred to in the last meeting. He called two of those Cities. Moorhead, Minnesota has a population of 32,000 in the year 2000. They have 184,000 population in the area around their City. They only have one Compliance Officer. They use the Compliance Officer and three other people full time for three months, December, January, and February. They inspect units with fewer than eleven units. The fire department does over twelve units and business. The Compliance Officer inspects nine hundred units per year. They send a letter to do the scheduling. The owner or manager must be on site for the inspection. They charge a minimum of \$175 per building plus a \$15.00 per unit. They had an up roar in the Community when they started the program; however, they have five hundred sixty single family homes converted to rental units. They allow four people per unit.

Mayor Larsen mentioned he has met the Mayor of Moorhead, Minnesota.

Council Member Mann continued to review the registration practices of Missoula, Montana. They do commercial inspections except if the business is State licensed or privately owned, it does not need a City license. They have a population of 51,000 residents. Council Member Mann is concerned with the expansion of inspections. He wants Rexburg to be business friendly. He would like a simpler BILL. Council Member Young was impressed with the research. City Attorney Zollinger mentioned Moorhead, Minnesota does annual inspections with the fire department not the Compliance Officer. The Fire Department in Rexburg does not do inspections like other Cities.

The plan for this registration process would somewhat lesser than is done in Moorhead. It would be a review of their status. It would be more of a walk through for a property inventory to verify status verses safety inspections.

Council Member Young asked if the City would provide a registration sticker on the certificate every year. City Attorney Zollinger mentioned the City would provide a Business Registration Certificate each year as it is currently done. The fee could be for twenty four months if it is oppressive to do it annually.

Council Member Mann mentioned Moorhead, Minnesota gets appointments with manager or owner before doing the business inspections. He is not opposed to inspections; He is opposed to taking it on all at one time. City Attorney Zollinger indicated the City of Rexburg does not do follow up on business reviews to catch problems. Mayor Larsen mentioned the need to follow up in the current year. City Attorney Zollinger reviewed the current process as similar to the process covered in the new BILL. "We do a lot of this all ready."

Council Member Erickson has a couple of serious problems with this BILL. Do we have a problem in Rexburg? He does not recall the City Council requesting this BILL. He is not sure if the City needs to do this BILL. Why are we going to all this effort in Rexburg? He does not want the City to go out and walk through businesses. Ninety nine percent of businesses do the right thing. His question was "do we really need this BILL." He called it an unfriendly BILL. He wanted more proof that it was necessary. If a business is found to be out of compliance, Council Member Erickson recommended fining the business if they would not come into compliance.

Mayor Larsen asked Council Member Erickson if he would support an annual Fire Department inspection. If it was necessary, he would support a Fire Department inspection. He did not want to go to every apartment complex and count every bed.

Mayor Larsen stated a Compliance Officer would be less expensive than having Building and Fire Department inspections. He perceived having a check off list for life safety, parking, etc.

Council Member Erickson asked if the Compliance Officer has been trained in life safety issues. He noted that University students if hired for summer inspections would know less about the compliance issues than the apartment owners and managers.

City Attorney Zollinger reviewed the inspection process by a Compliance Officer. The Officer will walk around the business to see if they are in Compliance with City Ordinances. He indicated home conversions in Rexburg are a problem. This would be a tracking process to register a business.

Council Member Erickson was OK with inspecting new businesses; however, he wanted to trust old businesses. He suggested using complaints that are given to police for the inspections.

Council Member Mann asked if it could be a smaller process. He does not want to combine everything into this BILL. City Attorney Zollinger reviewed the reason for a comprehensive BILL is to cover all compliance issues. It is an effort to inventory the businesses for compliance to all City Ordinances. This BILL would help support an effort to deal with current complaints on violations that is currently received by the City.

Council Member Stevens reviewed the current policy of fees being excluded for professionals. The new BILL would require the registration of professionals too. City Attorney Zollinger asked the City Council to ask Financial Officer Horner for a study to determine the break even fees for this BILL.

Mayor Larsen explained the tracking part of the BILL is critical to the Mayor's Office. The City needs to come up with a number to cover the fees for this BILL. Council member Erickson asked why we would police Lawyers or Accountants who are licensed with the State. City Attorney Zollinger reminded the City Council the BILL does not police their functions; it only registers them as businesses in Rexburg. The City is getting out of the licensing business and simply doing a business registration of all businesses. Council Member Erickson used his commercial business as an example of getting a City license and then this BILL would require a second registration. City Attorney Zollinger and Mayor Larsen reminded the City Council that this BILL takes the place of the old City Licensing program. The new program under this BILL would only register businesses doing business in Rexburg. It is a building registration for the space that is being used for the business. The City has already changed the name of licensing process to a business registration process. The proposed registration fee for a car business would be \$10.00 per employee; although, this fee has not been determined. Council Member Erickson has his business inspected every year by a State Inspector. He did not see the need to have it inspected again by the City.

City Attorney Zollinger indicated the State inspects for quality of work and the City would be doing an inspection on the quality of work space. The City registers work space; we do not register workers. Cities register the place you are going to do business. "That is just what cities do." That is one of the police powers the City has to initiate. When a customer walks through the front door of a business, it is the City's role to ensure that the customer is safe. It doesn't matter if the lawyer he is walking in to talk to is a shyster or a reputable attorney. "We don't recommend the attorney; we recommend the space they are walking into." It is simply a building registration. This person is doing business in a place that has been reviewed and endorsed by the City. "We have

endorsed the space; not the business.” “They are doing business in a fashion that the City approves.”

Compliance Officer Powell agreed with Council Member Erickson; except some businesses are not in compliance. She mentioned one person would be less intrusive than a Fire Department and a Building Department inspection, etc. It is a great tool for bringing businesses into compliance. She is trying to treat every business the same or at the same level for compliance. There are businesses that recognize other businesses are not required to come into compliance with City Ordinances.

Mayor Larsen spoke for the need to have a business inspection under a reasonable fee. The fees have not been determined yet. The City currently receives a \$20.00 payment for a registration and sends out a Business Registration Certificate without an onsite inspection. He recommended an appropriate fee for the type or size of business.

Council Member Erickson spoke of businesses in the City that operate in a rat hole for a \$20.00 fee while other businesses with nice facilities would be charged a higher rate; i.e. \$500.00. He did not see any consistency in the BILL for addressing those separate situations. Compliance Officer Powell indicated she would work to bring the low end businesses up to compliance by having them remove old cars and junk from their business settings. Council Member Erickson was concerned with the inequities in the BILL for charging more fees for businesses that are larger and making an effort to keep their business up.

City Attorney Zollinger mentioned the businesses would be required to play on a level playing field. The City will not be able to address all of the aesthetics; however, the Compliance Officer will attempt to address the functional aspects of every business. They will attempt to deal with the auto mechanic that has ten old cars torn apart in sight of all of his neighbors. This would be the type of situation that the business would not get a new registration with the City until the cars are removed. The Compliance Officer would follow up on businesses that are non-compliant in a registration walk through.

Mayor Larsen asked City Attorney Zollinger, Financial Officer Horner, Compliance Officer Powell, apartment owners, the City Clerk, and some City Council Members to come up with fees for a third reading. City Attorney Zollinger reiterated this BILL is intended to service all of the compliance issues. Council Member Stevens would like to have more time to make changes.

Council Member Erickson wants fees set before the City Council goes any further. Council Member Stevens wants to review the number of businesses that will be inspected each year. City Attorney Zollinger mentioned the inspections can be self supporting. The second reading could be postponed until the committee reports on the recommended fees for the inspections. Council Member Erickson asked if everyone on the City Council was convinced if this BILL is necessary. He was concerned with the volume of inspections.

Mayor Larsen said the City does need a system to track businesses and apartments for compliance. Council Member Stevens mentioned it will be helpful to get some idea of the expected costs for the inspections. Council Member Mann expressed his concerns with comparing a widow lady with two renters to a commercial business like Wal-Mart.

C. 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

Old Business:

A. 2005 Audit

Mayor Larsen mentioned the 2005 Audit has been under review by the City Council since the last meeting. He asked for a motion to approve the Audit if the City Council was ready to approve the 2005 Audit.

Council Member Benfield moved to accept the 2005 Audit; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

B. Westwood Theatre update:

Joanna Carter asked for approval of some fund raiser events at the Westwood Theatre.

Council Member Stevens asked if Charley Allen had done a walk through of the Theatre building. He has not done the paperwork yet.

Council Member Young asked to go ahead using the building contingent upon a favorable safety report from Inspector Allen. Arts Director Bowman explained Joanna is complying with the three conditions. Council Member Stevens explained the reason to have an outside inspector was to cover the conflict of interest issue.

Joanna Carter proposed two types of fund raising efforts:

1. Sell the seats in the Theatre to have first right of seating if the ticket is paid.
2. Create a Green Room in loving memory of a donor.

Council Member Stevens reviewed the City Council's request for a business plan from the Westwood Theatre Committee. Joanna Carter mentioned Kirby Forbush has offered to do a business plan in June at a reduced cost. Council Member Mann asked for a cost for the Business Plan. Joanna did not have the cost yet.

Council Member Young asked about the name of the Theatre. The Committee voted to call it the "Romance Theatre." He asked them to contact Terrell Arnold for pictures of the Theatre. The Committee has adopted the bylaws for the Romance Theatre Committee.

Mayor Larsen asked Council Member Mann to be the City Council Liaison to the Romance Theatre Committee.

Council Member Erickson asked if the Committee had looked into private ownership. Joanna responded some of the City Council would like to see it privatized. He would prefer private ownership.

Council Member Stevens was concerned with stability of the City leadership because the elected officials potentially change every two years.

Council Member Erickson did not want it to become a money pit. Joanna Carter wanted the City to own the building for a cooperative effort. It is a Community effort.

Council Member Erickson wanted to see the business plan. Joanna Carter explained ticket sales would support the theatre. The Committee doesn't see it being a burden on the City. It will be a focal point for the City at the intersection of Center Street and Main Street.

Mayor's Report:

Mayor Larsen asked the City Council to ratify an appointment of Todd Hammond to the Parks and Recreation Committee.

Council Member Mann moved to ratify Todd Hammond for the Parks and Recreation Committee; Council Member Stevens seconded the motion; all voted aye, none opposed.
The motion carried.

Mayor Larsen went over the schedule:

April 20th, 2006 – Joint City/County meeting at 6:00 p.m.

April 21st, AIC Spring seminar

April 24th, 2006 – Dept of Commerce Rural Partnership training

April 28th at 3:30 p.m. for Rexburg Pride Days/Arbor Day clean up event at Evergreen/Kiwanis Park

May 3, 2006 – City Council meeting at 7:00 p.m.

May 5, 2006 – Rexburg 101

May 17, 2006 City Council meeting at 6:00 p.m.

May 18, 2006 Joint City/County meeting

Council member Young noted the Oversight Committee report has been completed on the Public Works Department. It was submitted this week.

Executive Session – 67-2345 (C)

Council Member Stevens moved to go into Executive Session per State Statute 67-2345 (C); Council Member Young seconded the motion; Mayor Larsen asked for a roll call vote.

Those voting aye

Council Member Benfield
Council Member Young
Council Member Erickson
Council Member Stevens
Christopher Mann

Those voting nay

None

The motion carried.

Executive Session:

Executive Session ended.

Adjournment

Shawn Larsen, Mayor

Blair D. Kay, City Clerk