

City Council Meeting

September 03, 2008



CITY OF
REXBURG
America's Family Community

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September 03, 2008

Mayor Shawn Larsen

Council Members:

Christopher Mann – Council President
Rex Erickson Randy Schwendiman
Bart Steven Richard Woodland
Adam Stout

City Staff:

Stephen Zollinger — City Attorney
Richard Horner – Finance Officer
John Millar — Public Works Director
Val Christensen – Building Official
Blair Kay — City Clerk

7:00 P.M. City Hall – Pledge to the Flag

Roll Call of Council Members:

Present: Council Member Mann, Council Member Erickson, Council Member Stevens, Council Member Schwendiman, Council Member Woodland, Council Member Stout and Mayor Larsen.

Mayor Larsen welcomed BYU-I students **Melissa Van Uitert** and **Mindy Danielle Vanderlinden** as City of Rexburg interns to the meeting. They work in Customer Service at the front counter. Mayor Larsen said they do a great job for the city.

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

Donna Benfield at 201 Millhollow Road requested to provide input at the public hearing on the Comprehensive Plan portion of the meeting.

Lindsey Paine at 4611 North 375 West from the Madison Dragon's Soccer team thanked the City of Rexburg for the goals at the Nature Park. They are sponsoring a free soccer clinic at the Nature Park on October 08, 2008. She asked for bleachers for the field. Mayor Larsen agreed to find more information about available bleachers, and asked her to contact the City's Recreation Director, Bob Yeatman, who can assist with advertising the event.

Presentations:

1. Fair Housing Report – Val Christensen

Building Official Val Christensen indicated East Central Idaho Planning and Development (ECIPDA) provided this report for grant applications. The Fair Housing Committee members are Theresa Brown (Real estate agent), Jim Hirrlinger (Real estate mortgagee), Val Christensen (City Building Official) and Brian Schmidt (Handicapped, BYU-I employee). Action items for the committee include providing local literature for the public and reviewed city code for compliance to fair housing requirements. The report will be sent off to HUD.

Council Member Stout asked if the Comprehensive Plan information came from the approved plan or the draft plan. Building Official Christensen said the language from the draft plan was utilized.

Council Member Mann moved to accept the Fair Housing Report; Council Member Stevens seconded the motion; all voted aye, none opposed. **The motion carried.**

Committee Liaison Assignments for 2007:

A. **Council Member Chris Mann** *Museum Committee · Beautification Committee · Emergency Services Board*

Council Member Mann indicated the Emergency Services Board met this evening and approved four new hires in Fire Department and Emergency Services. No other meetings were conducted. There will be an open house from 3:00 P.M. to 5:00 P.M. tomorrow for Spencer Larsen's retirement party.

B. **Council Member Rex Erickson** *Golf Board · Planning & Zoning · Rexburg Redevelopment Agency*

Council Member Erickson reported the Golf Board and the Planning and Zoning Commission met while he was out of town. The Redevelopment Agency met this week; however, their decisions would not be discussed at this meeting.

C. **Council Member Bart Stevens** *Airport Board · Romance Theatre Committee · MYAB · School Board*

Council Member Stevens reported the Mayor's Youth Advisory Board (MYAB) met tonight and elected leaders. The group is 73 strong this year compared to less than 20 in past years.

Council Member Stevens moved to ratify the 73 names to the MYAB for 2008-2009; Council Member Woodland seconded the motion; all voted aye, none opposed. **The motion carried.**

D. **Council Member Randy Schwendiman** *Parks & Recreation · Traffic & Safety Committee*

Council Member Schwendiman reported the Hidden Valley Park and the Millhollow Road triangle are completed. The irrigation systems are working well at both locations.

Mayor Larsen asked the City Council to ratify the appointment of Leslie Berger to the Parks and Recreation Committee.

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

E. **Council Member Richard Woodland** *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*
- Nothing to report.

F. **Council Member Adam Stout** *Legacy Flight Museum · Trails of Madison County*

Council Member Stout reported the bike path from Rexburg to Sugar City has been paved with Grant monies. The city has been qualified for a grant by using matching funds for improvements to the trails system behind "Jack in the Box" restaurant. The grant for \$90,000 has been approved. It is good news. Mayor Larsen indicated at the request of the Tabernacle Board, the 1924 LaFrance Pumper Fire Truck has been moved to the Legacy Flight Museum for display. The building housing the LaFrance Pumper Truck will be from the Tabernacle property.

Public Hearings:

7:20 P.M. Comprehensive Plan 2020 and Comprehensive Plan Map – Staff
(**Resolution 2008 – 16** adopting the Comprehensive Plan Map)

Area One: 336 W. 3rd N. was recommended for approval by Planning and Zoning

Area Two: 208 E. 3rd S. was not recommended for approval by Planning and Zoning

Area Three: 130 W. 1st S. and 226 S. 1st W. were recommended for approval by Planning and Zoning

Area Four: Properties west of the Rexburg Medical Plaza were not recommended for approval by Planning and Zoning.

Mayor Larsen provided some background with the recent meetings regarding the Draft Comprehensive Plan and Map. The Draft Comprehensive Plan and Map was tabled August 20th after hearing public testimony; and the draft plan was tabled again at a work meeting on August 25th. A decision was made on August 25th to seek approval of the Comprehensive Plan Map and defer a decision on the Comprehensive Plan document to a later meeting. The draft Comprehensive Plan document will be discussed on September 17th; therefore, the discussion tonight will be on the Draft Comprehensive Plan Map.

GIS Director Craig Rindlisbacher reviewed the Draft Comprehensive Plan Map and acknowledged GIS Analyst Talsan Schulzke's work on the map. The requested changes by staff and City Council including applicant changes requested for Area One and Area Three are included on the draft map. These changes have been discussed in earlier public meetings.

Council Member Mann asked for clarification on Neighborhood Commercial/Mixed Use and Highway Commercial.

Planning and Zoning Administrator Leikness reviewed the difference between Neighborhood Commercial/Mixed Use and Highway Commercial:

Neighborhood Commercial/Mixed Use applies to professional office land use:
(Zones allowed)

- (NBD) Neighborhood Commercial
- (PO) Professional Office
- (OS) Open Space

Highway Commercial:
(Zones allowed)

- (RBC) Regional Business Center
- (GBD) General Business District
- (CBC) Community Business Center

GIS Director Rindlisbacher noted map changes are identified by date on the draft maps. As the changes are initiated on the draft maps, the maps are date stamped on the bottom of the map for a historical record.

Mayor Larsen opened the public hearing on the Comprehensive Plan Map.

The City Council reviewed the changes proposed to the map.

Mayor Larsen reviewed the four areas requesting changes to the Comprehensive Plan.

Area 1:

(Located in the City of Rexburg) 336 W. 3rd N.

It is proposed that the following tract of land currently designated as “**Moderate-High Density Residential**” as shown on the City of Rexburg *Preferred Land Use Map* be changed to “**Industrial**”:

Area One was recommended by Planning and Zoning for approval to City Council.

Area 2:

(Located in the City of Rexburg) 208 E. 3rd S.

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 “**Moderate-High Residential Density**”:

Area Two was recommended by Planning and Zoning to be denied by City Council.

Area 3:

(Located in the City of Rexburg) 130 W. 1st S. and 226 S. 1st W.

It is proposed that the following tract of land currently designated as “**Commercial**” as shown on the City of Rexburg *Preferred Land Use Map* be changed to “**Mixed Use**”:

Area Three was recommended by Planning and Zoning for approval to City Council.

Area 4: (Located in the City of Rexburg)

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 “**Mixed-Use**”:

Area Four properties were recommended by Planning and Zoning to be denied by City Council.

A. Legacy Leasing: 29 South 2nd East, 35 South 2nd East, 45 South 2nd East, 228 East Main, 219 East 1st South, and located directly behind the home at 219 East 1st South

1. 29 South 2nd East:
2. 35 South 2nd East:
3. 45 South 2nd East:
4. 228 East Main:
5. 219 East 1st South:
6. Located directly behind the home at 219 East 1st South:
7. Located directly behind the home at 29 South 2nd East:

8. Located directly behind the home at 35 South 2nd East:
9. Located directly behind the home at 45 South 2nd East:
10. Located directly behind the home at 55 South 2nd East:
11. Located directly behind the home at 65 South 2nd East:

The commercial property on 2nd East (Sakota & Hegstead properties) was also changed to Highway Commercial on the draft map.

Donna Benfield at 201 Millhollow Road has property on 2nd East that has been changed on the draft map. The new change was neighborhood Business District. She wants the Highway Business District to remain on their property. 2nd East is the Commercial Corridor coming into Rexburg. She would really appreciate Highway Business District for her property.

Dr. Steven Lofgran at 1216 Red Cedar Road speaking in support of Area Four. He practices medicine in the Medical Plaza location. It is a very ideal area only 90 seconds from patient's bedside at the hospital. Dr.'s Bates and Lofgran want a location next to the hospital to practice medicine. He is not a partner in the proposed medical buildings (buildings meshed with the community ideal for members of the community) and Dr. Lofgran would not benefit financially from the proposed new building. He did not think the area was compatible for rental housing.

Ken Sakota 1245 North 2nd East spoke in behalf of the family. He was pleased the four different land uses for their land was changed back to a single commercial land use designation for the property and he praised the City Council for their consistency.

JoAnn Nef at 208 East 3rd South reviewed their proposal. She wanted to clarify the situation with the surrounding property. There is a high density building in the area. They have cleaned up a neglected home. They are not asking for a high rise three story apartment building, Maverik, bed & breakfast, or an alumni house. They are very consistent in protecting the neighborhood. They have come up with the perfect compromise with three conditions. 1. Six girls only in the basement. 2. Parking would be in the back yard of the home. She indicated the parking would not be visible from 3rd South. Students from out of the immediate area are the students that park along 3rd South and encumber the neighbor's property on 3rd South. 3. They will maintain the home as a beautiful gateway to the beautiful eastern neighborhoods. If the City Council wants a conditioned approval that there are girls in the basement; they can do it because there are three bedrooms in the basement; therefore, she will be happy to do so. Two families would not cover the mortgage and pay professional landscapers. Money gained from the girls would allow the owners to pay for professional landscapers. The basement entry is not visible from 3rd South. There is no encumbrance on the neighbors at all. This proposal is in the best interest of the neighborhood and the community. This property is next to a three story apartment building. **Mrs. Nef** stated "our purpose absolutely marries with your purposes in the Comprehensive Plan". The proposal is next to an arterial, across the street from campus, and it will be a great compromise. It is not a precedent for the neighborhood. This home has the potential to be a beautiful gateway to the neighborhood.

Dr. Gary Lovell at 473 Morgan Drive has a medical office in the Professional Plaza. He has been a part owner in the Professional Plan since 1983. He reviewed the Comprehensive Plan in place when they purchased their properties. Commercial Business District was the land use designation at that time. Dr. Lovell noted Mayor Porter said the area was planned as a commercial area. Anticipating the opportunity to expand, they have 14 medical service providers working out of the Professional Plaza office space. It is not a cheap thing to purchase the homes to expand the medical facilities. The land use designation was changed against the recommendation of Planning and Zoning in 2002. They were not notified of the change from commercial land use to residential land use in 2002. When they purchased the homes, one of which was Mayor John Porter, they were advised it would be a commercial district. If you would take an inventory of all of the property owners on a street adjacent to this proposal, only two residents do not want it to be a commercial zone. Property owners on the street have sent letters supporting the commercial land use designation. He asked the City Council why they are being penalized from the original plan to have the area as commercial. He requested the change back to commercial.

Dr. Robert Lofgran at 1299 Morning Side Drive indicated historically, the Professional Plaza was established by a group of professionals for professionals. The medical staff at the hospital has tripled in the last few years. He asked for a location close to the hospital to provide primary care to patients at the hospital. The proximity of the professional office space being close to the hospital is crucial to patient care. Seconds become very important for the doctors to be able to provide medical care in primary practice. The internist need to be available to go to the hospital immediately to treat the needs of new born babies in the special care nursery. He sees the need to have practitioners near the hospital for patient care. Dr. Lofgran mentioned the trend in other communities to have

doctor's offices close to hospitals. Since the hospital in Rexburg has made the decision to stay and expand in their current location, Dr. Lofgran was of the opinion Rexburg would follow the trend of professional offices near the hospital. Walgreens pharmacy and Rexburg Home Health have added to the medial corridor in Rexburg. They have met with the neighbors in the neighborhood and the majority of neighbors are in favor of the proposal.

Aaron Marshall at 115 East 1st South lives on the corner is fine with the plan. He purchased the home a year ago. He is in favor of the proposal.

Pat Hinton at 55 South 2nd East lives at the home owned by her grandmother. Ms. Hinton will become the owner at her grandmothers passing which is in Area 4. She currently pays property tax and upkeep on the house as if it were her own. Her grandmother has requested the property remain residential. She missed the neighborhood meeting because she was out of town. She said there wasn't a lot of notice to the neighbors for that particular meeting. She believes this is not the right time to change that particular area, and she asked the doctors for more information on the plans so they can reach a compromise. She encouraged the City Council to follow through with their recommendations as discussed in the work meeting on the 25th of August and with the recommendations of Planning and Zoning on July 17th.

Ron Lindsey at 70 South 3rd East, adjacent to professional plaza. He is concerned about the effects the expansion of Professional Plaza will have on the neighborhood. Mr. Lindsey provided four points for his concerns:

1. Opposed to more exits on 2nd East; he believes it will cause more traffic in neighborhood.
2. Houses are nice homes with nice garages and secure back yards.
3. No guarantee Professional Plaza will remain a medical services provider.
4. No specifics on the proposed building in a variable footprint.

Shawn Gee lives at 2252 East Hwy 33 in Sugar City and he is employed by Dr. Lovell and Dr. Lofgran. He commented on the Comprehensive Plan Area Four. He reviewed the current status of the homes in the area located between a commercial area and professional offices in their back yards. If one looks at the history of the home sales in the neighborhood, he believes the homes would be sold as rentals if left in the current land use plan of Low Density Residential. Dr. Lovell owns two of the homes fronting 2nd East and he does a very nice job maintaining the landscape of the homes. He pointed out future homes sales as rentals would let the neighborhood become rundown on one of the busiest intersections in Rexburg. Mr. Gee believes leaving the area residential protects the interests of one segment of property owners; however, it ignores the interests of the other property owners. He has talked to some of the property owners who are approaching the time they would be interested in selling their homes. Two of those property owners would like to sell their property as commercial with the possibility of a professional overlay (development) in this area. The people living there wanting to maintain a residential status would not be forced to sell; however, the people who do want to sell may lose an opportunity to sell at the best price.

Evan Nef at 208 East 3rd South reiterated the need to consider the three story building recently built to the south of the property which left the home vacant for three years. He stressed to the City Council his wife's (JoAnn Nef) proposal would be a great asset to the community.

Rob Meredith at 611 Autumn Court is a Medical Plaza Physician. He is concerned with the city's long term commitment for the area. Because of this lack of commitment to the area, the doctors are hesitating to spend money with a firm to provide a plan to the neighbors. The doctors cannot adequately guess the cost of building these new facilities. He was not sure why proposed commercial use in addition to medical use would be a concern to the neighborhood. The area has a need for parking so some commercial use may be necessary to have medical facilities due to the parking load required for medical patients. Also, with the neighborhood's close proximity to so many businesses, he is amazed that people still refer to it as residential when it is clearly surrounded by professional buildings. It is the very best spot for office space because it is so close to the hospital; especially for the fields of obstetrics, gynecology, pediatrics, and internal medicine. There needs to be space close to the hospital.

Richie Webb at 680 Wheatland Drive has been working with the doctors to put together a plan workable from the doctor's perspective and acceptable to the city and the neighborhoods. They have had a neighborhood meeting and also they have gone door to door specifically on the west side of Professional Plaza. The city and county have committed a large commitment to the hospital. The doctors and patients have a need to have good access to the hospital. The proposed Comprehensive Plan language has proposed business/neighborhood nodes where people can live and walk to shopping areas. This project would meet those plans and objectives directly. They do not have a specific plan at this time. Parking issues including size of buildings, whether single or multiple units

to maximize the available space have been reviewed. It is going to take time and money to come up with a plan. Some property owners may want to sell their homes to add to the base of the project. The Comprehensive Plan change would allow them to move forward with the city and the neighbors to develop a plan. It is the appropriate use for this area. They would like to work with all concerned if the Comprehensive Plan is amended.

Mayor Larsen closed the public testimony portion of the public hearing and asked for the City Council's deliberation.

Area One: Recommended for approval by Planning and Zoning. Mayor Larsen asked if anyone had any concerns or changes to the map as recommended. No concerns.

Area Two: Recommended for denial by Planning and Zoning.

Area Two discussion:

Council Member Schwendiman asked whether the request made to change the house into girl's dormitory housing was different from the original request. Mayor Larsen clarified by indicating the request dealt with the Comprehensive Plan and changing the house from Low to Medium Density Residential. The other issue discussed was to only have dormitory housing in the basement. This change to Medium Density Residential would allow the applicant the opportunity to submit a proposal with conditions. The whole house would have the ability to be converted to dormitory style housing. Council Member Schwendiman inquired whether or not the properties east of the house are low density residential. Mayor Larsen indicated an upstairs/downstairs apartment would be allowed in the current land use designation of Low Density Residential. **City Attorney Zollinger** verified that they are indeed Low Density Residential Two (LDR-2).

Council Member Stout would like to consider the proposal a buffer and he believes changing the house into girls housing would be a wise decision because the house has been vacant for so long. The house is adjacent to an apartment building; therefore, he is in favor of changing the Comprehensive Plan.

Council Member Schwendiman inquired as to how it was allowed to be used for something other than a single family home for the last six years. **City Attorney Zollinger** explained the history since the apartment housing was built south of the home six years ago. He stated that at one time it was re-zoned because it was being used by the university; however, since then the zoning may have reverted back to LDR-2. Since the apartment building was build south of the home, it has not been used for single family housing.

Council Member Erickson had the idea the applicant was only proposing girls dormitory housing in the basement. He questioned whether the issue at hand was to compromise and only put girls in the basement.

City Attorney Zollinger explained the Comprehensive Plan has to be changed first before the applicant can proceed with the proposed details for a compromise. The applicant can make a zone change request based on a certain set of parameters. If the applicant changes their application to use the whole house for dormitory housing, the city could turn down their request for a zone change allowing dormitory housing. Dormitory housing constitutes more than two unrelated groups living together.

Council Member Erickson was favorable to the basement being changed into a girl's dormitory and agreed with Council Member Stout.

Council Member Stevens was concerned about the discussion and the lack of neighbors present.

City Attorney Zollinger explained the change would only allow the opportunity for the change; not the change. He clarifies that the comprehensive plan is a visioning document that states the furthest we are allowing things to change, not necessarily that they would or have to change. Make the change on the comprehensive plan and see if they can bring forward a proposal that you will allow. Changing only the comprehensive plan doesn't allow it; we provide them an opportunity to request it. Council Member Erickson explained the dormitory housing in the basement is a different situation from the original application because half of the homes up there along 2nd East have apartments in the basement. City Attorney Zollinger explained the dormitory housing (more than two unrelated groups) is different than family apartments in homes.

Council Member Erickson reasoned if the change from low to medium density was approved, the city would have the opportunity to limit the number of people in the basement. City Attorney

Zollinger said the city would have a myriad of opportunities to condition their zone change upon a specific request. The zone change could be allowed upon the following conditions. Failure to act upon those conditions would result in a reverter. The last example was on Barney Dairy Road where a zone change to Medium Density was allowed with conditions. The conditions were not met, so the zoning reverted back to the original zone. Council Member Erickson indicated his agreement with Council Member Stout with the aforementioned explanation. This will allow the city to control the density in the home, so it does not give the applicant an open book. He did not have a personal problem with the applicant developing their basement. Council Member Stevens wished the applicant would have presented this proposal to the neighborhood in the first place. He was uncomfortable with the absence of those who would have a desire to speak to this issue. City Attorney Zollinger stated the city allowed the discussion in Planning and Zoning to go well beyond the Comprehensive Plan discussion. The Comprehensive Plan document is to be used as a visioning document for the community. The visioning document says this is the “maximum” the city is willing to allow land use to occur in that area. It doesn’t say the city “will” allow it to change to this density; only that it is where the city is willing to allow the density to go. If this corner lot is the location where the city wants to create a buffer between High Density Residential to the south and Low Density Residential to the east, then make the change on the Comprehensive Plan and see if the applicant can bring forth a proposal the city will allow. Changing the density on the Comprehensive Plan doesn’t allow it to happen; it only allows an opportunity to request the change. Council Member Erickson agreed it was only an opportunity to request the change. It is not an open license.

Council Member Schwendiman stated the neighbors will have the opportunity to come in and voice their opinions in a zone change hearing.

Council Member Mann said it is always hard when you talk in front of people you care about, but he thought the citizens in that neighborhood made it quite clear how they felt. He never thought the applicant was going to put 12 girls in the home because it would not qualify for student housing without a managers unit. He thought people understood what the applicant was proposing the last time they were here. He asked to keep the map the way it is without a change to this parcel.

Council Member Stevens referred to the three story apartment building south of this property as a reason why the Porters left the home. He wanted to clarify indicating the Porters were a part of the process to allow the three story building. It was all part of the arrangement for the Porters leaving the home. City Attorney Zollinger explained it would be fair to say the Porters left while the three story building was being built. He referred to a comment from Randall Porter in Planning and Zoning stating they would never have allowed it to be built if they remained in the home.

Mayor Larsen took a poll of the City Council to see where the votes would land on Area 2.

Council Member Stout was in favor of a change, **Council Member Schwendiman** was in favor of a change, **Council Member Stevens** wanted to keep it as is, **Council Member Mann** wanted to keep it as is, **Council Member Erickson** was in favor of a change, and **Council Member Woodland** was in favor of a change. Mayor Larsen said the final vote on the map would reflect the change for this request.

City Attorney Zollinger explained the vote can’t be formalized on one individual area; else the other areas would have to wait an additional six month for a decision.

Council Member Mann asked for clarification on the final vote. He wondered if there will there be a vote for each area or just one vote for the entire map. City Attorney Zollinger explained there was only one vote for the entire map, so a vote against one change would be a vote against the entire map.

Area Three:

Mayor Larsen noted this area was recommended for approval by Planning and Zoning. No concerns from the City Council.

Area Four:

Council Member Mann believes there is a compromise for this area. He believes there is a compromise out there by working with the doctors and the neighbors. If the change is made tonight, it would be too much of a blank check. He would like the doctors to come back with a plan everyone is happy to see. It would take a little bit more planning; then, hopefully the city could then change the map with a more agreeable compromise for both the neighbors and those at professional plaza. He is opposed to changing the map tonight.

Council Member Stout didn’t believe this change was any different than the change to the old Porter house. This change would be to a neighborhood commercial land use application. He

believes making the change to neighborhood commercial opens the door, but it doesn't finish it. There is still more that has to be approved through the zoning process.

Council Member Schwendiman agreed with Council Member Stout. He did not know how long they could forestall a natural shift in this area at some point in time.

Council Member Erickson agreed the change should be made to commercial. He said the City Council is just kidding ourselves by putting this change off. He thinks it should be changed to reflect what the City Council thinks it is going to be in the future. It doesn't mean anyone will have to give up their home. It doesn't mean anyone will have to sell their home. It doesn't mean anyone will have to do anything until a plan comes from Legacy Group stating this is what we want to do. At that point the city can say yes or no to the proposal. It just opens the door for people who want to sell their property. The change does not give the requestor a blank check. He believes the City Council has their heads in the sand if they don't think the area will change some time. He indicated in the City Council work meeting on August 25, they would give the applicant an additional six months to develop a plan which he did not agree was the right thing to do. Then the decision could be made to allow the change or indicate it would never change. There was not a vote on the 25th discussion to hold the City Council to a decision. If it comes to a vote, he supports the change. The other concern he mentioned was the land use application for this area used to be commercial before his time on the City Council. The property was purchased by people under the commercial land use designation; and then the City Council stepped in and made a change which every City Council has the right to do. So, people who bought property to make a change to the Professional Plaza are now left out in left field because they can't do anything with the property they had purchased. He indicated he is in favor of the change to commercial land use.

Council Member Stevens would like to see some kind of compromise in Area Two with the Porter home and the doctor's proposal. He commented on the work he had done in the Porter home over a 25 year period. He would like the property owners be able to utilize their basement; however, he does not want to see the change without the neighbors being involved. Area Four, he understands what it is like to plan for something when there is no light at the end of the tunnel. He understands the concept of not wanting to spend a lot of money on a plan when there is no possibility. He would like to see the developers develop a plan; but maybe the compromise is to change the land use application which would allow the plan to be developed. The neighbors would understand within six months they would see a proposed plan for the area. He would be opposed to a three story building with a parking lot next to his home. Neighbors need to be involved. Maybe this is the vehicle to allow the plan to be developed with input from the neighbors.

Council Member Woodland said the change to Area Four would benefit a number of property owners who want to sell. Without the change, it would minimize the property values for a sale at a future date. He would support the change.

Council Member Schwendiman said the point is looking at the land use application long term. The applicant will have to come back to the city with some plans and other proposals in future discussions which could control the development, parking, access, etc. The neighbors will have an opportunity to provide input at that point in time. He would not approve a plan that allowed a lot of traffic onto 2nd East. They would have to go through the Professional Plaza and access Main Street.

Mayor Larsen explained the discussion this evening on the Comprehensive Plan is for a land use designation not a zone change. He stated the area has always been zoned LDR-1 and originally had a Professional Plaza overlay, and the Comprehensive Plan had it labeled as commercial along 2nd East, which have both changed. The decision made tonight doesn't change any underline zoning that currently exists on the property. If the applicants needed a zone change, the zone change request would be brought up in Planning and Zoning Commission public hearing as well as in City Council. Mayor Larsen indicated there seems to be support on the City Council to move the land use designation forward to Neighborhood Commercial Mixed Use for Area Four.

The final requested change to the map was the Benfield's property along 2nd East. **Council Member Mann** would support their request to leave it the same as the Sakota's property as previously designated for commercial. **Council Member Schwendiman** and **Council Member Stevens** agreed with Council Member Mann. **Council Member Stout** inquired as to the current status of the Benfield property. **Council Member Erickson** stated that it is already commercial property according to the map. He asked to change Benfield's property and leave the remainder south of them as recommended by Planning and Zoning. After discussion, Council Member Erickson recommended changing Benfield's property back to the commercial land use designation, the same as Sakota's and Hegsted's.

Mayor Larsen reviewed the process of a Public Hearing August 06th and a work meeting on August 25th to take public testimony. There were a number of people providing input to the current proposal. The challenge is a number of people involved in the process may not be at the meeting this evening. The challenge will be to get the information discussed at this meeting out to the people involved in the process. The City Council has the proposed Comprehensive Plan Map before them with the changes as proposed on Area Two, Area Four, requested change on 2nd East, and the Benfield property. Council Member Schwendiman confirmed the approval is only for the Comprehensive Plan Map.

Council Member Stout stated at the NE corner of the University at 1st East and 3rd South there are already apartments. Should it be changed back to low density or left at medium density residential? **City Attorney Zollinger** stated that those apartments are not currently an issue. The reason they talked about the ones up north was because it was to keep things the way they were on the existing map. The aforementioned locations have not been publicized to be part of this discussion.

Council Member Stevens moved to accept the preferred Land Use Map dated September 3rd, 2008 with the land use changes as presented and discussed including the following:

- A) **Area 2:** at 208 E. 3rd S. from “**Low-Moderate Residential**” to “**Moderate-High Residential Density**”; and
- B) **Area 4:** from “**Low-Moderate Residential**” to “**Mixed-Use**” including 29 South 2nd East, 35 South 2nd East, 45 South 2nd East, 228 East Main, 219 East 1st South, and Located directly behind home at 219 East 1st South:
12. 29 South 2nd East:
 13. 35 South 2nd East:
 14. 45 South 2nd East:
 15. 228 East Main:
 16. 219 East 1st South:
 17. Located directly behind the home at 219 East 1st South:
 18. Located directly behind the home at 29 South 2nd East:
 19. Located directly behind the home at 35 South 2nd East:
 20. Located directly behind the home at 45 South 2nd East:
 21. Located directly behind the home at 55 South 2nd East:
 22. Located directly behind the home at 65 South 2nd East;:

C) **The Benfield Property** revert back to Highway Commercial on 2nd East adjacent to West Moran View Road;

Council Member Stout seconded the motion; Discussion: Council Member Erickson indicated Area One and Area Three would need to be included. Those changes were included on the map. Council Member Mann stated he was in agreement with the land use change for the Benfield property and some of the other changes by the City Council; however, he felt some of the changes were a mistake to some of the neighborhoods. People made themselves very clear and expressed how they feel in opposition to Area 2 and Area 4. The City Council is going right against what they asked the City Council to do; and now the City Council is making a change, especially at the Nef house. If the neighbors knew the City Council would do this tonight, they would be here in force to let their feelings be know. He felt the neighbors walked away from the meeting the other night thinking it was the end of the public hearing. He was unsure if all the neighbors had been notified of the meeting here tonight; that this was going to come again for a change. They were aware of the proposed change and they were against turning homes into apartments in their neighborhood. If he votes nay, he wanted the City Council to know which two properties he was voting against. He felt they were taking tools away from the local neighbors to have more input into that change. **Mayor Larsen** called for a vote:

Those voting Aye

Council Member Erickson
Council Member Schwendiman
Council Member Stevens
Council Member Stout
Council Member Woodland

Those voting Nay

Council Member Mann

The motion carried.

LID 33 DEBT SERVICE FUND	40,500	60,000	100,500	Prepaid Assessments	Prepay warrants
CLARK FAMILY BENEFIT FUND	-	279,100	279,100	Contributions	Trust Expenditures
NON-AMENDED FUNDS	23,701,500		23,701,500		
GRAND TOTAL EXPENSE	37,276,100	4,335,700	41,611,800		

Council Member Stout asked if the grant for the foot bridge by Jack in the Box should be in this amended budget proposal. Mayor Larsen said it would not make this year’s budget, so it will be added to next year’s budget.

Mayor Larsen opened the public hearing;

Public Input for or against the proposal: - NONE

Mayor Larsen closed the public hearing to public input and turned it over to the City Council for deliberation. He explained the budget is on the third reading calendar and it needs to be passed at this meeting in order to be in compliance with state code. It would require waving the rules.

Council Member Schwendiman moved to suspend the rules. Council Member Stevens seconded the motion. Mayor Larsen asked for any discussion concerning the motion. Council Member Mann asked if it was possible to wait until the 17th to vote. Mayor Larsen stated that it had to be decided by the 17th. Discussion on when to suspend the rules – September 03rd or September 17th. Council Member Erickson agreed to wait if there were any questions on any additional revenues. He gave an example of the joint Fire and Equipment Fund of \$210,000 comes ½ from the city’s Impact Fees and ½ from the Madison County Fire District. The Building and Safety revenues had additional revenues over budget. It is actual money the city received. He agreed with Council Member Stevens to approve the amended budget now instead of waiting one additional meeting; under current circumstances, he found no reason to prolong it. Council Member Woodland asked about downtown revitalization LID revenue. Richard Horner explained additional revenue came from property owners and the sewer pertains to replacement of the sewer line in the alley. Council Member Stout asked why the budget amendments did not come earlier. Finance Officer Horner said the amendments are delayed to August to wait for valid data from the projects worked during the construction season. It allows less guess work and they simply did not have a good idea where they’d be at the end of the year on the projects.

Council Member Schwendiman moved to suspend the rules. Council Member Erickson seconded the motion.

Those voting Aye

- Council Member Erickson
- Council Member Schwendiman
- Council Member Stevens

Those voting Nay

- Council Member Mann
- Council Member Stout
- Council Member Woodland

Mayor Larsen voted aye to break the tie. The rules were suspended.

The motion carried.

Mayor Larsen asked for a motion to approve the amended 2008 Budget. **Council Member Erickson** moved to approve the amendments to the 2008 Fiscal Year Budget; Council Member Schwendiman seconded the motion; all voted aye; none opposed. **The motion carried.**

8:30 P.M. Summerfield Planned Unit Development Preliminary Master Plan (PUD 08 00064) and a Preliminary Plat (PUD 08 00316) for a Planned Unit Development located at 2540 West 1000 South, Rexburg, Idaho – Kartchner Homes

Troy Kartchner at 601 West 1700 South in Logan, Utah reviewed the PUD on the overhead screen. There are nearly 16 acres of common area. They want to provide a mixed development with all properties having home ownership without rentals. There are large landscaped areas on the entry ways with fenced areas. Attractive twin homes are laid out on the entry way with a dog park. The lots will vary in size from 6,000 to 8,000 square feet with 60 to 70 foot front yards and they are 100 to 110 feet deep. There will be a section of four/six plex town homes with one and two car garages. The next size lots will run 9,000 to 15,000 square feet. All of the homes are buffered by landscaping

from the road. It is a large project with a long term build out plan including walking paths. The amenities will be installed over time. Council Member Erickson pointed out some green space areas. The main park is nearly four acres with a swimming pool planned. They had a discussion on basements and if basements will be available. Mr. Kartchner indicated basements are a possibility if ground water testing allows for basements.

Mr. Kartchner reviewed home designs with a consistent look with varied craftsman designs and front porches. There will be a park and playground equipment up front with a club house built after 75 homes are sold. Every lot sale (new or resale) closure will pay ¼ point to maintain the common area. Night sky lighting requirements will be followed. Mayor Larsen asked them to work with the city on benches and lighting. Mayor Larsen stated that it may be more beneficial for them to go with the city standard benches, as opposed to the ones in the slides. Also, he suggested changing the Victorian style lights into a more craftsmanship look. Mr. Kartchner indicated streets will be tree lined by the developer. All homes, including townhouses, will maintain a craftsmanship style standard.

Mayor Larsen opened the public testimony hearing.

Steve Kimball at 2313 West 440 South owns a home previously owned by Klem and Marie Thompson. He is also speaking on behalf of the Holly's. He is concerned with future roads crossing their properties in the future. He was concerned with starter homes on the entryways having young children. Can the starter townhomes be relocated to reduce the traffic? He wants to put more single family homes next to the ones that are already adjacent to this development.

Joseph West at 125 Crestview wanted the Trails of Madison County System be included in their plan along 12th West. Mayor Larsen verified the trail system has a trail on 12th West.

Julie Kimball at 2313 West 440 South was concerned with her children walking on 440 South and 12th West to the neighborhood grade school because she believes the road is unsafe. Her children will be walking to school on 12th West. They will be irrigating their property and they don't want to flood future basements. Will the town homes be done first?

Mr. Kartcher explained timing for the different phases on the map and where the sewer line would be installed. There are four phases to the development. Within the four phases are some construction phases. The economy may drive the timing of these phases. He said it would be impossible to start the next phase within two years as indicated in the city code.

Mayor Larsen closed the public testimony.

Council Member Mann was favorable to the PUD's pictures; however, he was concerned with the widening of 12th West. He wanted safe walking areas for the children to walk to the schools.

Council Member Schwendiman was concerned with roads like 12th West. The roads around the development will need to be improved. He inquired about the sidewalks, and the future of 12th West.

Planning and Zoning Administrator Leikness went over the staff review. Planning and Zoning approved the PUD with conditions:

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Charles Andersen motioned to recommend approval to City Council of the Preliminary Master Plan and the Preliminary Plat for the Summerfield Planned Unit Development (PUD) at 12th West and 6th South, to include all of the thirty-one (31) conditions in the Planning Staff review, except to change condition number 9 (#9) to read "Side yard setbacks shall not be less than 5 feet." **Thaine Robinson** seconded the motion. None opposed. **Motion carried.**

Proposed Conditions of Approval

General

1. *The final master plan/final plat application for each phase shall include all required submittal standards and incorporate all conditions of approval.*
2. *All recommendations and requirements from the City Engineer shall be adhered to and incorporated in the submittal of each phase's final master plan/final plat.*
3. *Language shall be clear in the CC&Rs that no approval granted by the HOA or Architectural Committee shall violate City Code (e.g. accessory structures, building heights, fencing, location of building on lot, etc.).*

4. *The final CC&Rs shall be reviewed and approved by the City Attorney prior the recordation of a plat.*
5. *Requirement of the underlying zoning prevails where no specific requested variation has been considered and granted in this PUD request.*
6. *The City's clear vision area of 30-feet shall be observed. These areas shall be clear of all permanent and temporary obstructions. Driveways shall not be included in the clear vision areas as parked vehicles constitute a temporary obstruction. Vegetation and fencing in these areas shall follow City standards.*
7. *Block 11, Lot 27 shall be allowed to be a created lot in this subdivision of land, but shall not be considered part of this PUD master plan approval. This will require the owner of Block 11, Lot 27 to apply for a separate PUD in the future if he should wish to develop it as a PUD. All requirements of the LDR2 zone or current zone shall apply to lot 27, and no part of this PUD overlay shall apply to this lot.*
8. *No garages or car ports shall be located within 20 feet of a front property line in order to ensure adequate space for off-street parking (15-feet is not deep enough for the City's parking standards) and to allow for a streetscape not dominated by garage doors, which is in harmony with planned unit development that seek a more traditional neighborhood ambiance. In addition, this reduced setback shall only be granted to allow for well defined porch areas, not just the fronts of buildings. This would apply to all types of residential uses. Other land uses such as churches, parking lots, etc shall maintain the setbacks as required under the LDR2 zone.*
9. *All side yard setbacks shall not be less than 5 feet.*
10. *All rear yard setbacks shall follow those as defined in the LDR2 zone, rather the 15-foot fixed setback as requested.*
11. *If final platting requires adjustments to lot dimensions, then those changes shall be substantially the same as those found on this preliminary plat. If changes are substantially different than what is found in the preliminary plat proposal then the applicant shall re-submit a preliminary master plan/preliminary plat.*
12. *The City Engineer may determine that any of the roads may function as collector roads which may need greater right-of-way. The applicant shall discuss this with the City Engineer and any required modifications shall be shown on the final plat.*
13. *The developer shall explore safe routes to school, specifically the new elementary school and the new high school. Proposed improvements should receive support by the Madison School District, the City's Traffic Safety Committee, and the City Engineer, prior to submitting for final plat approval for any phase. The proposed improvement should include improvement details, costs of improvements, agreements between parties for funding, and a timeline for installation of improvements. Bonding for improvements may be required as part of the development agreement the developer will make with the City of Rexburg, as determined by the City Engineer.*
14. *The applicant, in promoting pedestrian connectivity and safety, has provided an easement, or access way in the south east portion of the PUD which is intended to provide a pedestrian connection from the PUD to 1000 South (7th South). Unfortunately, when overlaying the proposed PUD on an aerial photo this connection appears to interfere with the property to the east and therefore, the applicant shall provide more information as to the connection's feasibility during the final master plan/final platting for this phase, which is Phase 1.*
15. *In order for the City to maintain an efficient transportation network in and around the proposed PUD, the applicant shall provide additional road connections to adjacent property and roads consistent with Figure I of this staff report, or as modified by the City Engineer.*
16. *Traffic Impacts- the development shall incorporate all recommendations found in the provided traffic impact study. In addition, the development shall incorporate to all onsite and offsite improvements to streets and roads that the City Engineer may identify as being necessary to mitigate impacts of the proposed development.*

Performance Standards

17. Utilities- All new utilities must be placed underground.
18. Water Conservation- The final master plan for each phase shall show, in sufficient detail, how the proposal will incorporate low volume irrigation systems throughout the landscaped areas of the development.
19. Individual lot owners shall be required to incorporate low volume irrigation systems throughout their landscaped areas; this requirement shall be stated in the CC&Rs under Section 4.13.
20. Refuse Bins- Individual trash bins shall be screened from the public right-of-way on days of no trash service in the neighborhood.
21. Future trash receptacles intended for trash service pick-up and that are placed in the common areas such as proposed parks must be screened in a manner that is similar in material and character of the neighborhood. This shall be incorporated in the final CC&Rs.
22. Glare Reduction- The proposal must adhere to the City's lighting standards, details shall be provided with the final master plan/final plat for each phase.

Common Open Space

23. Required Common Open Space- The applicant shall consider not only proposing an open space/park at 10 acres in size, but shall also work with the City in determining if this area should be a City park.
24. Maintenance- As the common areas are proposed to be private rather than public, the homeowners association shall be responsible for common space maintenance. Until such time as a homeowners association is established, the applicant or owner of record shall be responsible for all maintenance of common areas and all unsold lots.
25. Hardscape- In order to determine hardscape percentages the final landscape plan, submitted with the final master plan, shall provide detailed information on hardscape percentages.
26. Common Activity Areas- areas need to be provided at a ratio of 1000 square feet per single family lot, which amounts to 11.5 acres of common activity area for this PUD. These area need to include playground equipment or pathways with benches and tables through natural or landscaped areas. This requirement shall be shown on the final landscape plan to be submitted with the final master plan/final plat application for each phase.
27. Landscaping Per Unit- The applicant has not addressed this requirement during the preliminary master plan/preliminary plat phase, therefore the final master plans for each phase shall reflect this on landscape plans. In addition, the final CC&Rs shall have the PUD ordinance requirement written into the CC&Rs. The final landscape plan shall to consider solar access as required by the PUD ordinance in the placement of deciduous and evergreen trees.
28. Water Conservation- The final landscape plan shall identify drought tolerant species being used and where zones are located within the common space areas that can maximize water conservation by incorporating plants that have similar water usage demands.

Master Plan Approval Time Limitations

29. The proposed preliminary master plan/preliminary plat shall expire within two years of approval if a final master plan/final plat has not been reviewed and approved by the City within that time. This requires that a complete final master/final plat for phase 1 be submitted to the City for review and approval within 1.5 years of approval of this preliminary master plan/preliminary plat or the preliminary master plan/preliminary plat will expire.
30. Each additional phase (or remainder of unplatted portions of the proposed preliminary master plan/preliminary plat) shall expire within two (2) years of the approval of a previous phase in the order as shown on the proposed preliminary master plan, unless a final master plan/final plat is reviewed and approved by the City within that time. This will also require the

complete application for a final master plan/final plat be submitted to the City within 1.5 years of the previous approval.

- 31. An extension of up to one year per phase may be requested by the applicant. A request for extension must be reviewed and approved by the Planning and Zoning Commission prior to any expiration date. In addition, once a final plat has been approved by the City, it must be recorded with the County within 6 months or it becomes null and void.*

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The **Summerfield Planned Unit Development Preliminary Master Plan** is a 139 to 140 acre subdivision with 502 dwelling units, 38 twin homes, 126 town homes, and 338 single family homes. There will add an estimated 1,862 residents. He asked the City Council to uphold the Planning and Zoning Commissions recommended conditions, including road stub-outs, parks, and safe routes to school. The developer is providing a safe route to the Burton Elementary School through the new development. The school district and this developer must work together to come up with a safe road crossing on West 7th South (1,000 South) to the Burton Elementary School. Additional road stub outs are required to the east and to the south. It is good planning to have the stub outs for the future. If the neighborhood ever wanted to reduce their zoning to an LDR-2, they would have to have stub out connections.

Council Member Erickson reviewed the additional road connections. He pointed out four stub outs on one side, and three stub outs on the other side of the development. He stated some roads stub out into other residents' property across the development boundary. 12th West is a serious situation for getting children to school (adding sidewalks) and must be addressed in the approval process. Planning and Zoning Administrator Leikness indicated the school district does have some off site improvement monies for addressing these issues of funding sidewalks, etc. Council Member Erickson discussed funding options on 12th West to help the children walk to school. One idea was an LID for the area.

Council Member Stevens was concerned one stub out was being directed to the neighbor's back yard. How many stub outs does the development need. Planning and Zoning Administrator Leikness stated that he hopes to form a road to straddle the property line. Council Member Stevens requested buffering (berm, etc.) to help protect the neighbors. Planning and Zoning Administrator Leikness stated that there was at present a canal that buffers the neighborhoods. Council Member Erickson indicated the Holly property has a big cul-de-sac that could be joined into a road system. The city code on time limits may not be possible due to the size of the development.

Council Member Schwendiman discussed approving a future plat within two years. He asked if the time line could be extended to three years. Five years may be too long.

Planning and Zoning Administrator Leikness stated that if the development dies at some point, it should be planned to be developed in a timely manner to encourage future development to continue at the current standards. He has seen a subdivision undeveloped for 20 years. Roads and other amenities were never required so it became a nightmare. It is nice to keep things current and flexible enough to have a nice development. If two years is not enough time to move to the next phase, maybe three to five years would work. The two year time line to move from phase to phase discourages developers from biting off more than they can chew.

Council Member Mann asked if there has been a deal made with the church that is already there. Planning and Zoning Administrator Leikness stated that it is a done deal.

Council Member Schwendiman is concerned with having basements in the area.

Council Member Erickson said the canal will be kept full of water. One of the canals will be piped. Council Member Stevens asked whose responsibility it is to investigate flooding potential. City Attorney Zollinger indicated FEMA dictates flood plain requirements.

An associate of Karchner Homes said they have been using piezometers for over 1 1/2 years to test for the water depth and the meters show dry ground eight feet deep. Council Member Woodland has seen the sub in this area at two feet. Council Member Schwendiman asked the runoff water is being maintained on site. Planning and Zoning Administrator Leikness said yes. Discussion on surface area water rights. Troy Kartchner said a group wants to mitigate surface water rights to be able to pump sub-surface water. Mayor Larsen explained it is a way to convert surface water rights to sub-surface water rights.

Council Member Schwendiman reminded the City Council of the city’s policy requiring surface water rights to be transferred to the city when the property is developed. City Attorney Zollinger said the water rights transfer is subject to negotiations with the city through the Public Works Director. Mr. Kartchner and Public Works Director Millar have been negotiating the issue to add new sub-surface water well on site for a city well. Discussion on using surface water rights to water the lawns and common areas.

Council Member Stevens moved to approve Summerfield Planned Unit Development Preliminary Master Plan and Preliminary Plat for Phase One with 68 foot right-of-ways including the Planning and Zoning Conditions; Council Member Mann seconded the motion: Discussion: Council Member Schwendiman recommended three years for a limit with a one year extension possible between phases; Council Member Stevens modified his motion to have a three year limit between phases with a one year extension possible; Council Member Mann seconded the amended motion; Planning and Zoning Administrator Leikness reaffirmed the proposal for a Planned Unit Development Preliminary Master Plan and Preliminary Plat for Phase One. Final Plats (Phase One; Phase Two; Phase Three; and Phase Four) will come at a later date. Mr. Kartchner clarified by asking if the phases are the construction phases. He has five construction phases developed at five different times in Phase One of the development. No just the plating phases. He was concerned because phase one of 150 units in the construction phase will take awhile. Council Member Stevens confirmed the maximum time allowed for Phase One of the development would be four years including the extension period of one year; otherwise Phase One could be drawn out ten years. Mr. Kartchner explained the reasoning for the larger phases was to help provide the common areas up front due to the density of each area. Planning and Zoning Administrator Leikness added to Mr. Kartchner’s remarks by stating that if he wanted to build town homes and small lots, PUD code states that you cannot come in during Phase One, build a lot of homes at maximum density, and then the project dies. Each phase of the PUD must meet the underlying density, which is why he has a larger phase because he has to offset the smaller lots with larger open space areas.

Council Member Mann wanted to include working with the Trails of Madison County and look at it before the final plat. Discussion on Staff Review which covers “Safe Routes to School” and changing the language to say providing “Safe Routes to School”. Council Member Erickson wanted the language to say “Provide Safe Routes to School” All voted aye, none opposed. **The motion carried.**

New Business:

1. Stonebrook Apartments Phase 2 – Pioneer Road

Stan Rowland reviewed the proposal for 132 units on the overhead screen. He is requesting a Condition Use permit for larger buildings. It is the second phase of an existing project located at 600 Pioneer Road. These buildings will contain 24 units with fire safety sprinkling. Council Member Mann was concerned with the parking on the street instead of in the development. Council Member Erickson reviewed the Planning and Zoning conditions for approval and agreed it was decided parking was adequate. Planning and Zoning Administrator Leikness said the Planning Commission said to work with staff; maybe trees or shrubs could be planted to mitigate cars lights shining into opposing buildings.

Council Member Erickson moved to approve Stonebrook Apartments Phase 2 with staff and Planning and Zoning conditions. Council Member Stevens seconded the motion. All voted aye, none opposed. **The motion carried.**

2. Inter-Local Agreement between the cities of Rexburg, Sugar City, Teton, Newdale, and Madison County concerning renegotiation of areas of City Impact and Annexation. - Staff

Reference BILL 1012 Establishing definitions, guidelines, and creating a Joint Commission for Areas of City Impact **Inter-Local Agreement** between the cities of Rexburg, Sugar City, Teton, Newdale, and Madison County.

Soren Simonsen from *Cooper, Roberts, Simonsen Associates* indicated the county will review the agreement (City BILL 1012) in the coming weeks. The joint commission will be made up of three representatives from each entity involved. The county would have three representatives on every joint commission hearing. The joint commission hearings will be held in each community. Council Member Erickson asked if individual decisions could be worked out with only the parties involved. Mr. Simonsen said yes, the county representatives including only the affected entities would sit on any particular joint commission. Members of Planning and Zoning will not be a part of the joint commission process.

Council Member Schwendiman asked if Fremont County is part of this agreement. No, cities with impact areas in Madison County are included, such as Newdale or Teton, but not Fremont County.

Council Member Erickson asked **City Attorney Zollinger** for his input on the wording. Attorney Zollinger said an ordinance must be in place for the **Inter-Local Agreement** to be signed and executed by the various entities. He stated that it is just being introduced thus far for review; to get the City Council talking about it. He has not compared the agreement language with state statutory requirements.

Mayor Larsen said they would put it on their reading calendar for the next meeting.

Soren Simonsen stated that they will be at next City Council Meeting. The draft Comprehensive Plan will be available after mapping is incorporated and submitted to staff on Monday.

3. **Fall Clean** up period from October 06th to November 07th, 2008 – Staff

Council Member Stevens would like to know approximate costs.

Public Works Director Millar noted two men using a pickup truck work 48 man hours per week, for four weeks to pick up yard waste. It costs \$60.00 per ton to dispose of everything. Public Works Director Millar stated it would be around six to ten thousand dollars for the period. Council Member Schwendiman asked if there was a way to offer the services for people who do not have access to a truck. Council Member Erickson said he believed they owed the citizens of Rexburg these services. Mayor Larsen asked if it would be coming out of the street budget. Public Works Director Millar stated it would come out of Sanitation’s Budget. Council Member Stevens thinks the services could be abused. Public Works Director Millar said they maintain strict guidelines and people are charged by the hour for large pickups. Mayor Larsen inquired if they need to allocate the expenses. Public Works Director Millar stated they do indeed allocate a portion of the expense. They allocate a portion of the street workers’ cost to Sanitation. Mayor Larsen asked if a large part of the six to ten thousand dollars is paid for by the rate payers. Public Works Director Millar said it is paid by enterprise funds.

Council Member Mann moved to approve Fall Clean Up period from October 06th to November 07th; Council Member Stout seconded the motion; all voted aye, none opposed. **The motion carried**

4. **Eligibility Report on West 2nd South Redevelopment Area** – Rexburg Redevelopment Agency

Joseph West at 125 Crest View representing the Redevelopment Agency (RRA) asked the City Council to approve the Eligibility Report for property east of Porter Park. The Hemming property (1st South to 2nd South) would be included in a redevelopment area. The Redevelopment Project would provide a safe project with road improvements; lighting, etc. as the development moves forward. Mayor Larsen introduced Resolution 2008-18 for consideration:

Resolution 2008-18 “Insert caption from Resolution 2008-18”:

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WHEREAS, pursuant to Idaho Code Sections 50-2018(9) and 50-2903(8), which lists the definition of deteriorating and a deteriorated area, many of the conditions necessary to be present in such an area are found in the South Arterial Area, i.e.

- a. substantial number of deteriorated or deteriorating structures;*
- b. predominance of defective or inadequate street layout;*
- c. faulty lot layout in relation to size, adequacy, accessibility or usefulness;*
- d. unsanitary or unsafe conditions;*
- e. deterioration of site and other improvements;*
- f. diversity of ownership;*
- g. tax and special assessment delinquency;*
- h. defective and unusual conditions of title;*
- i. existence of conditions which endanger life or property by fire and other causes; and*
- j. any combination of such factors.*

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Council Member Schwendiman asked for clarification on accepting only the report. Mayor Larsen said that is correct. Joseph West explained the area in question includes the entire Hemming project in the block between 1st South and 2nd South just east of Porter Park. Additional properties on 1st South and 2nd South are included in the description. City owned infrastructure would be part of the project including streets, lights, water, sewer, etc. Council Member Stevens asked how the revenue from the tax base would be affected. Mr. West explained the infrastructure improvements would be paid with incremental taxing monies derived from the construction of new buildings within the redevelopment area. These tax revenues go into the Urban Renewal project to pay for the infrastructure improvements to the Redevelopment Area.

Council Member Erickson asked if this includes the north side of 1st South. **Mayor Larsen** stated they are trading land to provide parking for the 1st South church. The existing church parking lot on the south side of 1st South will be traded for these properties on the north side of 1st South. Council Member Erickson discussed the need to amend the plan if more properties were added to the Urban Renewal District.

Mayor Larsen explained the first step is to approve this report and adopt the resolution before it can be taken to the Urban Renewal Board and Rexburg Redevelopment Agency to approve the creation of the district. After approval the Urban Renewal Plan will go through Planning and Zoning, and then to City Council for final approval of the plan.

Council Member Schwendiman moved to accept the Eligibility Report on West 2nd South Redevelopment Area and adopt Resolution 2008-18; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

Staff Reports:

Public Works: John Millar

1. Report on Projects:

Mayor Larsen asked if there were any more projects to report. Public Works Director Millar stated that because the old fire station storage building is city property, he needs the City Council to declare it surplus before he can dispose of it.

Council Member Woodland moved to declare the storage building surplus and approve its removal from the Tabernacle grounds; **Council Member Schwendiman** seconded the motion; all voted aye, none opposed. **The motion carried.**

Council Member Erickson asked when they were going to plant trees and grass at Millhollow Road Triangle. **Mayor Larsen** said they would be planted by September 15th.

Public Works Director Millar discussed construction on East Main and 7th South. He also stated he would like to present some street projects occurring next year to the City Council at an upcoming meeting.

2. Two street projects have been awarded to HK and Edstrom's. (East Main and 7th South)
3. Repaired sewer lines on 1st East.
4. Project on storm drain system on hill is under construction with storm water detention pond.
5. Projects for next year are on the drawing board.
6. Trees are planned for Millhollow Road Triangle by September 15th
7. Solution to sewer plant issues is under review.
8. New water well included in adjudication application (2 months to 2 years).
9. Hidden Valley Park is complete.

Discussion on the repairs needed to the Crest Haven Subdivision curb and gutter. Drainage problems have caused erosion under the curb and gutter.

Mayor Larsen announced that the Sprinkler System at Smith Park was budgeted for \$25,000. The first phase is a tree area. Three bids came in to develop it. Earth Design at \$28,849, Merrill Quality Landscapes at \$63,000, and Spruce It Up at \$40,000. The low bid from Earth Design was recommended for approval by the Parks Department.

Council Member Mann moved to accept Earth Design’s low bid contingent upon getting their public works license; **Council Member Stevens** seconded; all voted aye, none opposed. **The motion carried.**

Calendared Bills and Tabled Items:

A. BILL Introductions:

1. **BILL 1012** Establishing definitions, guidelines, and creating a Joint Commission for areas of City Impact within Madison County.

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:

1. **BILL 1011** for Appropriation Budget Ordinance 2009:

Finance Officer Horner addressed wording on the last page called the Statement of Understanding in street budget #3 for the City of Rexburg 2009 Budget (Year Ending 9/30/09).

City Council Budget 2009

STATEMENT OF UNDERSTANDINGS

- 1) \$36,300 was taken off of Transfers to Police Impact Fee Fund and added into Contingency in the General Fund. The Council will review the General Fund Contingency Balance at the end of the year to decide if any could be applied to the Police Impact Fee Fund deficit.
- 2) Expenditures, including all capital items, will be managed so that short falls in total revenues are offset by cutbacks in expenditures in the General and Street Funds.
- 3) \$350,000 of street funding has been allocated to the Downtown Revitalization Fund in 2008, and in 2009 an additional \$350,000 will be allocated to be used for construction to make the downtown more pedestrian friendly. Construction, operating and maintenance costs will be reviewed and approved by the City Council before any funds will be committed to this project. If the City Council finds a higher priority for these funds, these funds can be transferred to a higher priority street project.
- 4) \$2,000,000 was added to the budget for possible upgrade of the Wastewater Treatment Plant. Construction, operating and maintenance costs will be reviewed and approved by the City Council before any funds will be committed to this project.
- 5) All construction projects over \$25,000 and their related operating and maintenance costs will be reviewed and approved by the City Council before any funds will be committed to the project.

Council Member Stout would like to pay off the debt for the animal shelter. He wants to look at Contingency funds later in the year to pay a \$36000 annual payment for the Animal Shelter back to the Police budget.

Council Member Mann moved to approve **BILL 1011** for Appropriation Budget Ordinance 2009; Council Member Schwendiman seconded the motion; all voted aye, none opposed. **The motion carried.**

2. **BILL 1013** Amend Appropriation Budget Ordinance 2008

“See 8:00 P.M. Public Hearing Discussions”:

Amendment to the 2008 fiscal year budget by appropriating additional monies received by the City of Rexburg (**BILL 1013** Amend Appropriation Budget Ordinance 2008) – Richard Horner

Council Member Erickson moved to approve **BILL 1013** for amending Appropriation Budget Ordinance 2008; Council Member Schwendiman seconded the motion; all voted aye, none opposed. **The motion carried.**

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:

Calendar:

Tomorrow is Spencer Larsen's retirement party at the fire station.

Monday September 8th - Meet at 12:00 P.M. at the Development Company for new business tour.

Tuesday September 9th – Meet at 5:15 P.M. for chairman training for committee chairmen.

Wednesday September 17th – Work meeting at 6:00 P.M. with Salt Lake Planners.

Wednesday September 24th – Joint meeting with county, need to confirm.

City Attorney Zollinger discussed an update on downtown parking. In his meeting with a number of downtown merchants, he proposed using unified signs stating “2-3 hour parking between 10:00 a.m. and 10:00 p.m.,” and all city parking lots would be available for overnight parking; however, the city would not allow any perpetual parking. The signs could read “All overnight parking permitted/No perpetual parking.” The downtown merchants believed it would be a better system to manage. Temporary signs or barricades could be used to notify the public. Two hour parking would be restricted to 8:00 P.M. Overnight parking could begin at 8:00 P.M. Mayor Larsen said it would be simpler to administer. This proposal and the Booting and Towing revised ordinance will be discussed during the first meeting in October.

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.

Minutes:

- A. August 20th , & 25th , 2008 meetings
- B. Approve the City of Rexburg Bills

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

Executive Session pursuant to State Statute 67-2345 (C & E) deliberations concerning labor negotiations and contract matters.

Council Member Stevens moved to go into Executive Session; Council Member Woodland seconded the motion; Roll Call Vote:

Those voting Aye

- Council Member Mann
- Council Member Erickson
- Council Member Schwendiman
- Council Member Stevens
- Council Member Stout
- Council Member Woodland

Those voting Nay

None

The motion carried.

Executive Session

Executive Session Ended.

Adjournment

Shawn Larsen
Mayor

Attest:

Blair D. Kay
City Clerk