

# Customer Support Services City Council Minutes

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

## June 07, 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

**7:00 P.M. – Pledge to the Flag** – All City Council Members were present.

**Roll Call of Council Members:** All Council Members were present. Council President Benfield conducted the meeting in the absence of Mayor Larsen.

**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 May 17, 2006 meeting
- B. Approve the City of Rexburg Bills

**Council Member Mann** moved to approve the Consent Calendar; Council Member Young seconded the motion; all voted aye, none opposed. **The motion carried.**

**Council President Benfield** asked if there were any Scouts to recognize. Professor Marlow's Government class was welcomed to the meeting.

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

**Steve Ott** at 117 Webster Avenue requested to have a required sidewalk on his property deferred. He has a small front yard; therefore, he asked to eliminate the sidewalk which is required by

Ordinance. It would be an advantage to the Ott's to avoid the sidewalk requirement because their home is only thirteen feet from the street. Planning and Zoning Administrator Hibbert explained the property does not qualify for a variance to the Ordinance.

**Steve Ott** has lived in the home for twelve years and they are getting ready to sell the home.

After some discussion on the requirement to install a sidewalk when the property is sold, City Attorney Zollinger explained there are sidewalks on both sides of this property. The City Ordinance stipulates the sidewalk must be installed when the property is sold and the sidewalk must follow the predominant sidewalk layout of properties on the same side of the street within that City block.

**Planning and Zoning Administrator Hibbert** noted the properties in this location have recently been zoned to Neighborhood Business District (NBD.) The residential homes in this area are considered to be a non-conforming allowed use. A sidewalk is required by the City Ordinance.

**City Attorney Zollinger** reiterated the sidewalk would be required at the sale of the property. He noted geographic anomaly (sheer cliff, swamp) can be a reason for a variance; however, not in this case. One example given was if a lot was shortened by the development of a new road taking required square footage from the lot. The City is systematically requiring sidewalks that have been overlooked in the past. The LID process reviews properties each year to bring more properties into compliance with the City Ordinance. City Attorney Zollinger explained a variance was the wrong term for this request. The request would have to be granted as an exception to the City Ordinance.

**Steve Ott** thanked the City Council for their consideration. He understood the City Council's decision.

**Presentations:** NONE

**Committee Liaison Assignments for 2006:**

**A. Council Member Chris Mann** *Parks & Recreation· Museum Committee· Romance Theatre Committee*

**Council Member Mann** reported the Parks & Recreation Committee meets tomorrow night. The Museum Committee met and they reviewed a new Teton Dam Flood video. The Romance Theatre Committee is having successful fund raisers. They had a rock concert on the 26<sup>th</sup> of May with ninety people attending. The Teton Dam Marathon Committee has over 550 runners signed up for the different races. There are runners signed up from all over the Country. The Recreation programs have hit record numbers. T-ball has started and gymnastics registrations are under way. The Teton Dam Flood commemoration after thirty years was held May 31<sup>st</sup> at the Tabernacle.

**B. Council Member Donna Benfield** *Beautification Committee· Police Department*

**Council Member Benfield** reported the Beautification Committee has put a lot of hanging flower baskets and flowers in the downtown area. The Police Department is operating well with nothing to report.

**C. Council Member Rex Erickson** *Airport Board· Planning & Zoning*

**Council Member Erickson** reported the Airport Board met today and reviewed some issues with some of the hangers. There are some hanger operators that have not turned in inventory lists or contracts. It is believed that some hangers are not being used to store airplanes, only personal property. They are going to send out eviction letters to those individuals that are not complying with the airport policies or paying their rent. Some of them have been reported to be sub-leasing their hangers. City Attorney Zollinger indicated they will have ninety days to remove their hangers after the lease has been terminated. The default reasons are primarily rent, lack of airport type use, and failure to comply with insurance and inventory issues. They can't use their hangers for storage sheds. Planning and Zoning met last week and some of the items will be on tonight's agenda. Council Member Erickson mentioned AMET is planning to move to the Rexburg Business Park in the next year or two. Another applicant's request for a building in the Business Park was denied because of non-compliance with Rexburg's Design Standards.

**D. Council Member Randy Schwendiman** *Golf Board· Traffic & Safety· Emergency Services Board*

**Council Member Schwendiman** reported the Traffic and Safety Committee met last night. They are working hard to make sure the City of Rexburg has safe streets. The Golf Board is working on another proposal for an additional nine holes at the Teton Lakes Golf Course. The Emergency Services Board met last week and they are doing fine.

**F. Council Member Farrell Young** *Tabernacle Committee· Rexburg Arts Council*

**Council Member Young** reported the Rexburg Arts Council is holding an orchestra concert tonight at the Tabernacle from 7:30 p.m. to 9:00 p.m. The Arts Council meets every Tuesday night. The Tabernacle Committee will meet tomorrow night to discuss the fee schedule. They want to be on the next City Council agenda for a fee discussion.

**G. Council Member Bart Stevens** *Trails of Madison County· IBC Committee*

**Council Member Stevens** reported the Spud race has been canceled this year due to lack of Committee support. The Legacy Flight Museum air show is planned for the same day as the proposed Spud race.

**H. Mayor Larsen** *Mayor's Youth Advisory Board· Legacy Flight Museum*

**Public Hearings:**

**A. 8:00 P.M. Streets Development Impact Fees – Development Impact Fee Committee**

**Council President Benfield** explained the process for receiving testimony at a Public Hearing.

**Financial Officer Horner** presented a proposal to the City Council for new Street Impact Fees. One change from the last discussion was the cost discussion for land use on page seventeen. The language was changed from "Planning Director to Public Works Director." He introduced Bill

Hofman (consultant), who did the statistics for the Street Impact Fee Proposal. He mentioned the Citizens Committee for the Street Impact Fees include Nyle Fullmer, Brett Jensen, Judy Hobbs, Rick Nielsen, and Jim Hirrlinger. This Committee reviewed the proposed Ordinance & study and recommended the study to the City Council. On page twenty eight, two paragraphs were reviewed concerning traffic counts and the purpose of the fees providing for new construction being paid for the new impact on the streets.

**Council President Benfield** opened the Public Hearing for testimony.

**Those in favor of the proposal:**

**Kevin Virgin** at 333 South 7<sup>th</sup> East in Sugar City explained he is the President of the Upper Valley Builders Association. The Association takes in the Upper Snake River Valley. The builders as a whole have discussed this proposal. They are in favor of the proposal; however, they would like to see how the amount is calculated and its longevity. They want to know more about where it will go (parks? Which streets? etc.) They would like to review its track record over time. Kevin noted the industry as a whole and home owners are getting hammered. They are in favor of commercial and residential application of these fees. They would like to see the University pay impact fees by students; \$10.00 or \$20.00 at enrolment. They want to track the fees (applicable constant percentage rate) for five years.

**Those neutral to the proposal:**

**Richard Smith** at 950 Millhollow Road gave his perspective as a developer. He is personally leaning in favor of the Street Impact Fees because of the City's great need for street expansion. One of his concerns is the trend that starts to occur when out of area land developers artificially inflate land values. The report indicates the fees should be tied to individual building permits; however, he suggested the fees should be assessed to the developers who come to Rexburg to develop raw land.

Rexburg is getting the reputation of having high fees for home construction. These new fees will be perceived to be born on the backs of individual homeowners. If the developer is paying a share of the fees when the lots are created on the Plat, he would have to either pass the fee onto the purchaser of the lot in a competitive market or he would absorb the fees out of his profits. Under the current proposal, the fees are proposed to be collected on the construction permit because that is when the new impact occurs on the streets.

**Council Member Stevens** asked if commercial developments developed "as built" would be treated the same as residential developments. Richard Smith said commercial developers would determine and analyze their profits. They would analyze all costs before doing the development to see if the commercial development was feasible. The developer is more like a commercial builder; where he will make a reasoned analysis of costs for roads, utility and other ancillary cost before proceeding with the transaction.

**Attorney Richard Smith** as a representative of BYU-Idaho noted from the University's perspective, they are comfortable with paying the fees. The University wants to go on record doing their share of the costs based on their impact to the streets.

**Winston Dyer** at 667 Summerwood Drive is a resident of Rexburg. He has not studied the document yet. He is principally and philosophically divided on the issue. He supports passing the Street Impact Fees on to developers including commercial developers. There should be some considerations for donations of right of way, street lights, etc. An example would be the development of 7<sup>th</sup> South. He wanted to have some concessions for the developer's donations of ½ of the normal street. He was concerned the developers may tend to develop in the County instead of the City. It would be better for developers to develop or in fill inside the City. There are water quality issues in the County, where new subdivisions are being developed. He asked the City Council to work with the County and District Seven Health Department to encourage City sewer connections outside of the City.

**Those opposed to the proposal:**

**Lane Hemming** speaking as Assistant Superintendent from the Madison School District liked the discussion. His thought was how these comments translate into law. He read a statement concerning the added costs these fees would be for the School District's Construction program. Their study of the proposal indicates Impact Fees are to be used for a specific development. They are not to be used for projects that benefit the entire community or as a replacement for taxes. Those community projects are to be funded by levies, bonds, and other property tax assessments. The education of our children benefits the entire Community.

The addition of the Highway Impact Fee could add an additional \$500,000 to \$1,000,000 in taxes to the School District patrons. If the Street Impact Fee is added to the existing City Impact Fees, the total fee package (Impact, building, etc.) would be as much as \$2,000,000.00. This is the cost of a new small elementary school, text books for the entire School District for ten years, or the cost of one hundred new teachers over a four year period. Schools should be excluded from City Impact Fees. He quoted the Idaho State Constitution in prohibiting one taxing entity from taxing another taxing entity. This would result in double taxation for patrons of the School District which would be disastrous for the School District and its patrons. The School District is encouraging an exemption for local schools in the plan. They do understand the financial pressures on the community. They asked to be included in the discussions on this matter. They will build two elementary schools and a possible a High School in the future. These fees would cost several million dollars in additional cost.

**Financial Officer Horner** asked to address questions: In the past, as an example, there would be a credit for a land donation. He asked Bill Hofman if the City could require a developer to pay the Impact Fees before construction of buildings.

**Bill Hofman** from Hofman Planning and Associates explained it is a matter of timing in the collection of the fees. The concept of collecting the Impact Fees before the impact occurred is open to legal challenge. Impact fees can't be collected until the impact of the new development is anticipated; that is why it has always been tied to the building permit.

**Financial Officer Horner** said the question of who pays the Impact Fee came up earlier. He indicated there are no exemptions. It is a fee, not a tax. The calculation of the fee is very complicated. In summary, each building is rated on the type of impact it is going to have on the City streets. The usage would dictate the trips per day. Traffic studies or traffic science is based on the number of trips per day. The formula for commercial use Impact Fees would be as follows:

**Council Member Stevens** reviewed the formula.

Commercial building = average daily trips per day X Commercial square footage/1,000 X \$16.80.

**Financial Officer Horner** indicated commercial use is considered to be any non-residential square footage. Trips per day are based on nationally researched numbers by traffic engineers for a particular type of business. He reviewed where the fees go in the Impact Fee Plan. The fees can not be spent in any other place than is documented in the Impact Fee Study. They have to be spent on the listed projects noted on the map in the study on page thirteen and fourteen.

### ***Future Demand for Circulation Infrastructure***

*The circulation analysis resulted in the identification of project improvements needed to sustain acceptable levels of service through build out. A number of the intersections identified through the analysis are located along State Highway 33. As a result, the Idaho Transportation Department would be responsible, but Rexburg may be required to pay its fair share.*

*A complete list of improvements can be found in the Traffic Analysis in Appendix A. The list of project improvements to be covered by this impact fee includes:*

- *2<sup>nd</sup> East from 3<sup>rd</sup> South to 1<sup>st</sup> North*
- *Add Turn Lane at 2<sup>nd</sup> S / 2<sup>nd</sup> E*
- *Restripe Main and 2<sup>nd</sup> W*
- *Widen 12<sup>th</sup> West*
- *Widen Salem Highway*
- *Widen 2000 N*
- *East Parkway*
- *2<sup>nd</sup> West – 1<sup>st</sup> North Alignment (all improvements between Main St and end of 2<sup>nd</sup> W-1<sup>st</sup> N curve)*
- *Relocate Pioneer/Main Intersection*
- *Rexburg 2<sup>nd</sup> E and 7<sup>th</sup> S*
- *7<sup>th</sup> South from 2<sup>nd</sup> W to Old Yellowstone Hwy<sup>1</sup>*

**Financial Officer Horner** calculated the total cost of these projects would be funded 1/3 from Federal funding and 2/3 from the Street Impact Fees. Some projects would not get any Federal funding. The fees could not be allocated to City Parks or other areas. The fees would be maintained in a separate fund where the history would be maintained forever. There are time limitations for using these fees. Credits on Impact Fees would be issued if the funds are not spent. He discussed the opportunity for a developer to install infrastructure for one of these projects (street lights, land for City Parks, etc.) in lieu of Impact Fees.

**Attorney Richard Smith** asked if the entire \$17,000,000 would be targeted for the East Belt Loop. He noted most of the East Belt Loop project is currently in the Impact Area or the County. Attorney Richard Smith was concerned if there was a major change in the premise, if the City did not expand in the area of the East Belt Loop. Financial Officer Horner explained the \$17,000,000 projection was for a long term plan for the Belt Loop. The East Belt Loop projection could be reduced to an estimated \$3,000,000 if the City did not expand in the East Belt Loop area.

**Bill Hofman** noted the new law allows an eight year period to utilize the funds with a possible three year extension. If the City does not use the fees in that time period, they would have to be refunded; however, it is recommended the City review the road list every five years. The City Council has the flexibility to change the roads list in the study (reallocate) every five years. He noted school districts may get help from the legislature with Impact Fees. There are currently three Legislative Bills pending that would address Impact Fees for School Districts. Lane Hemming indicated he was not very hopeful any of the three Bills would pass the Legislature.

**Council Member Erickson** asked Bill Hofman how the school issue was addressed in other Impact Fee proposals. Bill noted that it varies based on the discretion of the local governing body. There can be an exemption for schools; however, most cities have not exempted schools. In other cases, both Governmental facilities and schools have been exempted.

**Joseph Law** for the Rexburg Standard Journal asked about street continuity. If a street is completed on each end and a gap is left unfinished in the middle, do Impact Fees help to complete the street?

**Bill Hofman** explained Impact Fees are designed to be used to fill the gaps in a broader scope for street sections that were not specifically completed by new development. The City can't expect developers to be responsible for areas they are not associated with their development.

**Financial Officer Horner** referred to the comment from Lane Hemming concerning the estimated impact on the School District's proposed new construction of schools at or near 2,000,000. He had worked with Janet Goodliffe from the School District for an estimated impact closer to \$200,000 for their new construction projects on 12<sup>th</sup> West where a turning lane would be required with a possible stop light to enter the School District property. He was not sure where the discrepancy occurred. The Impact Fee Study is a long term plan for up to thirty years.

**Council President Benfield** closed the Public Hearing on Street Impact Fees.

**Council Member Young** clarified the current City Impact Fees for Parks, Fire, and Police are separate from this proposal for Street Impact Fees. There are no exemptions on the current Impact Fees. Financial Officer Horner explained the City Parks Impact Fees are based on residential new construction.

**Council Member Stevens** noted schools are commercial buildings. Commercial Impact Fees are split between Police and Fire. They are not for the City Parks.

**Council Member Young** noted Kevin Virgin is representing the contractors. He is not representing the developers.

**Kevin Virgin** does not want to add a \$1,000 in extra fees onto the homeowner. The Builders Association is in favor of the Street Impact Fees if they are done in the right way. They want the City streets to be nice streets and the City Parks to be nice. There are plumbers and electricians in their Association of about twenty five members. They are concerned the fees will continue to go up. When is it going to stop? At what point will the homeowner say he does not want to build a home because of the costs? He indicated some developers do not develop in Rexburg because of the added costs. Kevin is not in favor of Design Standards.

**Financial Officer Horner** knows the permit fees are above average but not the highest in the area. The majority of the cost is the high value of land in Rexburg.

**Council Member Mann** has tried to use Impact Fees for certain projects; however, the rules governing the expenditure of Impact Fees are very strict on their use. He wants to go to the County and District Seven Health to keep development inside the City. Maybe the City should ask the County to charge impact fees for parity between the City and the County. Council Member Mann does care about the aquifer and the City's water system. He is concerned with the growth that may impact the City's water system.

**Bill Hofman** explained that many Cities have Impact Fees and more recently Counties are starting to explore the use of Impact Fees. The Counties have been watching Cities using Impact Fees and the trend is snowballing with the Counties.

**Lane Hemming** reiterated his position on the School District's numbers for all City fees. These Impact Fees will be added to other City fees (including building permit fees) that will make the School District's projected total fees for the new schools much higher than projected by the City.

**Council Member Schwendiman** reviewed the inflationary index for Impact Fees in the Ordinance on page twelve. He asked why the 2.5% index was tied to the Seattle market.

**Bill Hofman** explained that it is the national index location in the Northwest for use in this area.

**Council Member Stevens** explained the current Impact Fees do not have an escalation factor built in to them. He felt the Building Community would feel better about the Street Impact Fees without the inflation factor so they could readily track the fee costs.

**Bill Hofman** said the City could review the capital plan annually. The inflation index could go up or down. Cities using Impact Fees wanted to add the inflation factor to their Impact Fees to keep the Plan revenue in line with the projected costs in the Plan study.

**Council Member Schwendiman** asked if the Impact Fee proposal could forgo the 2½ percent inflation factor each year.

**Council Member Stevens** discussed how the plan with the 2 ½ percent inflation factor could be changed. Bill Hofman explained Cities can change the plan when they do their capital improvement plan each year; however, even minor changes to the plan would require the City to start over with a new study. Cities are reluctant to change the plan because of that reason. The Impact Fee Committee suggested the 2 ½ percent inflation factor to keep the fees in line with the cost of construction.

**Council Member Schwendiman** asked if the 2 ½ percent inflation factor could be changed annually or even to forgo the inflation factor for that year. Bill Hofman was supportive of the possibility of that idea. Council Member Schwendiman asked about a plan to add a street on the west side of town that would go past the airport and connect across the river to the north. He asked if it should be on the plan. The proposed road was noted in the documents for the Madison County Transportation Study; however, it was not listed as a targeted street in the plan.

**Winston Dyer** speaking as Chairman of the Planning and Zoning Commission explained the road had been discussed going along the airport north paralleling Hwy 20 as a frontage road extending to the Moody Road coming back to 2<sup>nd</sup> East. It is in a future planning stage.

**Council Member Stevens** and Council Member Young understood the issue of double taxation for the School District. Council Member Young would like to come to a resolution on the issue.

**Financial Officer Horner** explained the School District extends beyond the City limits and those residents outside the City would not be double taxed like the residents inside the City. Council Member Young questioned if the School District was exempt; would the City be required to exempt BYU-Idaho?

**City Attorney Zollinger** explained the City Council could exclude local (Government funded) school districts. BYU-Idaho is a private non-Governmental institution.

**Financial Officer Horner** said the City could take 12<sup>th</sup> West off from the Plan and then have the School District contribute to the widening of 12<sup>th</sup> West when they develop the property.

**City Attorney Zollinger** explained this Public Hearing was to create a Street Impact Fee. The BILL (Ordinance) will be 1<sup>st</sup> read tonight. There will be two more readings to make those subtle adjustments to the BILL to the specific form for passage. The City Council can talk to other communities about how they have implemented these fees at the City Officials Conference next week.

**City Council President Benfield** asked the City Council to carry this discussion to **Calendared Bills** on the agenda where the first reading of BILL 961 Street Development Impact Fees is pending.

**New Business:**

**A. Resolution 2006-07 Policy prohibiting the use of Excessive Force Against Non-Violent Civil Rights Demonstrators.**

**Council President Benfield** read Resolution 2006-07 for the record.



**EXCESSIVE FORCE POLICY**

**RESOLUTION# 2006-07**

*A RESOLUTION OF THE CITY COUNCIL OF REXBURG, ADOPTING A POLICY PROHIBITING THE USE OF EXCESSIVE FORCE AGAINST NON-VIOLENT CIVIL RIGHTS DEMONSTRATORS.*

*WHEREAS the Congress of the United States has passed the Armstrong/Walker "Excessive Force" Amendment (Section 104 (L) (1) of the Housing and Community Development Act of 1974 as amended) prohibiting the use of excessive force by a local law enforcement agency against any individual engaged in nonviolent civil right demonstration within its jurisdiction;*

*AND WHEREAS the City of Rexburg has received an Idaho Community Development Block Grant and is required to comply with the Armstrong/Walker "excessive force" Amendment;*

*AND WHEREAS the use of excessive force against demonstrators may cause the CITY to lose its grant or eligibility for future federal grants;*

*NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, IDAHO:*

SECTION 1. *It is POLICY of the CITY that excessive force by local law enforcement agencies shall not be used against individuals engaged in lawful and nonviolent civil rights demonstrations within the City boundaries.*

SECTION 2. *The City Council directs the Police Chief to implement this Resolution by amending applicable police department procedures.*

PASSED BY THE CITY COUNCIL, *City of Rexburg, IDAHO*

DATE: June 07, 2006

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SIGNED BY: *Shawn Larsen, Mayor*

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ATTEST: *Blair D. Kay, City Clerk*

**Council President Benfield** asked for a motion on the resolution. Lieutenant Larsen from the Police Department explained the same language is included in the Police Department's policy manual.

**Council Member Mann** moved to approve RESOLUTION# 2006-07; Council Member Stevens seconded the motion; all vote aye, none opposed. **The motion carried.**

**B. Resolution 2006-08 create a Public Hearing for a City wide Local Improvement District (LID 35)**

**Council President Benfield** read the first paragraph for LID 35.

*A RESOLUTION DECLARING THE INTENTION OF THE CITY OF REXBURG, IDAHO, TO CREATE LOCAL IMPROVEMENT DISTRICT NO. 35 FOR THE PURPOSE OF CONSTRUCTING AND INSTALLING CERTAIN PUBLIC IMPROVEMENTS; DESCRIBING THE BOUNDARIES OF THE PROPOSED IMPROVEMENT DISTRICT AND THE PROPERTY PROPOSED TO BE ASSESSED FOR THE COSTS OF THE IMPROVEMENTS; GENERALLY DESCRIBING THE IMPROVEMENTS PROPOSED TO BE CONSTRUCTED AND THE ESTIMATED COSTS AND EXPENSES OF THE IMPROVEMENTS; STATING THE PORTION OF THE TOTAL COST WHICH WILL BE PAID FROM A LEVY OF ASSESSMENTS ON PROPERTY BENEFITTED BY THE IMPROVEMENTS AND THE PORTION PAYABLE FROM OTHER SOURCES; STATING THE METHOD OF DETERMINING ASSESSMENTS; FIXING THE TIME WITHIN WHICH AND THE PLACE AT WHICH A PUBLIC HEARING WILL BE HELD TO CONSIDER SUCH PROTESTS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.*

**Finance Officer Horner** explained the resolution is to set the Public Hearing date for the 21<sup>st</sup> of June. The City will send out written notices tomorrow to the affected residents. They will also receive notice in the news paper. The affected residence can petition the City Council in the Public Hearing to say if they want to be in or out of the LID.

**Council Member Erickson** asked if this resolution is renewing an LID or creating a new LID. It is a new LID for many areas in the City. The locations are in the exhibits attached to the resolution.

**City Attorney Zollinger** said it includes the matching funds for the alley on the north side of Main Street. This project will address parking issues at the same time. It also includes the City's portion and the citizen's portion of the Millhollow project. All of the areas will be discussed at the Public Hearing to be included or excluded for the LID.

**Finance Officer Horner** explained the new owner section where a property is sold and the sidewalk is required by Ordinance. Also, there are street areas including Millhollow Road and an alley project.

**Council Member Stevens** asked if the timing allowed was adequate for the LID design work. City Attorney Zollinger noted the engineering will be done within two weeks.

**Council Member Schwendiman** asked if the work would be done this year. City Attorney Zollinger explained an LID is created on an annual basis to construct the ancillary portions (curbs, gutters, & sidewalks) of road projects to bring them up to a minimum standard. This one has added the Millhollow project. The residents are included in the LID so the City is not constructing a brand new road with sub standard curb and gutters and storm drains. The process needs to be started now to get the construction done this season. Financial Officer Horner explained the projects include the alley project and the Millhollow project. City Attorney Zollinger explained the City Council can decide in two weeks at the Public Hearing if the projects should be completed. The alley project and parking lot realignments will cost about \$855,000.00.

**Council Member Young** moved to pass Resolution 2006-08 setting the Public Hearing date and declaring the intention to create LID 35 on the 21<sup>st</sup> of June; Council Member Mann seconded the motion; all voted aye, none opposed. **The motion carried.**

### **C. Final Plat for Trejo Professional Park Division #2 at Trejo Street and East Grand Avenue**

**Planning and Zoning Administrator Hibbert** reviewed the final plat for Trejo Professional Park Division #2 on the overhead screen. He reviewed the Planning and Zoning motion for the City Council. *On May 18, 2006, Terry Bagley presented to the Rexburg Planning & Zoning Commission the Request for approval of the Final Plat for Trejo Professional Park, Division 2. Mary Ann Mounts motioned to approve the final plat for Trejo Professional Park,*

*Division 2 as drawn, with the condition that the canal issues and all other staff review issues are dealt with. Mike Ricks seconded the motion. None opposed. Motion carried.*

The City Council reviewed the Final Plat for Trejo Professional Park, Division 2. There were discussions in previous City Council meetings in reference to vacating a portion of Targhee Drive to allow additional lots.

**City Attorney Zollinger** indicated Division 2 contains a re-plat of a vacated portion of Targhee Drive that was in Division 1. A public hearing is scheduled for June 21, 2006 to formally vacate a portion of Targhee Drive for this plat to be recorded.

**Council Member Erickson** noted Planning and Zoning approved the Plat on the 18<sup>th</sup> of May.

**Council Member Erickson** moved to approve the Final Plat for Trejo Professional Park, Division 2 as presented; Council Member Stevens seconded the motion; all voted aye, none opposed. **The motion carried.**

#### **D. Final Plat for Stonebridge Subdivision Division #3**

**Winston Dyer** with the Dyer Group at 310 North 2<sup>nd</sup> East representing BC Stonebridge, LLC, reviewed the final plat on the overhead screen. He acknowledged Brad Hastings and Gary Bischoff from BC Stonebridge, LLC in the meeting. Division #3 is an eastward expansion of the original development. University students have produced drawings of possible pathways along the river. These drawings have been passed on to the developer for consideration. The pathways are part of the trails system for Madison County. The weeds and the landscaping and entry sign into the Stonebridge development have been addressed or the remedy is currently underway. Some street repairs in Division #1 are still on the schedule for repair when the new streets are scheduled to be constructed and paved. The Storm drainage system will have a retention area with a new escape ditch to avoid water backing up into the street.

**Winston Dyer** mentioned Planning and Zoning member Joe Laird was concerned with the right-of-way on 7<sup>th</sup> North being less than the one hundred feet expected. There will be thirty five feet of roadway dedicated for right-of-way on the south side of 7<sup>th</sup> North and fifty feet of right-of-way on the north side of 7<sup>th</sup> North.

**Winston Dyer** indicated eighty five feet of roadway would be needed on 7<sup>th</sup> North according to John Millar. This question was reviewed on Phase One of the development. A utility easement for power poles would be very expensive (around \$1,000,000) to relocate; therefore, a narrower roadway was approved. A church is planned in the area on the north side of 7<sup>th</sup> North.

**Public Works Director Millar** concurred with the conversation on the right-of-way width being adequate for 7<sup>th</sup> North at eighty five feet. He indicated the decision was made during the review of the first phase of Stonebridge Subdivision.

**Winston Dyer** noted the developer has had inquirers for purchase on all seventeen lots in the six acre development of Division #3.

**Council Member Stevens** moved to approve the Final Plat for Stonebridge Subdivision Division #3; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

#### **E. Final Plat for Valley View Division 6, Phase 2**

**Council Member Stevens** declared a conflict with this proposal. He is the developer for The Valley View Subdivision. He excused himself from the discussion and he stepped down from the Dais.

**Kurt Rowland** from Schiess and Associates 310 North 2<sup>nd</sup> East Suite 125 in Rexburg. Kurt represented the developer for this proposal. The Final Plat for Valley View Division 6, was passed by the Planning and Zoning Commission last week. He reviewed the Plat on the overhead screen. Council Member Mann asked Kurt about the development of Sunrise Drive adjacent to this development. There are two lots separating Sunrise Drive from this development. These two lots were left off the Plat to all for the future development and planning of Sunrise Drive. This road will be part of a future roadway connecting the south entrance into Rexburg with an easterly belt loop around Rexburg. Council Member Erickson noted the Final Plat had been approved by the Planning and Zoning Commission.

**Planning and Zoning Administrator Hibbert** reviewed the Plat; noting the Plat does not go to the street on this phase. The developer is waiting for the final design of the road. The transportation plan shows this road as a major road.

**Council Member Schwendiman** discussed the future plan for the road to be developed to five lanes tying University Boulevard into 1000 East. Planning and Zoning Administrator Hibbert concurred it would be a major road as noted in the Madison County Transportation Plan.

**Council Member Schwendiman** moved to approve the Final Plat for Valley View Division 6, Phase 2; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

## F. Discussion on an Electrical Inspector – Val Christensen

**Building Official Val Christensen** reviewed a recent department review by the Oversight Team. There was discussion on having an electrical inspector for the City. Council Member Young asked how the State electrical inspector was currently funded. The State charges fees for the electrical permit based on the type of building, number of rooms, etc. The City of Rexburg does not pay the electrical inspector at this time. The fees are about \$70,000 on average for the last three years for electrical inspections. Val reported the City Financial Officer indicated there were enough electrical fees on average paid by the electrical contractors to pay for the position. The City receives 10% (\$7,000 on average per the last three years) from the State out of the electrical fees.

**Council Member Schwendiman** asked for a cost benefit from the Staff. Financial Officer Horner explained the City would receive the \$70,000 instead of the State if the City takes over the program. It would almost be a wash for the City with the salary and overheads.

**Council Member Stevens** noted a City Electrical Inspector could be trained to do building inspections for the time he was not doing electrical inspections. He asked Kevin Virgin for his opinion. Val explained an electrical inspector would be very familiar with construction issues. It would be a different story for a building inspector to cross over to do electrical inspections. The Public Works Director could use the position to do minor electrical repairs, etc. for the City. Rexburg is one of the few cities that have a plumbing inspector without an electrical inspector. Kevin Virgin was in favor of a cross trained position; however, the individual would need to be credible enough to walk onto the job site and disclose life safety issues, etc. It would benefit the City.

**Council Member Erickson** asked Val if the Building Inspectors are busy for eight hours a day. Val indicated they were carrying a full schedule. It is either feast or famine; on average the Building Inspectors are scheduled a little tight.

**Council Member Schwendiman** asked if a \$100,000,000 takes longer to inspect than a \$200,000 house. Val indicated it did take longer for larger buildings. Larger buildings pay fees relative to the “economies of scale” to cover the inspection time on a national average. Val provided some estimated building evaluation number to Council Member Schwendiman to demonstrate the growth factor for new construction in the City since BYU-I announced its plans in 2000.

**Building valuation inspected**  
with one Building Inspector

**Building valuation inspected**  
with three Building and Plumbing  
Inspectors.

**“Pre” BYU-I announcement**  
5-6 Million annually

**“Post” BYU-I announcement**  
50-60 Million annually

The volume of building value is about ten times more after the BYU-I announcement.

**Council Member Schwendiman** provided the numbers for the growth of Emergency Services from three hundred runs ten years ago to two thousand runs at the present time. Did the City have too many people in Emergency Services ten years ago or is the City under staffed today.

**Building Official Val Christensen** said the City is more efficient with larger volumes to inspect. There are longer inspection lists (up to four hours at a time) with fewer trips back and forth to the office.

**Council Member Erickson** asked if the City is building efficiency into the Department or is the City building bureaucracy. It is always a concern to Council Member Erickson. Val said the position is already funded through the electrical inspection fees. The City would receive the electrical inspection fees to cover the cost of the position. Council Member Stevens believed it would save the City some money because the projected growth of the City would require an additional building inspector. This cross-over position could be funded by the electrical inspection fees less than 10% electrical inspection rebate the City gets from the State. This may delay the addition of another building inspector for another year. It would save the City some money in the near term.

**Council Member Scwendiman** was concerned with the City’s growth rate covering the additional costs generated by an additional employee. Financial Officer Horner explained a good manager could optimize the new employee’s time and duties to save the City money.

**Public Works Director Millar** estimated the City spends \$20,000 to \$40,000 per year on electrical contracts. Some of this work could be done by the electrical inspector.

**Council Member Mann** asked about a vehicle, office space, phones, and ancillary equipment for the new employee. Financial Officer Horner said the position and equipment would cost about \$60,000 to \$65,000 per year. Val was going to move his City vehicle to the new position and charge mileage for his personal car because he does not leave the office very often. The starting salary would be around \$40,000. There may not be many applicants.

**Kevin Virgin** related contractor's frustrations with the time it takes to pull a building permit with the City of Rexburg. He has not heard the same complaint for electrical inspections. It would be a tremendous help to the contractors if this position could do electrical inspections and read a set of plans on an application to help approve a building permit. He could not stress to the City Council enough how tough it is to get a building permit approved in a timely manner compared to adjacent towns.

**Council Member Stevens** related to the City Council some of the review work that is done in Val's office with mechanical reviews, etc. It may take an extra day or two of review time. Val explained the turn over time on plan reviews is a problem. It is the biggest complaint he has heard. Val does the commercial building reviews and Quinton does residential plan reviews. John works directly with the large commercial customers like BYU-I.

**Council Member Schwendiman** asked for a specific line item budget on the position.

**Financial Officer Horner** asked to look at the upcoming impact with Madison County Hospital and University on the needs of the Building Department.

**G. Wine license applications for "off premises sales" – Maverik Country Stores #169 and #195.**

The City Council discussed the type of drink and the allowable age to buy the wine drinks. There are two different types of alcoholic drinks allowed by license in Rexburg; Malted (beer) and fermented (wine.) The third type, distilled (liquor) is not allowed in Rexburg by City Code. The City Council has approved beer licenses for the same stores on the annual beer license renewal. The City Council discussed the legal age to buy beer and wine in Idaho. It is twenty one years of age.

**Council Member Erickson** moved to approve the wine license for "off premises sales" Maverik Country Stores #169 and #195. Council Member Schwendiman seconded the motion; Discussion: Both State and County licenses have been approved on this request before the City license can be granted. City Attorney Zollinger explained distilled liquor is against the City Ordinance. This particular drink is a fermented type of drink that requires a wine license. Council President Benfield asked the City Council to vote on the motion. All voted aye, none opposed. **The motion carried.**

**Report on Projects:**

**Public Works Director Millar** indicated the proposed LID35 is the main project the engineers are reviewing.

## **City Hall HVAC System**

**Public Works Director Millar** contacted an engineer in Pocatello to review problems with the City Building's HVAC System. He noted several problems with the primary problem being the age of the heating and air conditioning units. The estimated replacement cost would be near \$33,000.00. There are three furnaces in or on the building. He recommended some changes to the furnaces air ducting to have one unit cover the City Council room. The funding would have to come out of the City Contingency fund.

## **City Hall Re-roof the building**

**Public Works Director Millar** reported on several leaks in the City Building roof. It has been twenty three years since the current roof was installed. The old roof is bubbling up. The bids to replace the tar and gravel roof with a membrane roof is around \$11,000.00. Council Member Erickson noted the City needs to take care of the City's investment. John proposed to get actual bids for the HVAC and the membrane roof before bringing them to City Council for approval.

**Public Works Director Millar** updated the City Council on the Splash Park in Porter Park. The underground piping is in the ground. The concrete contractor has been notified to do the work on the concrete slab. The plan is to open the Splash Park on the 24<sup>th</sup> of July.

**Public Works Director Millar** noted the Animal Shelter is complete. Some items pending are the grading, site work, landscaping, and some trim work. The building will be turned over to the Police Department in two weeks.

**Council Member Young** asked if the Millhollow Road project is impossible to design. John explained his Department is working on a design from a traffic and engineering basis. He will bring the engineered plan to the City Council on the next plan. Council Member Erickson was concerned with closing Shoshone Avenue down due to the long range needed to connect the road to 7<sup>th</sup> South. Public Works Director Millar explained neither road will be a main corridor to carry traffic. Council Member Erickson reiterated his concern with closing Shoshone Avenue. John said Shoshone will come to a stop position into Millhollow Road, it will not be closed. The north bound traffic from Shoshone Avenue comes to a stop with the current design.

### **Calendared Bills and Tabled Items:**

**A. First Reading:** Those items which are being introduced for first reading.

1. **BILL 961** - City of Rexburg Streets Development Impact Fee Report

**(Discussion continued from page 10)**

**Council President Benfield** asked the City Council if they wanted to consider **BILL 961 - City of Rexburg Streets Development Impact Fee Report** for a first reading.

**Council Member Mann** moved to consider BILL 961 - City of Rexburg Streets Development Impact Fee Report 1<sup>st</sup> read; Council Member Erickson seconded the motion; Discussion: Council Member Young asked to include the *“School District situation”* and the *“inflation cap.”* City Attorney Zollinger indicated the motion is fine; however, any changes to the documents should be reviewed by Hofman Planning. Council Member Young asked about the legal umbrella the City Council is operating under to make these changes. **Bill Hofman** reminded the City Council of State statutes allowing for certain exemptions. The bottom line is the plan must be fair and proportionate for exempt categories. The School District could be exempted as a public taxing district. The University would not be in a different category as a private institution.

**City Attorney Zollinger** indicated other Cities have considered other taxing entities for exemption because they are another tax collecting entity. The University is not a taxing entity; the School District is a taxing entity. Special Event Centers and other high traffic buildings may need to be included on the list.

**Council President Benfield** questioned if the University would fit into a number of different categories on the list. Financial Officer Horner explained the list is not complete yet. There could be other categories added to the list. **Bill Hofman** will work with a traffic consultant to get the University buildings clarified on the list. Council President Benfield asked for a vote to first read BILL 961.

**Those voting aye**

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

**Those voting nay**

None

**The motion carried.**

**B. Second Reading:** Those items which have been first read. - NONE

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

**D. Tabled Items:** Those items which have been the subject of an affirmative vote to a motion to table: - NONE

**Old Business:** - NONE

## Mayor's Report:

**Council President Benfield** referred to a meeting last week with the (Glen Pond) Urban Renewal District, the School District, and the County. There was a discussion to add six tennis courts on the High School Property. She asked the City Council to provide input on the issue. The Community, High School and future Junior High would use the facility. The Community is asking the School District and the City to work together to finance the project.

**Council Member Schwendiman** asked who would manage the construction project. Council Member Young asked if lighting would be part of the project. The Community members were asked to bring a site plan proposal to the governing bodies for further discussions.

**Council Member Erickson** was 100% for City involvement. The Urban Renewal Board is asking for the City's position on the proposal to allocate \$100,000.00 of redevelopment monies to the tennis court project. The Urban Renewal Board and Community members are waiting for the City's recommendation.

**Council Member Erickson** mentioned the Citizen's Committee has received a commitment from the School District to allocate the land and \$50,000.00 of School monies to help build the tennis courts. The public donations are expected to amount to \$60,000.00. The Citizen's Committee has some estimated amounts close to \$150,000.00 with some sweat equity, instead of \$210,000.00. Council Member Erickson recommended the School District take charge of the construction phase and any over-runs. He was concerned the City would not have any time to do the project this year.

**Council Member Schwendiman** agreed with Council Member Erickson in having the project completed as Council Member Erickson outlined.

**Council Member Benfield** reminded the City Council the citizens group would like the City to take over maintenance of the facility after construction.

**Council Member Mann** agreed to have the City take over the maintenance of the tennis court facility after was constructed. He would like to provide additional support beyond the \$100,000.00 in the way of lighting or some other amenity.

**Council Member Young** is 100% in agreement with the discussion. He recommended the City have some control over the design of the facility to ensure a proper design if the City has to maintain the property for drainage, etc. He did not want a slab of concrete out in the middle of a field without any landscaping.

**Council Member Erickson** noted the landscaping may be done by the Citizen's Committee.

**Council Member Stevens** asked about the management after construction and ownership after construction. He mentioned the possibility of using Impact Fees for lighting, etc. if the City has

ownership of the property. It is School property, not City property. Council Member Erickson referred to the ownership and care of the ball diamonds at the High School. The baseball fields at the High School are maintained by the City and the High School owns the properties.

**Sherri Erickson** from the Citizen's Committee mentioned Patrick Huish from the University is working on the tennis court design. He is a qualified Architect over the Architectural Department. He is donating his time and work for the Citizen's Committee. He has done a lot of preliminary research work to get the design done correctly.

**Council Member Young** noted we are in favor of the project. The City Council has some basic questions about ownership, and the future maintenance of the property. Council Member Schwendiman indicated the ownership would not be transferred to the City.

**Sherri Erickson** explained the School would own the property and the City would own the tennis courts.

**City Attorney Zollinger** reviewed the proposal by the Citizen's Committee. The Urban Renewal Board understood the School District would own the property and the tennis courts would be under a Community type lease for maintenance, similar to the softball fields at the High School. The lease would have a minimum (long term) lease period of twenty years. There may be a possibility of using Impact Fees on property leased for a twenty year time period. The Impact Ordinance would have to be reviewed to verify that possibility. Council Member Erickson thought the current gentleman's agreement for the ball fields could be developed into a lease agreement for the tennis courts to include some other amenities like lighting. He mentioned Mayor Larsen recommended coming up with a long range plan for the entire area around the High School.

**Lane Hemming** speaking as Assistant Superintendent for the School District explained the original plan for the Garners' property which was put together by Kent Jolley. The School District, and the past Mayor of Rexburg were in agreement to have the School District purchase the property for joint use and the City would come in and use it as ball diamonds. The property could be put to good use. The direction you are going is the plan the School District originally planned.

**Lane Hemming** mentioned he was not opposed to stepping up and saying the School District would take charge of the project.

**Council Member Erickson** moved to support the expenditure of \$100,000.00 from the Urban Renewal fund for the tennis courts, and the School District will take over the administrative part for the construction of the tennis courts, and the City will assume the upkeep of the project similar to the softball diamonds at the High School after the construction is complete. Council Member Schwendiman seconded the motion; Discussion: Council Member Stevens asked to stay in contact with Patrick Huish from the University on the plans. Council Member Erickson recommended

allowing the School District the flexibility to administer the project. Council President Benfield called for a vote: All voted aye, none opposed. **The motion carried.**

**Council President Benfield** read part of a statement from Mayor Larsen on the LP Property development. It is concerning a Federal Budget Appropriation that passed out of Committee. The Senate appropriation needs House approval and Senate approval later.

*REXBURG – A Transportation, Treasury, Housing and Urban Development Appropriations bill will provide \$400,000 in federal funds to the city of Rexburg to help build up the old Louisiana-Pacific land. The bill is backed by Idaho Congressman Mike Simpson, a member of the committee. The L-P land, set aside for a major city park, has been developing slowly over the past three years. City officials have been working to fund projects at the property without going to taxpayers.*

*“This funding will allow the city to partner with the Rexburg Redevelopment Agency to develop a wonderful riverfront recreation complex,” Rexburg Mayor Shawn Larsen said. The riverfront complex Larsen spoke of includes plans for a baseball diamond complex, soccer fields, an amphitheater, walkways and bike paths and a community pool. Earlier this year the redevelopment agency announced it has found a way to construct an aquatic recreation complex without boosting property taxes.*

*“The community should understand that this project was developed three years ago as a vision of what could happen with the old Louisiana-Pacific property,” Larsen said. “We have taken that vision and worked hard to develop the funding that can make it happen. While it may take years for it all to happen, I firmly believe my children will enjoy the soccer fields, baseball diamonds, swimming pools and the opportunity to walk and run along the river located in our community.”*

*The \$400,000 provided in the bill is for streetscape improvements, pedestrian and wheelchair access along the river and construction of recreational facilities. The funding is part of Simpson's commitment to assist the community with its Greenways Project.*

*“These critical economic development funds are going to help Rexburg revitalize its riverfront and bring new opportunities to the community,” Simpson said. “I commend Mayor Larsen and the citizens of Rexburg for having a strong vision for the future of their community and bringing this effort to my attention. I am thrilled to assist them with this important project and look forward to seeing the finished product in the future.” The federal funding is part of a \$5.8 million community riverfront development project.*

**Council President Benfield** noted Mayor Larsen is reminding everyone of the Marathon this Saturday with nearly six hundred runners. The first Marathon started two years ago with about one hundred fifty runners; in the second Marathon last year nearly four hundred runners participated. Everyone is invited to come to Smith Park at 10:00 a.m. to cheer everyone home. Also, two members of the Mayor Youth Advisory Board will be attending Youth Conference in Lewiston next week.

**Calendar:** None

**Executive Session:** – Pursuant to State Statute 67-2345

**Council Member Erickson** moved to go into Executive Session pursuant to State Statute 67-2345 (B, C & F); Council Member Mann seconded the motion; Council Member Benfield called for a roll call vote for property, personnel, and potential litigation issues:

**Those voting aye**

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

**Those voting nay**

NONE

**The motion carried.**

**Executive Session**

**Executive Session ended.**

**Adjournment**

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Donna Benfield, City Council President

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Blair D. Kay, City Clerk