

Customer Support Services City Council Minutes

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CITY OF
REXBURG
America's Family Community

November 01, 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
Gary Leikness — Planning & Zoning Administrator
Blair Kay — City Clerk
Celeste Beattie – Deputy City Clerk

7:00 P.M. – Pledge to the Flag

Roll Call of Council Members: All Council Members were present.

Mayor Larsen invited the scouts to introduce themselves. Madison High School government teacher Bill Schiess's class was welcomed to the meeting to observe the City Council meeting.

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

- A. Minutes from October 18, 2006 meeting
- B. Approve the City of Rexburg Bills

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

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

Mayor Larsen introduced **Gary Leikness** to the City Council. Gary is the new Planning and Zoning Administrator for Rexburg. He moved to Rexburg from Lincoln City, Oregon. Gary was a planner in Lincoln City, and Fortworth, Texas. He received a Masters Degree in planning from the University of Oregon. Gary graduated from BYU Provo Utah with a bachelor's degree. Gary is excited to be in Rexburg and he indicated he has a lot of good ideas to implement in the City of Rexburg. He recognized his first role is to advise and support the elected officials. Gary acknowledged the good atmosphere working with the Rexburg Staff.

Council Member Young asked if he was settled with his family in Rexburg. Council Member Erickson asked if Gary was required to live in the City of Rexburg. Although Gary chose to live inside the city limits, he said a lot of cities do require their planners to live within their area of jurisdiction. Council Member Erickson said he was glad Gary chose to live in Rexburg. Gary's first Planning and Zoning meeting will be held tomorrow night. He met Winston Dyer for a design review meeting and he is getting acquainted with Rexburg's city codes. Gary is working on Rexburg's planning code to improve the document. He mentioned how good it was to see the university and the city working together on planning for the future of Rexburg. His office will be located in the annex building where the Rexburg Building Department is located at 19 East Main Street.

Committee Liaison Assignments for 2006:

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

Council Member Mann reported Parks and Recreation did meet last week. They discussed the carousel and other parks issues. He thanked Mayor Larsen for his support of the River View State Park proposal that Council Member Mann and Council President Benfield presented to the State Parks Board in Boise last week. The presentation went very well. The theatre committee (Rexburg Cultural Arts) met last week to plan a “Black Tie Romance Dinner” on Thursday, November 16th beginning at 6:30 p.m. The dinner will be held in the Manwaring Center’s East Ballroom at BYU-Idaho.

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

Council Member Benfield mentioned the Beautification Committee will meet this Friday. The Police Department is doing well. Halloween activities were very quiet in the City of Rexburg this year.

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

Council Member Erickson reported the Airport Board met last Friday afternoon. Warren Smith did not attend the meeting because he is recovering from an illness in a rest home. Warren did review the agenda before the meeting. Bart Webster has been conducting the meetings in Warren’s absence. The major issue on their agenda is airport contracts. They are working on contract compliance issues. Two or three of the hangars are out of compliance with the airport contract. The compliance issues have been documented with photos by Compliance Officer Natalie Powell. She has done a great job on the project. Planning and Zoning has not met for two weeks. There is a proposed plat on tonight’s City Council agenda.

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

Council Member Schwendiman reported on a site meeting he attended with Public Works Director John Millar, Police Chief Lynn Archibald and Attorney Richard Smith concerning crosswalks on 2nd East. Input from the meeting will be given to the Traffic Safety Committee. Mayor Larsen said he had received two letters concerning traffic safety. He will give the letters to Council Member Schwendiman for the Traffic Safety Committee. The Emergency Services Committee met last night. The contract for university interns working at the Fire Department (emergency services) is almost finished. Ambulance fee increases are being contemplated due to increased costs. Mayor Larsen said there would be three new intern positions from the university working at the Fire Station. The interns will rotate to cover the three shifts. City Attorney Zollinger said there would be six interns (with two alternates for vacation and sick leave) to cover the three shifts.

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

Council Member Young reported the Tabernacle Committee is meeting to discuss the removal of the fire engine building in front of the tabernacle building. The committee wants a sign in its place. Mayor Larsen said the city has not made any plans to move the building. Public Works Director Millar said it would take a commercial mover to move the fire engine building. Mayor Larsen asked the Tabernacle Committee to pursue getting the costs for a professional mover. Council Member Young said the old freight wagon on the north side of the tabernacle needs attention. If someone is interested, please let the Tabernacle Committee know of their interest; otherwise, the wagon will be taken to a storage area for old wagons in Newdale, Idaho. Council Member Erickson said Terrill Arnold tried unsuccessfully to find the original donor of the wagon to see if they wanted it back from the museum.

Council Member Young said the orchestra was putting on a free concert November 08th at 7:30 p.m. at the tabernacle.

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

Council Member Stevens reported the Trails of Madison County Committee has not met recently. The committee members have had conflicting schedules, etc. Mayor Larsen explained the city received a check for \$1,000 from PacifiCorp for the trail system project. Mayor Larsen has put the money into the Trails for Madison County account. PacifiCorp has been very active in funding these programs.

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

Mayor Larsen asked Tyler Blanchard to report on the MYAB activities in the schools they attended with city police officers. Tyler said the group passed out “trick-or-treat” bags (with Halloween safety messages on the bags) to the students with a police officer. Mayor Larsen said their next activity (a one mile fun-run to raise money for the “shop with a cop program”) is the “Turkey Trot” the day after Thanksgiving. The fun run starts at 5:30 p.m. on Main Street. The Main Street Christmas lights will be turned on for the holidays that evening.

Public Hearings:

A. 7:30 P.M. Rezone an area east of 2nd East near 1151 South 2nd East
from LDR1 to LDR2

Council Member Stevens declared a conflict and he stepped down from the Dias.

Public Works Director Millar reviewed the parcel just north of the Rexburg water tank on South 2nd East. The Crest Haven Church is across the street in a northwest direction from this parcel. The zone change was recommended by Planning and Zoning for City Council approval. Mayor Larsen invited Public Works Director Millar to explain the differences between LDR1 and LDR2. Public Works Director Millar explained LDR2 allows for a 2nd unit on a parcel like a basement apartment or a twin home in there is a total of 10,000 square feet in the lot.

Mayor Larsen opened the public hearing to speak to the issue of the rezoning.

Those in favor - NONE

Those neutral - NONE

Those in opposition - NONE

Mayor Larsen closed the public hearing.

Council Member Erickson asked if more of the property should be zoned LDR2. Public Works Director Millar said that his understanding was that the other area would be developed as LDR1.

The City Council discussed the adjoining parcels.

Council Member Erickson asked Public Works Director Millar if the area was not developed due to the need for city infrastructure like sewer lines and a lift station. Public Works Millar said transportation, water, and wastewater issues need to be resolved before the area is developed.

Council Member Mann said that he is always concerned about down-zoning zones; however, he has spoken to some of the neighbors and they are comfortable with this proposal. The neighbors have respect for the builder and have no qualms with what's being proposed. Council Member Erickson said they will be upscale town homes.

Council Member Schwendiman asked about access to 2nd East. He felt their needed to be limited access. Public Works Director Millar said there will be a private road developed to provide limited access to 2nd East. The homes will have access to the private road east of 2nd East.

Council Member Erickson discussed the access to the property asking Public Works Director Millar if there wasn't an access to the property down on the north end. Public Works Director Millar said there will be a north and a south access to the property and the road will turn to a 90 degree intersection. Council Member Benfield said it will help clean up the area.

Mayor Larsen reminded City Council their decision will be based on the information provided for discussion in the public hearing.

Public Works Director Millar said the re-zone requests needs to be conditioned upon the planned development as presented to the Planning and Zoning Commission; therefore, if the project does not move forward as presented, the zoning will revert back to LDR1. The City Council discussed the map presented at the public hearing. The map did not include the entire lot as advertised in the legal description. Public Works Director Millar suggested the City Council approve the re-zoning based on the advertised legal description.

Mayor Larsen said they can act upon what was advertised.

Council Member Erickson moved to approve the re-zone from LDR1 to LDR2 on the advertised legal description and with the condition the project will move forward as presented by the developer; if the project does not progress as presented, the lot will revert back to an LDR1 Zone; Council Member Schwendiman seconded the motion; all voted aye, none opposed. **The motion carried.**

New Business:

A. Preliminary Plat for Valley View Townhouse

Public Works Director Millar reviewed the Valley View Townhouse plat on the overhead screen. The proposal has two phases on the plat. The plat includes a little corner of the city's well site. The city requires the developer to show the whole plat (including the corner of the city's well site) in order to determine access. The city's well site will be dedicated to the city on the plat.

Council Member Schwendiman asked about the road becoming a perpendicular intersection on the north end of the plat. Public Works Director Millar said it would be corrected in the final plat. Public Works Director Millar said the area is platted as a joint use area.

Council Member Mann asked who will do the landscaping and maintenance of the open space area. Public Works Director Millar said it will be done by the homeowners association. The CCR's (protective covenants) will describe how the back area of these lots against 2nd East will be maintained. Mayor Larsen asked if there would be a sidewalk along 2nd East behind these homes. Public Works Director Millar said yes, there will be a sidewalk built along 2nd East.

Mayor Larsen asked if there will be a standardized fence built. The back of the lots will be fenced facing 2nd East. He also asked if the City's development code had a requirement for standardized fences when building back lots. Public Works Director Millar said the city does not have standardized fence standards; however, it is one of the things the city is looking at for the planning code revision.

Council Member Schwendiman asked if the homes could be purchased for lease. City Attorney Zollinger said you can buy and lease any home in town. Council Member Schwendiman asked if a homeowners association would allow it. City Attorney Zollinger said the lease question is not a factor for considering this proposal. The city will not enforce CCR's.

Council Member Erickson liked the common road down the middle of the development to minimize street access to 2nd East. It will improve the safety of the development for 2nd East traffic.

Public Works Director Millar offered some sketches of the proposed development. City Attorney Zollinger explained the drawings can not be used to make the plat decision. He cautioned the City Council not to consider them, unless they are going to make the drawings a requirement for the plat approval. Public Works Director Millar said the City Council did make these drawings a part of the zoning approval. City Attorney Zollinger asked to clarify if the zone change was contingent upon the twin homes. Public Works Director Millar said the twin homes were a condition of changing the zoning from LDR1 to LDR2.

Council Member Erickson said once we approve the final plat the building plans could change unless the City Council makes them a condition of the approval.

City Attorney Zollinger explained the decision is concerning a zone change; however, a development agreement requiring the building development as proposed. The city has never done this condition on prior developments. Council Member Schwendiman said the zone change decision did not include building design. The decision indicated the project must move forward or it would revert back to an LDR1 Zone.

Council Member Benfield moved to approve phase one of Valley View Townhouse as presented; Council Member Schwendiman seconded the motion; all voted aye, none opposed. **The motion carried.**

Council Member Stevens rejoined City Council on the Dias.

B. Set date for public hearing for garbage rate increase – Finance Officer Richard Horner

Finance Officer Horner reported the proposed fees are up 7% because of the county's cost increase at the county transfer station. The county raised the transfer station fees after the city budget was set for 2007. The city needs to adjust our fees to cover the difference. The fees were raised October 01, 2006 at the time the budget was set, so this would be a second raise. The proposed fee increase would go into effect January 01, 2007.

Council Member Erickson said the city is not in the money making business. He asked if the city would go broke without this raise. Finance Officer Horner said the city would go into the hole \$80,000 if the fees from the county are not passed on to the consumer. Council Member Erickson said he did not oppose the increase if it was necessary but it needs to be documented to justify the increase. The 90 gallon can is the most popular. On October 1, 2006, the 90 gallon container fee went to \$15.00. If this fee change is approved, the 90 gallon container will go to \$16.00. Mayer Larsen said it is important to communicate the cause of the increase to the public. Council Member Young asked for a note on the utility billings. Council Member Erickson suggested showing a break down from what the cost was, what the cost is now, and what the cost will be.

Council Member Benfield moved to set the public hearing date for December 06, 2006; Council Member Erickson seconded the motion. All voted aye, none opposed. **The motion carried.**

Report on Projects: Public Works Director Millar

1. **Re-roofing of City Hall.** Public Works Director Millar said he had three roofers look at the roof and they offer their bids: Briggs Roofing was \$24,903; Smith Roofing was \$20,877; and Robinson Roofing was \$31,462. The city staff recommended awarding the bid to Smith Roofing for \$20,877. It would need to come out of contingency fund because it is unbudgeted. Council Member Young asked if the new roof was a membrane roof. Public Works Director Millar said it was going to be a membrane roof. Council Member Schwendiman asked when this project would start. Public Works Director Millar said it would start immediately and it would be a four or five day process. Council Member

Schwendiman asked if there was money available in contingency. Public Works Director Millar said he recalled that there was \$260,000 from their last meeting.

Council Member Mann moved to accept the bid from Smith Roofing; Council Member Young seconded the motion. All voted aye, none opposed. **The motion carried.**

2. **Retaining a consultant** on the water system and the wastewater system. Public Works Director Millar said the wastewater project numbers were lowered; so \$50,000 has been budgeted for each system's analysis. Aqua Engineering would be the engineering firm to do the studies. The water system study contract will need a new scope. Right now the proposal is at \$83,000. We will get that down through negotiation as we adjust the new scope.

Public Works Director Millar asked for approval for engineering analysis study of the water and wastewater systems.

Council Member Schwendiman asked if they would get the budget numbers they are looking for by re-defining the scope. Public Works director Millar said the scope would be changed to meet the budget.

Council Member Erickson asked why the city needs the studies. Public Works Director Millar said the capacity has held with the growth; however, there is a future need to know exactly what the water and wastewater water capacity numbers will be. It is Public Works Director Millar's opinion that the city will need to adjust for the growth; however he wants city engineering's analysis verified.

Public Works Director Millar said the flow capacity at the city wastewater treatment plant is 3.6 million gallons. The wastewater system is running at 3 million gallons a day right now. This change to the wastewater biological process will keep the city in line with current flow numbers. The city needs to know where capacity will need to be in the next 20 years to stay ahead of growth. The proposed study will tell us those numbers. The study will give the numbers needed on the capital improvements in five year increments.

Council Member Young asked when this is all done, will the city have a computerized report telling the city what the future looks like. Public Works Director Millar said yes, there are two facets to the report. First what elements of the treatment plant will need improvements and second, where does the city need to go in the long term. Council Member Young asked if this is a team effort or does one person come in to do the study. Public Works Director Millar said no, the wastewater study is divided into two groups; Williams Engineering is working with Aqua Engineering to do the analysis of the wastewater collection system. They will install flow meters and determine what the flow capabilities are for the system. This will allow them to determine where the weak spots are in our collection system. It does not include the storm drain system.

Council Member Stevens moved to accept the proposal to do a water and wastewater study; Council Member Mann seconded the motion; all voted aye, none opposed. **The motion carried.**

3. **LID project** - Public Works Director Millar said the street reconstruction work on Reed and Morgan Streets near the hospital has been completed. It is a great improvement.

Mayor Larsen asked what has happened to Jim Morris's project on 1st South between Center Street and 2nd West. Public Works Director Millar said Jim Morris's development will be done next spring on 1st South. Council Member Erickson said Jim Morris asked to have the project deferred until spring.

Mayor Larsen asked if the project for Millhollow Road and the rest of LID for 2006 was still under contract. Public Works Director Millar said it was under contract until next spring.

4. **Crosswalks on 2nd East** are being reviewed.

Calendared Bills and Tabled Items:

A. BILL Introductions:

1. BILL 975 – Rental Registration Requirements

City Attorney Zollinger reviewed the proposed document for registering rental units. He said No. 4 in the BILL requires every stall in a rental complex go to a renter.

If the renter does not have a parking stall, the tenant would be notified accordingly on the rental contract. Those renters without an assigned parking stall would need to find offsite parking for their cars. Renters in apartments without available parking stalls would need offsite parking too. Snow is not a requirement to start enforcing the policy to keep cars off the street after November 01. Police Sergeant Foster indicated the Police Department will give warnings to parking offenders for the first two to three weeks after November 01, so people will understand what's coming.

Council Member Schwendiman asked about towing. City Attorney Zollinger said towing won't happen very often when it snows. Some cars may be towed in a snow storm; however, they may get buried in snow if they park on the street.

City Attorney Zollinger said the city collects \$20.00 as a minimum fee for business registrations. The city currently collects one dollar per unit from all of these affected properties. If an individual wants to rent their home while they are on sabbatical or something similar, the city would not include those properties in this process. The process would begin for a parcel containing two units or more; therefore, single homeowners will not come under this regulation.

Council Member Benfield asked to keep the fee at a \$20.00 minimum. She felt apartment fees could be based on the number of units. Council Member Erickson asked why. The number of apartments should not matter. We are not here to make money. He said he likes the \$20.00 fee.

City Attorney Zollinger said the current fee schedule charges apartments by the unit so a 200 unit apartment complex is not paying the same as the duplex. He referred to last years hearings, where no one came in and complained about the current fee schedule; however, they were concerned about the proposed new fee schedule. The city could substitute the current fee schedule into this BILL. This way we do not reduce or increase the fee schedule.

Council Member Stevens asked if the fees covered the cities costs. City Clerk Kay said that it does not. It is merely a nominal fee.

City Attorney Zollinger said the numbers are going back up on inspections and the costs are being driven by complaints rather than city staff going out looking for properties that are non-compliant. The current fee schedule is \$20.00 minimum and \$1.00 per unit for apartment complexes; 100 units would cost the owner \$100.00 for a business registration.

Mayor Larsen said that the whole purpose of the BILL is to register apartments. The city's job is to make sure the complexes have parking stalls and to inform the students as to whether or not they have a parking stall.

City Attorney Zollinger said we need to figure out a way to charge for non-compliance when the city responds to a complaint. City Clerk Kay has received two complaints today concerning apartment violations.

Mayor Larsen said we should look closely at the university on this issue. City Attorney Zollinger said that the university goes out either once a year or once every two years to review student housing for compliance. When they find a violation the university passes this information on to the city for policing of unsafe conditions. City Attorney Zollinger noted an example of a violation where an apartment complex passed life safety 18 months ago and it is now in violation on numerous fronts. The minute the city staff walked out after giving

the approval, they went in and re-wired most of the apartments in an unsatisfactory fashion. The city staff will have to go back in and tell them this has to be fixed.

City Attorney Zollinger explained some compliance problems when apartments become unsafe. Violators could be charged by the hour to recover city expenses for non-compliant properties.

Council Member Benfield asked if this would include homes with rentals. City Attorney Zollinger said if it is a single structure that is rented it will not be included. Council Member Benfield asked how the parking will be allocated to duplex units. City Attorney Zollinger said this BILL will not go back to properties in existence before 1985 except for life safety standards. Regent Villa was given as an example. They have one legal parking stall; therefore, they may extend one legal parking contract. The other thirteen students will not have parking contracts.

Council Member Schwendiman reviewed the need to have duplex owners provide the same parking information to their renters. City Attorney Zollinger indicated there may be six usable parking spaces for a duplex; however, only four spaces may be legal stalls. In this case, the owner could only register four parking stalls. Council Member Schwendiman asked if both upstairs and downstairs units are rented; will they come under the requirement to register as a business. City Attorney Zollinger said yes, they would be considered a business. The only exemption is if it is a single family residence that is being rented out.

Council Member Young asked if pre 1985 apartments under grandfathering would go with the property to new owners. City Attorney Zollinger indicated yes, the grandfathering status stays with the property.

Council Member Benfield asked how the university feels. Attorney Richard Smith said the university is supportive of the BILL because it calls for full disclosure, which is what the university wants so the students can make an informed decision.

Council Member Mann said sometimes the students bring cars even though the apartment owners or landlords tell them they do not have parking.

Attorney Richard Smith said this BILL will help solve some of the problems because apartment owners will not be able to sell more lots than available parking stalls.

City Attorney Zollinger said there was one parking stall per unit in the set back area. We do not allow legal stalls unless approved in the city right-of-way. This BILL simply requires an inventory of parking stalls. The parking disclosure requirement could become effective April 01, 2007, to allow time to change the new contracts.

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

C. Second Reading: Those items which have been first read. – NONE

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

Tabled Items: Those items which have been the subject of an affirmative vote to a Motion to table: - NONE

Mayor's Report:

A. Scouting for food week Proclamation 2006-06

Mayor Larsen read Proclamation 2006-06 to the City Council:

Proclamation 2006-06

A Proclamation of the Mayor and approved by the City Council of the City of Rexburg, Idaho, declaring November 13th through November 20th, 2006, as Scouting for Food Week.

WHEREAS, Hunger is a constant problem facing many lower-income families in the City of Rexburg and the surrounding communities of Idaho Falls and Pocatello, and

WHEREAS, Many homes struggle to provide only the basic essentials to sustain life as the result on an untimely death of one or both parents, and

WHEREAS, Many agencies, groups, churches, and other organizations depend on generous donations of food items to provide help to those who are struggling with hunger, and

WHEREAS, The Boy Scouts of America, and the Grand Teton Council serving youth and their families throughout southeastern Idaho and western Wyoming have organized themselves to assist these agencies in delivering 200,000 bags to homes on November 13th, and gathering them up on November 20th, for distribution to these agencies.

NOW THEREFORE, I, Mayor Shawn D. Larsen, do hereby proclaim November 13th to 20th, 2006 as Scouting for Food Week in the City of Rexburg, and urge all people of our community and the surrounding communities to join in supporting this project which provides meaningful service for Scouts and an opportunity for each of us to share and to help eliminate much of the suffering within our communities.

By virtue of the authority vested in me as Mayor of the City Rexburg, do hereby proclaim November 13th to November 20th, 2006, as Scouting for Food Week.

APPROVED AND ADOPTED By the Mayor and City Council of the City of Rexburg, Idaho, this 01st day of November, 2006.

APPROVED:

Shawn D. Larsen, MAYOR

ATTEST:

Blair D. Kay, CITY CLERK

Mayor Larsen noted the scouts in Rexburg do a great job collecting food. The food is collected for citizens of Madison County. The food collected here stays here.

Council Member Young moved to ratify Proclamation 2006-06; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

Council Member Erickson suggested making note to the public that the food collected in Madison County stays in Madison County.

B. LP property proposal update

Mayor Larsen presented a "Request for Proposal" to do master planning on the LP property. Four companies submitted proposals as requested by the city. Based on the rankings, the city staff selected JRW and Associates. They have agreed to move forward to work on a master plan without any fee. There has not been a contract signing. The initial proposal work will be done at no cost in the hope they may get the contract for the project.

Council Member Young asked if they had access to former plans for a city recreational project. Mayor Larsen said the city would make the information available to them. Council Member Mann reaffirmed a citizen's committee would be involved in the planning. Council Member Erickson said it has to be competitively bid. Anything done must be competitively bid. Public Works Director Millar said professional services for architectural concepts can not be competitively bid; however, construction projects must be bid. Council Member Young said that this proposal is not for any buildings, drawings, or architectural work. It is merely a layout.

Public Works Director Millar said JRW will provide three or four plans. The city staff will work those plans down to a universally accepted plan.

C. Congressional appropriation discussion

Council Member Benfield asked for a report on the funding appropriations from the federal budget. Mayor Larsen said the city has received three appropriations. The 1st one is for \$100,000 in Rexburg; the 2nd one was released by HUD for \$346,500; and the 3rd appropriation which is for this fiscal year, is on the docket on an appropriations bill for \$450,000. It will pass through congress and it will be released through HUD. The application and grant request will be written next year.

Mayor Larsen indicated in January the last appropriations request will be done for \$500,000. Last year the city requested \$500,000 and received an appropriation of \$450,000 written into the bill.

Council Member Schwendiman asked if there was money in Urban Renewal for the LP project. Mayor Larsen indicated Urban Renewal funds were not sitting, but they are being used to pay off the bridge on 2nd East and for the purchase of the land for the LP project.

Mayor Larsen asked Finance Officer Horner if the Urban Renewal Agency had paid for all of the Zollinger property. Finance Officer Horner said that they paid for half of the amount. The property was purchased for \$400,000 and the Urban Renewal Agency owes \$200,000 to be paid in 2007 and the final \$200,000 will be paid in 2008.

Mayor Larsen added that the Urban Renewal Board is creating a committee of 25 individuals who will work with JRW and Associates in the initial design. We are sending out 25 letters but some may not commit to serve on the committee.

Mayor Larsen said JRW and Associates will work with Water Design out of Utah for the aquatic center portion of the proposal. Council Member Stevens wants a presentation to City Council from JRW and Associates for clarification on the record. They can be here at the next City Council meeting. Mayor Larsen said there would not be a contract signed to get the engineering concept from JRW and Associates.

Council Member Erickson asked if the LP property was in a flood zone. Public Works Director Millar said it is all in a flood zone. Buildings will not be built below the flood plan.

Council Member Mann commended Mayor Larsen for his work on the congressional appropriations.

Mayor Larsen said there are some other opportunities to go after to secure funding for other projects. He asked the City Council to keep these in mind for the future.

D. Neighborhood request to rezone from LDR2 to LDR1

City Attorney Zollinger reviewed the city policy to waive fees for neighborhood matters. The Powell Addition would like to consider a zone change from LDR2 to LDR1. 38 out of 47 parcels are requesting this change. Given the vast majority of property owners have an interest in this change; City Attorney Zollinger informed the group he would come to the City Council to ask if the City Council would consider carrying the proposal forward to a public hearing where the city would be the driving force in collecting the \$250.00 from the neighborhood. It would be more work for the staff to process 38 out of 47 instead of holding a public hearing on the whole neighborhood.

Council Member Young asked if this is one of the neighborhoods that came under the old LDR1. City Attorney Zollinger said that it was under the old LDR1 designation. The city had a very lengthy conversation with the neighbors about grandfathering and 23 existing duplexes would continue to exist. Investors are starting to buy homes for non owner occupied rentals.

Mayor Larsen asked if there was a consensus for the city to move forward to waive the zone change fees and have this city request driven by the city. Council Member Schwendiman said he would like further clarification on grandfathering.

City Attorney Zollinger said grandfathering runs with the property continuously until the use is abandoned for one year. If the city changes the zone to take away that right, the city has to allow the use to continue until it has run to the end of its life expectancy. He was not aware of a community setting a life expectancy on houses. He said the city could sunset billboards or other uses that could receive an effective sunset clause. Council Member Schwendiman wanted to reaffirm current rentals would not be required to give up the rental if the zone change is approved. He did not want to see renters kicked out of homeowner's basements.

Council Member Erickson asked if he owns a home where he is renting the basement and he is living upstairs; can he move out and rent the upstairs and the downstairs? City Attorney Zollinger said yes; there is no restriction on owner occupied or non-owner occupied. The existence of the duplex when the ordinance is approved and published will continue to be allowed for that use. They can continue to use the structure as a two family residence if the owner is in one of the units or not in one of the units. He did not believe the city could restrict occupancy to owner occupied and have it survive all the way to the Supreme Court. Planning and Zoning Administrator Gary Leikness noted Provo, Utah has owner occupied restrictions on tree streets around their university. City Attorney Zollinger explained their ordinance has not been challenged. Every challenge he has been aware of has lost.

Council Member Schwendiman asked if CCR's (protective covenants) could restrict the residence from being non-owner occupied. City Attorney Zollinger said his subdivision does not allow apartments in homes by their protective covenants. The neighbors could sue privately if he had a duplex in his home. CCR's can be restrictive; however, they are privately managed.

Council Member Erickson asked if there was a problem with down zoning. City Attorney Zollinger said it may cause nontraditional leapfrogging and peculiar growth patterns. That is a planning concept and the city may not be there yet. He deferred to Planning and Zoning Administrator Leikness for long range planning. Council Member Schwendiman asked if the city is getting the cart before the horse; City Attorney Zollinger said the applicants need to come in for a formal hearing to validate the request to change the zone. There are neighborhoods closer to the university that are not experiencing the pressures this neighborhood is experiencing. This request needs to be regulated through the public hearing process. Council Member Young noted two other neighborhoods (one being Indian Hills) have done the same actions. City Attorney Zollinger said this is the third neighborhood to approach this process for the exact same reason. The City Council may decide at some point the requesting neighborhood is too close to a growth area to limit density.

Mayor Larsen said this is a perfect example for how proposition 2 would cause law suits.

Council Member Erickson said he has seen no downside to down-zoning and this is a plus for the city and the neighborhood. City Attorney Zollinger reviewed the Salt Lake Avenues that were changed from single family to a higher density. Single family homes did not want to live by a fraternity house. It can become a problem to have restrictive housing next to a university. As 10,000 students became 28,000 students, they all wanted live close to the university. If there is an MDR Zone around the university with the LDR Zone being applied to limit density, it may be too restrictive. Council Member Erickson did not feel this neighborhood had any impact on the university housing.

The City Council was in agreement to have Planning and Zoning Administrator Gary Leikness start the process to go forward with a public hearing to change the zone from LDR2 to LDR1 as requested with the City Council being the driving force.

Mayor Larsen asked to have a joint meeting with the School Board. He asked the City Council if they would like to meet with the School Board at the School Board Meeting or

would they like to have a work meeting prior to City Council Meeting. Council Member Young would like to talk about the infrastructure needed for the new high school, the maintenance of the tennis courts, and the junior high building.

Council Member Erickson asked what kind of agenda the Mayor would like. Mayor Larsen said that he would like everyone to have a firm understanding of the High School Property joint use agreement. The agreement on the trees should also be included.

Mayor Larsen invited Finance Officer Horner to discuss the federal dollars given to the city to build a park on the high school property west of the football field. Finance Officer Horner said the City received Federal money to build structures and develop ball diamonds west of the football field fence at the City's expense with city crews. The project was \$150,000 with a \$75,000 grant. The City put up \$75,000+ to build this park on high school property.

Mayor Larsen added the city removed some of the trees from the park a couple of years ago. Now the question has been asked: whose trees are they? Council Member Erickson said if the trees were given to the hospital in the name of the school district everything would be fine. The trees should have been moved and planted this fall and now they won't be done until next spring.

Mayor Larsen and the City Council agreed to have the following on the agenda for the meeting:

1. High school property joint use agreement.
2. New tennis courts.
3. Agreement on trees in the park.

Adjournment

Shawn Larsen, Mayor

Attest:

Blair D. Kay, City Clerk