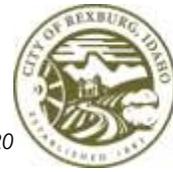


Customer Support Services City Council Minutes

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CITY OF
REXBURG
America's Family Community

February 07, 2007

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

Pledge to the Flag

7:00 P.M. – Pledge to the Flag

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

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 January 31, 2007 meeting at 7:00 A.M.
- B. Approve the City of Rexburg Bills

Council Member Young moved to approve the consent calendar; Council Member Benfield seconded the motion; all vote aye, none opposed. **The motion carried.**

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

A. Teton Flood Museum Board proposal:

The committees for the Teton Flood Museum and the Children's Museum met on January 25, 2007 for discussions to combine the Children's Museum into the Teton Flood Museum.

Christopher Fox spoke as Chairman of the Teton Flood Museum Board. He presented a proposal to combine the Children's Museum into the Teton Flood Museum. The children's exhibit would be an interactive hands-on exhibit of the history of Rexburg and Ricks College. It will enhance an area in the Teton Flood Museum and encourage more visitors to come to the Teton Flood Museum. The Teton Flood Museum Board would add four members to their board from the Children's Museum Board. Christopher asked the City Council to ratify the decision of the Teton Flood Museum Board to add the exhibit from the Children's Museum.

Council Member Benfield said it was an excellent and fantastic idea. The Teton Flood Museum lends itself to this exhibit better than other proposed locations for the Children's Museum. She asked about the assets or grants in place for the Children's Museum. Christopher said he was only aware of one \$10,000 grant for the Children's Museum.

Council Member Mann said one condition of the grant was a facility for the grant to be administered. The Children's Museum Board needs a place to do display the exhibit. It is a great mix for the Teton Flood Museum.

Council member Mann moved to ratify the Teton Flood Museum Board's decision to allow space and add the Children's Museum to the Teton Flood Museum; Council Member Benfield seconded the motion; Discussion: Mayor Larson added it is a great move; however, it may be a challenge to find some space. It will be good opportunity to evaluate the items in

the Teton Flood Museum. Mayor Larsen thanked the members of the two museum boards for their efforts. He asked for a vote: All voted aye, none opposed. **The motion carried.**

B. Family Care Givers:

Kylie Jackson and Megan were representing the National Family Care Givers Association. The organization helps families with care giving to relatives. They have a web site “www.familycaregiving101.org/team72”. This issue affects Rexburg residents. Megan asked the city to display posters around the city where care givers may visit. Also, she asked the city to put the information on the Rexburg’s web site. Care giving affects 20% of the Rexburg population. Mayor Larsen agreed to have the link added to the city web site as a community link.

Mayor Larsen asked the scouts (Troop 300) to be introduced to City Council. A large group of boy scouts introduced themselves to the City Council. They are working on citizenship merit badges.

Mayor Larsen said Troop 300 provided comments in a recent City Council meeting on the need for a sidewalk on West Main Street. The scouts were concerned for their safety as they traveled past the golf course on West Main Street because of the lack of a sidewalk.

C. Tabernacle cleaning:

Jill Anderson at 419 Morgan Drive commented on a recent Tabernacle fund raising concert. It was a great event with a great turn out. On the day of the event, Jill was frustrated because the building was dirty. She requested better cleaning of the facility after events. The piano bench was broken so she borrowed a bench for the evening. She spent two hours cleaning the building, sidewalks, etc. It was freezing cold and the steps were slippery. The cleaning should be taken care of before an event is scheduled. The Tabernacle needs to have new light bulbs.

Mayor Larsen will make sure the Tabernacle care gets addressed.

Committee Liaison Assignments for 2007:

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

Council Member Mann reported the Parks & Recreation Committee is working with the Urban Renewal Agency on the Riverside Park project. They are having a public meeting next week to discuss the Riverside Park project. Snow Fest was extremely successful with a great turnout. The Museum Committee has been meeting and they are doing great. The Westwood Theatre is making some progress with the building repairs. Tomorrow night is the showing of “Mormons way of doing business” at the Westwood Theatre. Council Member Young asked how the name was changed from the LP Committee to the Riverside Park Committee. Mayor Larsen explained the LP Sub-Committee and the Urban Renewal Agency discussed the name. It is not an official name; however, they were not comfortable with calling themselves the LP Committee. City Attorney Zollinger explained Louisiana Pacific did donate some of the land; however, they did not require any specific naming of the property. They did reduce the LP property price to the city from \$675,000 to \$250,000 on the understanding the city would end up with the majority of the land.

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

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

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

Council Member Schwendiman reported the Traffic & Safety Committee has adopted new bylaws. City Attorney Zollinger explained Lynn Archibald worked with city staff to prepare these bylaws. These bylaws may be used by other city committees as a model. The Golf Board will be working on their bylaws for City Council approval in the near future.

Council Member Schwendiman moved to approve the new bylaws for the Traffic & Safety Committee; Council Member Benfield seconded the motion; all voted aye, none opposed. The motion carried.

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

F. Council Member Bart Stevens *Trails of Madison County · IBC Committee · School Board*

G. Mayor Larsen *Mayor’s Youth Advisory Board · Legacy Flight Museum*

Public Hearings:

A. 7:05 pm – Rezone – Powell Subdivision (LDR2 to LDR1)

Council Member Young declared a conflict because he lives in the subdivision. He will not participate in, or vote on the action.

Planning and Zoning Administrator Gary Leikness presented the rezoning proposal on the overhead screen. The City Council was asked by a group in the neighborhood (by petition) to change the zoning. The zoning change for the Powell Addition and the Mickelsen Addition was recommended to City Council by the Planning and Zoning Commission on December 07, 2006. The recommendation was from LDR2 to LDR1.

Mayor Larsen opened the public hearing for public input.

Those in favor of the proposal:

Lisa Gorton at 548 Maple is grateful to those people that took steps to preserve the neighborhood. This action will protect the neighborhood from college sprawl. She did not want to see the neighborhood overpopulated with rentals. The advantages outweigh the disadvantages to rezoning their neighborhood. She appreciated the opportunity to hear testimony on both sides of the issue. It helps protect our freedoms to be able to have a voice either for or against a proposal. She supports the rezone request.

Susan Tatum at 522 Linden Avenue was in favor of the rezone request. She appreciated the city sponsoring the rezoning proposal. This action will help stabilize the neighborhood. She is in favor of the proposal.

Cheryl Graham at 510 Linden is in favor of the rezone to maintain the integrity of the family neighborhood.

Stephanie Izatt at 531 Linden is in favor of the rezone proposal.

Lester Blake at 489 Maple Drive explained Rexburg has always been a family community. He supports the rezone proposal. It is good. He has noticed older homes in Rexburg have been turned in to single student housing. It is a shame, because the rich homes are not being preserved. He grew up in the south and he knows how it is to grow up in a southern mansion; similar to converted homes on College Avenue. He did not think student housing would come into his neighborhood. He wants to preserve family homes as much as he can do it. He supports the rezone request.

Paul LaFollette at 106 Birch Avenue rents a portion of his home. He has a conditional use permit for a duplex. He supports the neighborhood and supports this rezone request. He wanted to have the neighborhood preserved from the unfortunate side effect of a lot of non-owner occupied rentals. He asked the city to create a similar zone that stipulates the owner must occupy the residence with the possibility of a second rental unit in the home.

Mayor Larsen noted a letter of support in the file from **Edward and Barbara Malstrom**. They live on 525 Maple Drive. They have lived in a very quiet, safe, cohesive, and highly interactive neighborhood for approximately 40 years; however, they noticed a disturbing trend over the past few years in the direction of more interest in "for profit" property, than strictly residential property. The number of apartments has multiplied. Several homes are not owner occupied; rather they are totally rental units. They said traffic and noise have increased. There is a shrinking of physical care and aesthetics of rental properties compared to owner occupied properties. The neighborhood is becoming less cohesive.

Those neutral to this proposal: NONE

Those in opposition to this proposal:

Mayor Larsen read a letter into the record from Bruce Sutherland at 126 Birch Avenue in opposition to proposal. Mr. Sutherland indicated the zone change would not be in the best interest of the city. Zoning next to this neighborhood is not compatible with an LDR1 Zone. There is a professional overlay behind Birch Street and a hospital zone behind Maple Avenue. Very few lots meet the lot size for an LDR1 Zone. It is a matter of record that 15-20 apartments already exist in this neighborhood; therefore, these conditions are too far out of compliance for an LDR1 Zone. He said this zone change will be beneficial for his property; however, he felt it would be a dangerous precedent to set for good planning.

Mayor Larsen closed the public hearing.

Council Member Mann was in favor of the rights of a neighborhood organization. He supported the rezone request.

Council Member Erickson thanked the Planning and Zoning Commission for their hours of work on this proposal. There were properties allowed to apply for Conditional Use Permits before the neighborhood zone change moved forward. He supports the rezone request.

Council Member Erickson moved to approve the zone change request for the Powell Addition and the Mickelsen Addition accepting the recommendation of the Planning and Zoning Commission to change the zoning from LDR2 to LDR1; Council Member Stevens seconded the motion; Discussion: Council Member Schwendiman asked if the lot sizes were big enough; Council Member Erickson said some of the lot sizes are not big enough; however, the Planning and Zoning Commission ensured everyone was treated fairly on this issue. They approved Conditional Use Permit for those properties that made application for an apartment status. They would not allow the neighborhood to go any further than where it is now. Council Member Schwendiman was in favor of the neighborhoods having a say in the process; however, he did not want to set a bad precedent. Council Member Erickson said a neighborhood south of this neighborhood has some properties that had exceptions to the LDR1 Zone; because they were already in existence, they were allowed to continue. Council Member Stevens commented on the need for neighborhood restrictive covenants. Most restrictive covenants in a subdivision expire after 20 to 25 years. Mayor Larsen called for a vote: All voted aye, none opposed. Council Member Young abstained from the vote. **The motion carried.**

Mayor Larsen welcomed students from a high school “current events” government class to the meeting and he asked them to introduce themselves.

B. 7:30 P.M. – Comprehensive Plan “Map” (8 areas in north and west Rexburg)

Planning and Zoning Administrator Leikness provided a staff report on eight requests to change the Comprehensive Plan Map. The following changes to the Comprehensive Plan Map were recommended for approval by the Planning and Zoning Commission on January 04, 2007.

AREA 1

There are 29 acres in this area on the FEMA Flood Plain Map near the airport north of the Teton River. Planning and Zoning Administrator Leikness referred to the “land use map” as a map that guides the planning and development for new growth in Rexburg. The applicant asked for Area One currently designated as “Open Space” as shown on the City of Rexburg *Preferred Land Use Map* be changed to **“Transitional Agriculture”**.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

The City Council discussed the merits of changing the land use designation to Transitional Agriculture in Area One. Planning and Zoning Administrator Leikness explained the definition of Transitional Agriculture as defined in Ordinance 926:

3.28.010. Purpose and Objectives.

The Transitional Agricultural zone is intended to anticipate expansion of the City into agricultural areas (lands). Permitted uses in the TAG1 Zone include all primary agricultural production activities and their accessory uses and buildings, including farm homes.

No more than ten (10) livestock are permitted in a TAG1 zone. However, this does not include commercial enterprises or animal-related business such as produce packing plants, fur farms, veterinary clinics, animal hospitals, feed lots, poultry and egg farms, hog farms, dog kennels, honey processing, and similar uses which would constitute a “business” as opposed to that of the raising of agricultural crops and/or pasture. For the purposes of this chapter, “Feedlot” is defined as any area where one thousand (1,000) head or more of livestock are

confined for a period of one year or more. The minimum size parcel shall be two (2) acres or more.

Conditional Uses in the TAG1 Zone include: Public and quasi-public recreation facilities and/or buildings, Home occupations, Cemeteries.

Council Member Stevens moved to approve the Preferred Land Use Map change for Area One from “Open Space” to “**Transitional Agriculture**” based on the Planning and Zoning recommendation; Council Member Young seconded the motion; Discussion: Mayor Larsen asked if the County needed to approve the changes to the land use designation in the Impact Area. Planning and Zoning Administrator Leikness said it was a city visioning document. It was not a property rights decision. It is a city visioning document, which potentially steers rezoning applications. Mayor Larsen called for a vote: all voted aye, none opposed.

The motion carried.

AREA 2

Planning and Zoning Administrator Leikness provided a staff report on 21 acres on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. The current land use designation is “Commercial” as shown on the City of Rexburg *Preferred Land Use Map*. The requested land use designation is “Industrial”.

Daniel Stoddard represented the owners, requested an industrial land use designation. It is close to the airport for shipping purposes. They want a land use designation where they can have businesses that create new products. It is close to other industrial property.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: The petitioners and Rod Jones are in favor of the proposal.

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

Council Member Benfield said it was a very good move and it speaks wisely for the use of the land.

Council Member Young asked if property owners from the north provided input. Planning Chairman Dyer said Mr. Baker from the mobile home park north of this property asked about industrial land use next to the mobile home park. The applicant is on record saying the subdivision is already starting to fill with businesses like Platt Electric, etc. so the applicant would like to continue that type of development with support yards, etc. The mobile home park owner was concerned with the impact of industrial land use adjacent to their property.

Council Member Stevens was in favor of the proposal because the size of the lots lends themselves to industrial land use. It is an ideal zone for an industrial subdivision.

Council Member Stevens moved to approve the Preferred Land Use Map change for Area 2 as recommended by Planning and Zoning from Commercial to Industrial; Council Member Benfield seconded the motion; Discussion: all voted aye, none opposed.

The motion carried.

AREA 3

Planning and Zoning Administrator Leikness provided a staff report on 29 acres on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. It is proposed that the following tract of land currently designated as “Low-Moderate Residential” as shown on the City of Rexburg *Preferred Land Use Map* be changed to “Commercial”. The John Deere property is east of this proposal.

Mayor Larsen thanked the Planning and Zoning Commission for their work on the review of these properties. It has taken a lot of time to review these properties.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

Council Member Mann said he was concerned; however, it is a good area for commercial growth. It is a good move.

Council Member Mann moved to approve the Preferred Land Use Map change for Area 3 as recommended by Planning and Zoning from “Low-Moderate Residential” to “Commercial”; Council Member Erickson seconded the motion; Discussion: all voted aye, none opposed. **The motion carried.**

AREA 4

Planning and Zoning Administrator Leikness provided a staff report on 13.5 acres on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. It is proposed that the following tract of land currently designated as “Moderate-High Residential” as shown on the City of Rexburg *Preferred Land Use Map* be changed to “Commercial”. Planning and Zoning Administrator Leikness explained some miscommunications in previous hearings on this issue.

Planning Chairman Dyer said those property owners in the neighborhood who attended a meeting concerning the proposed land use changes expressed support for this proposal. It is a sensitive issue. The Planning and Zoning Commission tried to be proactive and communicate this proposal to the neighbors. Planning Chairman Dyer said subsequent Planning and Zoning public hearings would deal with specific issues concerning buffering the properties next to a commercial area. One neighbor at the meeting did have some concerns with buffering. He is one of the seven neighbors on the immediate boundary to the proposed commercial area. Five of seven neighbors attended the meeting. The Grover Family owns the property; however, the city initiated this proposal. The Grover family was not opposed to the land use change from “Moderate-High Residential” to Commercial”. They did have some concerns with being allowed to keep the same grandfathered use.

Planning and Zoning Administrator Leikness assured them the zoning would not change even though the land use designation would change to Commercial. The Planning and Zoning Commission recommended the proposed change from “Moderate-High Residential” to Commercial”.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal:

Winston Dyer at 667 Summerwood Drive noted he was speaking as an informed and educated citizen and he is not representing the Planning and Zoning Commission. Wal-Mart would like to expand their business and construct a super center at the current location. They are the primary anchor of the commercial corridor on 2nd East. They have opportunities to move to other area in the community or outside of the community. They have been working with landowners in the area. If they left 2nd East, it would substantially impact existing commercial businesses on 2nd East. They would need some zoning modification to build a super store at their current location. A zoning change will surely follow. As stated earlier, the zoning change would have to carry requirements (protections, guarantees, & proactive interactions) between Wal-Mart and the neighborhood to minimize the neighborhood impact. As a citizen, Mr. Dyer was in favor of the proposed land use designation change to Commercial.

Those Neutral to the proposal:

Tamie Bagley at 623 West Stonebridge said only four families (five adults) out of seven neighbors was represented in the meeting Mr. Dyer mentioned. It may affect others in the neighborhood. If this proposal were to pass Tamie has some concerns either way with apartments or commercial. The city could protect the neighborhood with walls, shrubbery, etc. She is concerned with early morning activities that wake them up in the morning. Wal-Mart employees already wake them up at night and in the early morning with activities associated with Wal-Mart. She asked for restrictions on trucks coming into the area to load and unload, idling trucks, etc. In other communities there are idling laws, the cities require the noise to be limited to certain hours. She has experienced exhaust fumes in her home. She has had to close the windows on a hot day. Her husband is a truck driver, so she is sympathetic to their needs. Trucks get hot too.

Those Opposed to the proposal:

Jay Warnick at 637 West Stonebridge thanked Chairman Dyer and the Planning and Zoning Commission for the information they provided for the neighborhood. He was concerned tonight with one thing. Although great words have been spoken at the planning meeting; however, how enforceable are these words. He asked what type of buffer could be provided to protect the neighborhood from commercial development. At the January meeting, Planning and Zoning was not sure what type of buffer could be applied per city ordinance. If members of planning or City Council are not still in office; how will these words be enforced? When heavy equipment starts moving ground for a project, the thought of a buffer may not be remembered. Jay asked City Council to reject the proposal at this time and remanded it back to the Planning and Zoning Commission for a formal discussion including the neighborhood on the specifics of the buffer and he wants documentation on the buffer. He supports the economic reasons for the zone change; however, the neighborhood has been asked to pick their poison. Jay asked for a joint city/neighborhood effort to produce a buffer with the correct design to protect the neighborhood.

Mayor Larsen closed the public hearing.

Council Member Young understood the City's Zoning Ordinance did allow for buffer between residential and commercial developments.

Planning and Zoning Administrator Leikness reviewed the setback Council Member Young asked for information on the zone buffer requirements. The set back for Commercial Business Center (CBC) Zone is ten (10) feet. Council Member Young understood the buffer could require a berm, landscaping, etc. Administrator Leikness said a decorative stone masonry fence or other material (agreed upon between the property owners) is required to go between the two zones; then a ten (10) foot buffer.

Council Member Mann said Wal-Mart would be a major commercial business. It would have a lot more impact than a smaller commercial business; including parking lot lighting, 24 hour a day service, trucks coming into the back of the store, etc. He wants the neighbors involved to help ensure a buffer between the two land use designations will endure the test of time.

Council Member Benfield said those issues will be covered in the Planning and Zoning effort when a zone change is requested. The City Council can't address those issues in tonight's decision.

Mayor Larsen asked Chairman Dyer to explain the difference between buffering Commercial with Low Density Residential verses buffering Medium to High Density Residential with Low Density Residential. Chairman Dyer said buffering is spelled out in the city planning code. Either buffer in the code is spelled out in minimum standards. The buffer for Medium Density Residential to Low Density Residential is less than the buffer from Commercial to Low Density Residential. Either buffer is inadequate for this neighborhood. Special considerations and agreements will have to be made to make this work for everyone. He asked for higher levels of buffering in this case. Mayor Larsen said restrictions can be applied in a zoning request. He supported Mr. Warnick's comments.

Chairman Dyer explained the land use action tonight is the vision for the community for this property. There will be a subsequent zoning action started with the Planning and Zoning Commission. Chairman Dyer indicated if possible, higher levels of buffering could be applied to a zone change request in this case. Mayor Larsen referred to a past zone change request. The City Council granted the zone change contingent upon some action by the requestor. Chairman Dyer said he envisioned a conditional zone change; however, “let’s be clear, there is a lot of work that needs to be done here.” Mr. Warnick’s comments are very well taken and the city should pay attention to them.

Council Member Erickson clarified this is land use action not a zoning action. Mr. Warnick is not against commercial use; however, he is against any action that would not guarantee a real good buffer between the proposed commercial land use designation and the established residential subdivision. Council Member Erickson suggested a condition on the site plan review should require a buffer strip 35 feet wide and a 10 foot high berm with a fence and landscaping. Council Member Erickson supports the proposed land use change if the buffering can be required to preserve the residential area.

Mayor Larsen said the City Council could direct Planning and Zoning to put the buffering requirements in the Planning and Zoning Ordinance before the site plan was reviewed.

Attorney Jim Barrett (representing the city) said the buffering requirements would be applied in the Planning and Zoning review process for the proposed development.

Council Member Stevens asked for the record to reflect the will of this City Council on the need for an adequate buffer. Thing change and this City Council may not be in office when a site plan is completed for this area. He would be in favor of the land designation change to commercial if the record shows the desire of this City Council was to approve the land designation change to commercial with a protective buffer for the adjacent residential subdivision. He wanted the buffer to be of major concern and major consideration in the planning and zoning review process.

Mayor Larsen suggested City Council do two motions. One motion for land use designation and a second motion to require the buffering conditions before the zone change could be applied. Council Member Erickson asked to include the neighbors in the buffering discussion.

Planning and Zoning Administrator Leikness mentioned a land strip could be rezoned as open space for a landscape strip as part of the buffer. It would be a preserved area with no parking, buildings, etc. It would be strictly open space. Council Member Erickson asked if the open space could be converted into a buffer with a berm.

Discussion on how to require a buffer.

Council Member Schwendiman liked the idea of a second motion saying Planning and Zoning must consider the buffer in the zone change.

Council Member Schwendiman moved to approve the Preferred Land Use Map change for Area 4 as recommended by Planning and Zoning from “Moderate-High Residential” to “Commercial”, and the non-farmland area in the Southwest corner be designated “Open Space”; Council Member Young seconded the motion; Discussion: Council Member Erickson asked Mr. Warnick if the motion was sufficient to address the neighborhood concerns. Mr. Warnick was concerned if the City Council recommendation would hold up in a Planning and Zoning action. Does it say “no matter who is there, it must be done” or is it just a suggestion? Council Member Erickson explained the current City Council can’t guarantee anything once they are out of office. It will be very helpful to the Planning and Zoning Commission to know the buffer had been the recommendation of City Council. It is about the best protection the neighborhood can get on the issue at this point in time. A question from the audience: Will the buffer be installed first before building construction? Mayor Larsen said if the condition for a buffer is tied to a zone change, it has to be installed before building construction; otherwise, the zone would not be allowed. If this land use change is approved tonight, it will change the future goals of the City Council. We would anticipate this area being developed as commercial. The current multi-family zoning would not allow any commercial buildings. The applicant would have to apply for a zone change.

In the zone change hearing the buffer could be tied as a condition to the zone change. Mayor Larsen said the next motion will asked the Planning and Zoning Commission to require a buffer as a condition to any zone change. The cost of the buffer would be the responsibility of the developer. Mayor Larsen asked for a vote on the motion: all voted aye, none opposed. **The motion carried.**

Council Member Schwendiman moved to direct Planning and Zoning to condition the zone change upon proper buffering with input from the neighborhood for this area; Council Member Mann seconded the motion; Mayor Larsen asked for a vote on the motion: All voted aye, none opposed. **The motion carried.**

AREA 5

Planning and Zoning Administrator Leikness provided a staff report on the area of 43 acres west of Hwy 20 and south of 7th South on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. It is proposed that the following tract of land currently designated as “Low-Moderate Residential” as shown on the City of Rexburg *Preferred Land Use Map* be changed to “Commercial”. The applicant wants to continue farming the property with the ability to build a commercial building in the SW corner of the property. Planning and Zoning recommended a “Mixed Use” land use designation because this property is a transitional property between large lot residential on the north to commercial on the south. Mixed use in the “land use” sense allows all zones other than LDR1 to be there including a mixed with neighborhood business district, professional overlay, and a planned residential development. A mixed use designation would not allow a commercial (farm) shop. Planning and Zoning Administrator Leikness offered a solution by designation the one acre parcel in the SW corner of the property as commercial and the rest of the property as mixed use. It would be in harmony with the spirit of the Planning and Zoning Commissions intent to have mixed use on the north end of this property. Chairman Dyer explained City Council could approve the less restrictive land use designation of mixed use recommended by the Planning and Zoning Commission because it is less restrictive. It is the City Council’s prerogative. Attorney Barrett concluded the commercial designation would be acceptable if the public notice indicated a commercial designation. Planning and Zoning Administrator Leikness indicated the property owners are preparing documents to annex this property into Rexburg.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

Council Member Erickson moved to approve the Preferred Land Use Map change for Area 5 as recommended by Planning and Zoning from “Low-Moderate Residential” to “Mixed Use” except one acre in the SW corner of the property which would change from “Low-Moderate Residential” to “Commercial”; Council Member Schwendiman seconded the motion; Mayor Larsen asked for a vote on the motion: all voted aye, none opposed. **The motion carried.**

AREA 6

Planning and Zoning Administrator Leikness provided a staff report on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. The Planning and Zoning Commission recommended a land use change for “Tract 1” from Moderate-High Residential to Open Space and “Tract 2” from Moderate-High Residential to Commercial. “Tract 1” is city property adjacent to the Teton River.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

It will be an extension of the Walker Subdivision's commercial area.

Council Member Erickson asked about a buffer zone to protect the open space to the north. The open space is being used as an amenity to the buildings in the Walker Subdivision.

Council Member Young moved to approve the Preferred Land Use Map change for Area 6 as recommended by Planning and Zoning change for "Tract 1" from Moderate-High Residential to Open Space and "Tract 2" from Moderate-High Residential to Commercial. Council Member Mann seconded the motion; all voted aye, none opposed.

The motion carried.

AREA 7

Planning and Zoning Administrator Leikness provided a staff report on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. The Planning and Zoning Commission recommended a land use change for area #7 to "Low-Moderate Residential". The area was annexed into the city; however, the land was not inside the city's area of impact. This effort is to clean up the Impact Area to include properties annexed into the city. The property was zone for Low Density Residential (LDR2) when it was annexed.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

Council Member Mann reviewed the current impact zone for Rexburg. This property was annexed outside the city's impact area in the county.

Council Member Erickson moved to approve the Preferred Land Use Map change for Area 7 as recommended by Planning and Zoning to "Low-Moderate Residential". Council Member Schwendiman seconded the motion; all voted aye, none opposed.

The motion carried.

AREA 8

Planning and Zoning Administrator Leikness provided a staff report on the Comprehensive Plan recommended by the Planning and Zoning Commission on January 04, 2007. The Planning and Zoning Commission recommended a land use change for area #8 located west of 12th West from Low-Moderate Residential to "Commercial." Planning and Zoning Administrator Leikness explained the area was discussed in a previous joint meeting with the Madison School Board and City Council. The School District proposed to have commercial development on the school property adjacent to 12th West.

Mayor Larsen opened the public hearing.

Those in Favor of the proposal: NONE

Those Neutral to the proposal: NONE

Those Opposed to the proposal: NONE

Mayor Larsen closed the public hearing.

Council Member Erickson reviewed the number of property owners in the area. There are two property owners. Kauer's property and School District property are in the area. Chairman Dyer said Kauer's are anticipating annexation into Rexburg and they are agreeable to the land use designation of commercial. Chairman Dyer said the Comprehensive Plan Map is a planning document for the highest and best use of property. It is the vision of the community. This property is in a commercial area and the underlying property owners have the option of choosing to pursue a zone change at their discretion. Mayor Larsen explained

in the work meeting with the School District, they indicated a desire to have commercial land use against 12th West.

Council Member Erickson moved to approve the Preferred Land Use Map change for Area 8 as recommended by Planning and Zoning from Low-Moderate Residential to “Commercial.” Council Member Benfield seconded the motion; all voted aye, none opposed. **The motion carried.**

New Business:

C. Annexation request for 228 acres on South 12th West – Erickson farm

Public Works Director Millar explained the proposal on the overhead screen to annex property owned by Kauer’s and Keith and Guy Erickson. This information is a heads-up for upcoming public hearings for annexation coming before the Planning and Zoning Commission. The property is south of the high school property.

Mayor Larsen asked Public Works Director Millar to explain the city’s ability to serve a major addition to the city with city infrastructure. Public Works Director Millar said the city is doing an evaluation of the city’s system by a consultant at this time. The high school has a huge fire flow requirement. It will be pushing the limits of the city’s system. There is a new water well planned this year for that area of the city. One of the requirements for a new water well is a permit and the associated water rights. The water and waste water lines have been extended as far south as the John Deere building on 12th West. Developers will help pay to extend the infrastructure lines into new areas.

Chairman Dyer reminded the City Council of the protocol to get the City Council’s opinion on the proposal. Is a particular proposal a good idea for the city? Chairman Dyer asked for more than a nod from the City Council before moving forward with the proposal in Planning and Zoning.

Council Member Erickson was agreeable to the proposal because about 65% of the city residents will live in the SW quadrant of the city. He did not want to discourage the city from growth in that direction.

Council Member Stevens agreed and he said it was favorable planning to have residential growth next to the High School. It will make shorter trips for students to get to the high school.

Council Member Schwendiman supports voluntary annexations. Mayor Larsen said it makes a lot of sense to plan for growth in this area. Mayor Larsen said it is time to meet with the county to increase the size of the impact area. Chairman Dyer explained the overture to review and expand the impact area has been made to the county.

D. Final Plat for “The Meadows” at 1,000 West 7th South

Planning and Zoning Administrator Leikness provided a staff report on the plat and reviewed the property on the overhead screen. They have been reviewed for design standards. The plat has an open space area for a detention pond and parking areas. The sidewalk will be tied into existing units on previous developments.

Council Member Erickson asked if the building on the north meet the setback requirements. He was concerned with the buildings proximity to each other. They are really close. Planning and Zoning had a couple of conditions for plat approval. One condition was a contract with the Steiner’s to have an exit going north. Planning and Zoning Administrator Leikness said it could be conditioned on signing the final plat. One of the street names on an existing plat was changed on this plat from Red Tape Drive to Timberhawk Drive.

Council Member Erickson moved to approve Final Plat for “The Meadows Phase Two” with those conditions recorded; Condition One: contract with the Steiner’s to have an exit going north. Condition Two: Street name change from Red Tape Drive to Timberhawk Drive. Council Member Benfield seconded the motion; Discussion: Council Member

Stevens would like the applicant or a representative present for the final plat reviews. Council Member Mann said this type housing is needed in the community. Mayor Larsen said they have made improvements to the properties. All voted aye, none opposed.

The motion carried.

E. Merit raise program modifications – Richard Horner

Finance Officer Horner reported on a work meeting with Council Member Schwendiman, Council Member Stevens, and Council Member Young concerning the merit raise program. There were several reasons to visit this policy for professional employees. The main two reasons for modifying the merit program:

1. Professional positions do not have certifications to increase knowledge and value to the department. Professional employees are not compensated when they improve their skills or knowledge level. Employees are leaving city employment because they do not move up the scale fast enough to allow adequate compensation.

2. Merit raises have been 0 or 4% in the past without a variable option. The proposed scale will be metered based on performance from 0% to 4%. In the past, an OK performance still received a 4% increase. Now, the employee's merit raise can be varied to better manage the employee. The merit raise recommendation goes to the supervisor or forman, then to the department head if applicable, and the final approval is done by the Mayor.

Finance Officer Horner asked City Council for approval to add to the personnel manual.

Council Member Erickson moved to approve the Merit Program changes to the Employee Manual as presented; Council Member Schwendiman seconded the motion; Discussion: Council Member Mann asked the three council members working on the changes if they were in agreement with the changes. Council Member Schwendiman said it does make sense to make these changes. They all indicated it was a good change. Mayor Larsen agreed it was a good change. Dept heads reviewed and approved the changes. Mayor Larsen asked for a vote on the changes. All voted aye, none opposed.

The motion carried.

F. Audit Report – RUDD & COMPANY PLLC

Brad Reed from Rudd & Company reviewed the audit with the City Council. The auditors look for trends that may indicate a reportable item. One trend in the past few years is the revenues and expenditures have been increasing. The financial officer provides the bulk of the data for the financial report. It takes two or three weeks of review to file a report after the audit. They do a lot of testing of the numbers and formulas to verify correctness and completeness of balances in the financial reports. The audit was reviewed for about three hours yesterday by Mayor Larsen, Council Member Benfield, and Council Member Erickson. Rudd & Company select transactions and reviews documentation including prior year's data. They look at trends in different accounts like sewer and water trends. Next year the city's treasure will provide the numbers for the report. They do the review to see if the city's numbers are correct with bank balances, documentation, etc. Purchases are reviewed and compared to the assets.

Council Member Benfield asked for the type of audit they conduct. Mr. Reed said it was not a fraud audit. They only do an audit to test controls and balances. The City Council sets the tone and the control for the audit. Internal controls are reviewed for following proper procedures. The city has been fairly consistent from year to year.

Council Member Erickson commented there are two financial activities in city government, Governmental and Business type.

Note: One activity (Governmental funds) focus on current inflows, outflows and balances. Business-type financial activities are called enterprise funds which are supported by user fees. They include utility fees and golf course fees.

Mr. Reed continued to review the audit report for year end September 30, 2006. He noted LID 31 should have been included as a major fund because it was a major item during the budget year. Rudd & Company reported a clean audit opinion for the city.

Note from the Audit Report: “Internal Control Over Financial Reporting”

“In Planning and performing our audit, we consider the City of Rexburg, Idaho’s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinions on the financial statements and not to provide an opinion on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. **We noted no matters involving the internal control over financial reporting and its operations that we consider to be material weaknesses.**”

Mayor Larsen thanked Rudd & Company for the audit. He said Finance Officer Horner has worked hard and he has done an excellent job with the city’s financial activities.

Any questions concerning the audit can be directed to Rudd & Company or the City’s Financial Officer, Richard Horner. The audit report is available at 12 North Center in City Hall.

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

G. Preliminary Plat for Stonebridge Subdivision Div. 4 – East 7th North – The Dyer Group

Winston Dyer authorized representative for BC Stonebridge LC reviewed the plat on the overhead screen. Division 4 of Stonebridge Subdivision is in the NE quadrant of the development on East 7th North. Winston reviewed the master plan and the separate divisions inside the master plan. Division 1 and Division 3 have been constructed. Division 2 is waiting for a resolution of an agreement with the city concerning the bike path near the Teton River. Division 6 and Division 7 will follow at a later time. Division 4 is 6 acres with 24 lots for single family and twin homes. Division 4 will add an additional 40 students to the local school district. There is a storm water system in the subdivision with a drainage pond down by the river. A temporary drainage pond is in use there at this time. Winston reviewed the water (12 inch line) and waste water (12 inch gravity line) lines servicing the plat. The utility lines are consistent with the utility master plan. The plat has been reviewed and recommended by the Planning and Zoning Commission.

Mayor Larsen asked about the standard fence along 7th North. Winston said there was pre-cast concrete with simulated cobblestone. The fence will continue with this development along 7th North along with decorative lighting. Intersections will be lit with a different lighting scheme for more light. The developer is willing to do what is required for intersection lighting. Mayor Larsen asked if the decorative lights will be transferred to the city. Winston indicated they can become city lights. The light charge is based on the fixture wattage with the city being responsible for maintenance and bulb replacement.

Council Member Benfield asked about drainage problems on Phase One. Public Works Director Millar said it was a settling problem in the street compaction. It is planned for corrective construction with this development this spring. Winston said heavy rain last spring did cause flooding at an intersection. It has been fixed.

Mayor Larsen asked to bring to a resolution the bike path along the Teton River. Let's see what we can do to resolve the issue. Winston said the owner needs more information on the bike path plan with concrete evidence. University resources (architectural planning students) did some planning ideas last spring. The developer is looking for specific recommendations and details from the city on width, etc.

Council Member Young asked about ownership. Winston said DC Stonebridge owns property to the center of the Teton River. They would grant right-of-way for the bike path.

Council Member Young moved to approve the Preliminary Plat for Stonebridge Subdivision Div. 4; **Council Member Stevens** seconded the motion; Discussion: **Council Member Mann** said it was good with a good buffer. **Mayor Larsen** called for a vote: all voted aye, none opposed. **The motion carried.**

H. Review Congressional Appropriations – Richard Horner

Finance Officer Horner reported on four areas of funding requests through The National Group and Attorney John Harmer for possible congressional funding. This is the collaboration report from The National Group and city staff after working through the city's requests.

1. 7th South construction from the Middle School to the University and 12th West design: The total request for streets is 2.5 million in appropriation funding.
2. Storm Water for ½ million.
3. Riverside Park for 1 million.
4. The National Group will file for a FEMA grant for a fire ladder truck.

Mayor Larsen gave a quick update on the State Interoperability Executive Council concerning 911 communications funding. Funding requests through SIEC need to have support from more than one public entity. He indicated the funding can not be successful if an entity tries to go it alone. **Mayor Larsen** suggested working closely with the SIEC and the Idaho Bureau of Home Land Security for those types of funding.

Finance Officer Horner indicated the US Congressional delegation wants all of Rexburg's requests in one packet. **Mayor Larsen** said the city has been working with Senator Craig's office and Congressman Simpson's office for congressional funding.

Old Business:

- A. **LID 37** – set public hearing date for March 07, 2007.

Engineer Keith Davidson contacted two of the four properties on 5th West to secure right-of-way. He will continue to seek their approval for the sidewalk right-of-way. Two of the property owners were open to the city paying for the sidewalks if the residents provide the right-of-way. They wanted to about it for a few days. Keith asked to have the LID 37 set public hearing agenda item on February 21st agenda to allow additional time for the residents.

Council Member Stevens asked about the options for the city to secure safe path to schools in this neighborhood. City Attorney Zollinger explained the city could require sidewalks and pay fair market value for the right-of-way. **Mayor Larsen** said the city has offered to install the sidewalks for these residents if the right-of-way is provided by the residents. He mentioned another option is to negotiate a payment for the right-of-way for the sidewalks.

Council Member Schwendiman is willing to move forward with the sidewalks on the LID if the property owners have been contacted with a proposal from the city. **Mayor Larsen** did not want to delay the LID for another year.

The City Council was agreeable to reschedule this item to the 21st of February to set the public hearing on March 7th.

Engineer Keith Davidson wanted to take 6th South out of LID 36 until the properties are developed in the future. The property owners are opposed to extending the street at this time.

Council Member Schwendiman mentioned Boyd Holdaway on Sunrise Drive was concerned with his LID assessment. **Engineer Keith Davidson** will review the estimate to identify if it is for curb, gutter, or sidewalk.

Council Member Benfield was concerned with the comments from the neighbors on Millhollow Road. The neighbors are questioning the cost of the three foot strip of street and a one foot flat curb. They want a breakdown of the costs. City Attorney Zollinger requested the City Council to wait until the project is completed before giving a final number due to the possibility of change orders changing the final cost.

Engineer Davidson said they were given estimates. They are welcome to come into City Hall and review the numbers for their property with city staff.

Council Member Stevens said their costs are about the same as the cost of a five foot sidewalk. He estimated their costs would be about \$17.00 more per foot if they installed a traditional curb, gutter and sidewalk.

Report on Projects:

1. **Public Works Director Millar** will be planning a ribbon cutting for the new animal shelter facility. The facility may start receiving animals next week. The City Council recommended having an open house after the facility has been opened for a few months. A delayed open house will allow time for coordination with 4Paws, and some landscaping, signage, etc.

2. **An automobile accident on 2nd East and 2nd North** took out the equipment that operates the traffic signal light. There have been some complaints with the four-way stop. The State of Idaho will not change the intersection control from a four-way control to a two-way control. The intersection can't be controlled by one police officer in the middle of the intersection because there are too many lanes to control. The metal cabinet has to be manufactured and delivered. The replacement equipment for the signal light may be installed by the end of next week.

3. The South Arterial bid opening with ITD will be on the 27th of February.
4. Millhollow Road will be under reconstruction in early spring.

Calendared Bills and Tabled Items:

- A. BILL Introductions:** - NONE
- 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

Old Business: - NONE

Mayor's Report:

1. February 08, 2007 Mormon Way of Doing Business with proceeds donated to the Westwood Theatre.
2. February 12, 2007 County Commissioner meeting to discuss Community Block Grant.
2. February 14, 2007 Mayor's Youth "Valentine Dance and Movie"
3. February 15, 2007 Riverside Park Community meeting at the Westwood Theatre
4. February 27, 2007 Department Head goals

5. February 28, 2007 State of the City report at the Chamber Forum
6. Madison leadership institute

Mayor Larsen will attend a regional workshop in Idaho Falls next week. He mentioned a new communications effort under the umbrella of GNET to have wireless communications for the city staff and other subscribing customers in Rexburg. The Regional Development Alliance has been working hard to put together some community meetings on global nuclear energy partnerships. They are preparing for a meeting concerning the INL on March 15th, 2007 in the Red Lion in Idaho Falls. Mayor Larsen could not stress how important these meetings are for the region. It would be a significant event to have this project awarded to the INL. Any support the community can demonstrate would be helpful. The Congressional delegation has already had letters written to them in stating they live in this area and they are not in support of a nuclear project in Idaho. The list of people in opposition show the closest person in opposition lives in Boise. The DOE and others in Washington DC are receiving these anti-nuclear letters. The State Interoperability Executive Council (SIEC) has been asked by the National Governors Association to send a team to the National Governors Association meeting in Los Angeles in March. Mayor Larsen has been asked to be on the team of five from SIEC to the National Governors Association to learn how to receive funding from the Department of Homeland Security. Mayor Larsen's expenses will be reimbursed by the Department of Homeland Security.

Mayor Larsen and Council Member Schwendiman asked to be excused from the City Council meeting on February 21st, 2007.

Mayor Larsen indicated Madison County has asked for a letter of support from the city for a grant application to Local Highway Assistance Council (LTAC). They are requesting a financial commitment from the city to go along with the letter of support for funding of a new county road at 5000 South which would go east to the Erickson's dugway. The road would eventually tie into the East Belt Loop. A commitment letter for \$1,000 in support of the project would help the county for this grant application. The road could be scheduled for construction in five years connecting to the new south interchange at Thornton. The City Council was supportive of the commitment letter to the county.

Council Member Stevens handed out a document showing the criteria established by the School Board. They are seeking City Council input on the document.

Council Member Erickson moved to go into executive session due to litigation; Council Member Mann seconded the motion. Mayor Larsen called for a roll call vote:

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| <p><u>Those voting aye</u> Farrell Young Randy Schwendiman Donna Benfield Rex Erickson Bart Stevens Christopher Mann</p> | <p><u>Those voting nay</u> None</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|

The motion carried.

Executive Session:
 Executive Session ended.

Adjournment

Attest: _____
 Mayor Shawn Larsen

 Blair D. Kay, City Clerk