

City Council Meeting

February 18, 2009



CITY OF
REXBURG
America's Family Community

12 North Center
Rexburg, ID 83440

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February 18, 2009

Mayor Shawn Larsen

Council Members:

Christopher Mann – Council President
Rex Erickson Randy Schwendiman
Bart Stevens 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

Mayor Larsen asked the Boy Scouts to introduce themselves.

Roll Call of Council Members:

Attending: Council Member Mann; Council Member Erickson; Council Member Schwendiman; Council Member Stevens; Council Member Stout Council Member Woodland; and Mayor Larsen.

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

Presentations:

A. Early Childhood survey (Child Care) – Department of Health & Welfare - Cathy Brey

Cathy Brey residing in Pocatello is an independent contractor on behalf of the Idaho Department of Health and Welfare. She reported on the availability of grant writing information for childhood care nationally; however, the State of Idaho has very limited information. The survey on childhood care is being coordinated through Idaho counties. The survey will be compiled and put on a state web site. Any entity (whether state, local, profit, or non-profit) can go to the website for childhood care information. The information will be presented to the state legislature this year and it could be used for program planning, grant writing, and possibly policy making. She thanked the City Council for participating in the survey. She collected the Rexburg City Council's surveys to be part of the survey report.

Mayor Larsen asked if additional groups in Madison County were participating. Ms. Brey indicated Madison County Commissioners, civic groups, early childhood organizations, parent groups, and Early Childhood Development classes at the University are requested to participate. She is presently seeking out groups to participate in the childhood survey. Providers and other interested groups are invited to be included in the survey. Mayor Larsen referred to the new births in Rexburg due to the growth of BYU-Idaho. He said parents responsible for the increase of new births in Rexburg should fill out this survey. The University is a valuable resource for this information due to the number of new parents attending BYU-I.

Council Member Woodland asked how it would be funded. It is under current state funding out of the Department of Early Childhood Development.

Mayor Larsen submitted Tod Young's name to be on the Beautification Committee.

Council Member Woodland moved to ratify the appointment of Tod Young to the Beautification Committee; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

Committee Liaison Assignments for 2008:

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

Council Member Mann reported Emergency Services met two weeks ago. They are looking to purchase a mobile fire trailer for Fire District.

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

Council Member Erickson reported the Golf Board and Rexburg Redevelopment Agency had not met; Planning and Zoning met with two items from their meeting that are on tonight's agenda. Mayor Larsen asked about a vacancy on the Rexburg Golf Board. Either City Attorney Zollinger or Aaron Davis will fill the vacancy until a new member is appointed. The Golf Board meets the first Tuesday of every month.

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

Council Member Stevens reported on the Mayor's Youth Advisory Board (MYAB) which met tonight. They will be promoting the Mayor's State of the City Report on the 25th of February. This event is a fund raiser for MYAB. Senator Brent Hill responded to the MYAB's support letter concerning raising taxes on the sale of beer and wine; thus providing dedicated funding for the treatment of substance abuse.

Mayor Larsen mentioned an open house for the Burton School this Thursday.

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

Council Member Schwendiman reported he interviewed a group of scouts concerning the need for additional athletic fields in Rexburg. They were also concerned with the sidewalk ordinance under consideration tonight and parking availability at Evergreen Park.

Mayor Larsen reviewed a discussion today with staff concerning athletic fields at Riverside Park. In addition, he discussed the swimming pool funding proposal from the Rexburg Redevelopment Agency which is tied up in court due to a single citizen's appeal of the State District Court's approval of the funding proposal to use the Rexburg Redevelopment Agency's funding to build a swimming pool complex. The appeal is due to be heard by the Idaho Supreme Court this fall.

- E. Council Member Richard Woodland *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*

Council Member Woodland had no reports; however, he did say the Arts Council and the Tabernacle Committee are working on obtaining grants.

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

Council Member Stout asked about the maintenance of snow removal on the Sugar City Trail. Public Works director Millar said the bridge connecting the trail system is not in place which would cause pedestrian traffic to enter the street to use the trail system. The plan is to wait for the bridge before opening the trail for pedestrian traffic.

New Business:

- A. Comprehensive Plan** Amendment from (NC/MU) Neighborhood Commercial/mix use to (HDR) High Density Residential at 431,445 West 4th South – Jared S. Sommer

Planning and Zoning Administrator Leikness reported on the request to change Rexburg's Comprehensive Plan on 4th South to accommodate a change from Neighborhood Commercial/mix use (NC/MU) to High Density Residential (HDR) at 431,445 West 4th South. He reviewed the proposal on the overhead screen. It compliments other high density residential use in the area. The first 165 feet in the lot will remain a commercial land use. The Planning and Zoning Commission recommended approval of the proposal by a five to four split vote.

Council Member Erickson reviewed the surrounding parcels and how they were designated on the land use map. The canal is in the 99 foot right-of-way. The current zoning is (CBC) Community Business Center. There were some concerns with only leaving 165 feet of parcel for commercial development against 4th South. Mayor Larsen noted the public hearing was held in Planning and Zoning. He asked the requestor to present the proposal.

Jared Sommer reviewed the discussion at the Planning and Zoning Commission's public hearing. He indicated there was not any public opposition for the proposal and there was neighborhood support to move forward with the high density residential development. The area currently has several high density residential developments. He mentioned support from Nick Allison and others who live in the neighborhood. He has visited with people in the trailer park and they realize it would be an improvement to the neighborhood; however, they did have concerns with their own relocation issues.

Jared Sommer listed a few reasons for the City Council to favorably consider his proposal:

- a. An eight inch sewer line is located on the property which requires a 10 foot easement on each side of the line. This would limit the commercial development prospects for the lot.
- b. The remaining 165 feet of the lot north of the proposed residential development can support commercial development. They are planning to develop this 165 foot part of the lot into a viable commercial project. They have had the property for sale for five years in good economic times without a buyer.
- c. They have negotiated earnest agreements to purchase two additional properties to enhance the development.
- d. There is a 14 inch water line adjacent to property for a fire hydrant. There is no issue with water on this property.
- e. It is good for the city to have this development because the property has been on the market for several years without a development proposal. The lot has been in need of improvements for 40 years. He indicated a neighbor, Nick Allison supports the proposal.
- f. Traffic coming around the corner on 4th West has a blind spot which would inhibit commercial development. There have been accidents on this area of 4th South. They are planning an access point on 5th West and 4th West. There would only be an entrance onto 4th South at this location.

Nick Allison at 405 West 4th South supports the proposal. He looks forward to change. The trailer park occupants have been notified and several of them indicated to Mr. Allison they understand the city needs to look nicer. It would improve the neighborhood. He supports the proposal.

Council Member Mann said it should be a commercial area; however, there is 165 feet of frontage remaining commercial on 4th South. He prefers commercial on 4th South. This is a good compromise; however, he did not want the development to develop to 4th South in the future.

Council Member Stout asked who would do the bridge improvement. Jared Sommer indicated he would be responsible to replace the existing bridge into his development with a new concrete structure with an entrance and an exit at that point.

Council Member Stevens reviewed the option of reverting back to the original Comprehensive Plan if this proposal is not progressing forward as proposed. He is concerned ownership or plans may change without completing the project. Council Member Erickson said the Land Use Map can be changed every six months. He does not see a problem with the proposal. Council Member Stevens still demonstrated a concern with the plan change if the project stalls.

Council Member Erikson wanted to know what the concern was of some of the Planning and Zoning Commission members. Planning and Zoning Administrator Leikness said they were mostly concerned with the area going to residential instead of commercial.

City Attorney Zollinger suggested the Comprehensive Plan map could revert back to the original map if the development does not materialize by adding a foot note indicating the plan would revert back to the prior map if the project is not completed. If this Comprehensive Plan proposal is approved, a subsequent request for a zone change to high density residential would follow in a public hearing. The zoning change request public hearing would be the vehicle to attach conditions to this proposal. Mayor Larsen said the Comprehensive Plan proposal could be conditioned with a foot note indicating the plan would come back for City Council review if movement has not occurred on the zoning change request.

Council Member Schwendiman moved to approve the Comprehensive Plan Map amendment from (NC/MU) Neighborhood Commercial/mix use to (HDR) High Density Residential at 431 and 445 West 4th South conditioned with a foot note indicating the plan would come back for City Council review if movement has not occurred on the zoning change request; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

B. Final Plat at 1321 South Yellowstone Hwy – Rexburg Lodging Associates, LLC.

Aaron Swenson from Forsgren Associates representing Rexburg Lodging Associates, LLC (Muir Subdivision) reviewed the lot split for the development currently under construction (Springhill Suites Marriott project) into three different lots. Council Member Stevens reviewed the width of the driveway easement. The applicant will own the curb and gutter allowing for a 22 foot travelable aisle allowing for interflow easement connectivity. The east driveway providing for interflow connectivity will be constructed between the two lots allowing each lot to contribute one half of the pavement. The City Council discussed the need for interflow connectivity between developments.

City Attorney Zollinger reminded the applicant the right-of-way deeded to the city is still showing in the subdivision plat. Mr. Swenson said they have reviewed the issue with city staff and they will make the correction. This proposal is for a final plat instead of a site plan approval where road access will be addressed which includes two driveways and one road. This five acre parcel is a stand-alone decision outside the adjacent larger development.

Council Member Stevens moved to approve the Final Plat at 1321 South Yellowstone Hwy for the Muir Subdivision being presented by Rexburg Lodging Associates, LLC conditioned on the approval of staff including Planning and Zoning Administrator Leikness and Public Works Director Millar; Council Member Mann seconded the motion; all voted aye, none opposed.

The motion carried.

C. Fair Haven Estates at 4000 West – requesting city water (Schiess & Associates)

Public Works Director Millar reviewed the proposal from the developer who is asking for a connection to city culinary water and sewer. The project is called “Fair Haven Estates” located west of 4000 West. The developer will front all costs for the lines and they will agree to be annexed when annexable. The request would extend city water and sewer line up to two miles beyond current city services extending lines past 4000 West. He referred to the Quail Hollow development as an example of a subdivision that should have city services due to its location next to the city. Once property owners have invested \$10,000 into a stand-alone system, they are reluctant to throw it away for city services. Only two homes near the city have used the resolution allowing connection to city services outside the city. The city did not allow city services to be extended outside the city at that time. Land value has driven development beyond the city’s infrastructure out into the county where the price per acre for land is less expensive.

Public Works Director Millar was concerned with keeping fresh water in the line due to its length and the limited demand so far beyond city limits. The water line proposed for this development would hold 63,000 gallons of water in a mile and a half of water line. The water would be slow moving causing some quality issues. If approved, a provision should be in place to require water used to maintain fresh water. Council Member Erickson explained if someone within the Rexburg Impact Area requested service, the city would entertain the request; however, this is way past the Impact Area. A better area for line extensions would be going east of the city in the Impact Area.

City Attorney Zollinger explained the extension of city water and sewer lines could be sold to a county water and sewer district. The city’s resolution limits the extension of water and sewer services beyond the city limits unless the applicant is in the Impact Area. Council Member Schwendiman explained the water may not be available for the project at this time due to the city’s growing demand for water on current city wells.

Public Works Director Millar said the requestor would front the cost for the water and sewer line extensions. Council Member Woodland explored the issues of water usage to maintain fresh water in the lines. It would take about 50 gallons a minute to keep the water line fresh.

Council Member Mann referred to the earlier meeting on this request where the City Council said they would entertain a discussion on the request in conjunction with the county. It is a big issue requiring a lot of discussion.

Council Member Schwendiman explained the development would be under the county’s review and approval process. The city would not have any control over the proposal.

Council Member Erickson said it was stepping beyond accessible city services and it was encouraging sprawl. Mayor Larsen said more thought needs to be put into the request. Rexburg’s Impact Area may need to be expanded on the west side of the city.

Council Member Stevens reviewed the disparity between two governmental agencies set of standards for development. It is unfair to city applicants to compete with developments in the county. If the city services are extended to this development, it should be regulated by the city's building department.

Public Works Director Millar reviewed the sewer district development in Bonneville County. Idaho Falls is not responsible for the lines; however, Idaho Falls treats the water from this sewer district at some point.

City Attorney Zollinger explained this proposal should be treated in the same manner as services extended from Rexburg to the City of Teton.

Council Member Mann said it would be unfair to leapfrog out to this development; however, he would like to limit the private septic systems use if possible.

Mayor Larsen asked for more discussion on this proposal involving the county. It does make sense to have a water and sewer district in the county.

Discussion: The City Council would like to serve customers closer to Rexburg first. Property owners requesting hook ups to sewer would have to pay the cost of the sewer line extension and hookups.

Mayor Larsen said the Rexburg Impact Area is not as big as it should be and incentives to build beyond the impact area need to be addressed.

Discussion: Impact Area expansion.

D. Rexburg Canal Use Agreement – Rexburg Irrigation Company

Public Works Director Millar reviewed the proposed agreement which would replace an earlier agreement in the late 1990's with the Rexburg Irrigation Company. Water users across the state have been advised by legal council to have more control over water entering into their canals. The following proposed agreement will provide adequate controls for the canal company to absolve them of any liability from city storm water. The project needs to be completed by the end of this year.

CITY OF REXBURG AND REXBURG IRRIGATION COMPANY CANAL USE AGREEMENT

This Rexburg Irrigation Company Canal Use Agreement (this "Agreement") is made by and entered into this _____ day of February 2009, by and between the Rexburg Irrigation Company, an Idaho Corporation whose address is 409 West Poleline Road, Rexburg, ID 83440, (hereinafter, the "Company"), and the City of Rexburg, a municipal corporation, whose address is 12 N. Center, Rexburg, ID 83440 (hereinafter the "City"). Collectively, the above entities are hereinafter referred to as the "Parties".

RECITALS:

A. The Company is the owner of a certain south branch of the Rexburg Canal (the "Canal"), which flows south from the City along the toe of the Rexburg hill until the Canal reaches its terminus at the Texas Slough along the South Fork of the Snake River. The Canal runs adjacent to a number of farms, homes, apartment buildings and other structures.

B. The Company uses the Canal to deliver surface irrigation water to its stockholders pursuant to Water Right Nos. 22-11027 and 22-469.

C. In 2007, the City completed an extension of University Boulevard from its point of intersection with the South Yellowstone Highway running east and then turning north until its connection to 2nd West at the point 2nd West connects to 7th South (hereinafter, the "Extension").

D. In constructing the Extension, the City also constructed storm water handling infrastructure. Specifically, the City constructed two storm water retention ponds, one located on the southwest corner of the intersection of University Boulevard and 7th South, and the other located on the southeast corner of the intersection of University Boulevard and 5th West. Both storm water retention ponds consist of an excavation with surrounding embankments. The pond bottoms are made up of broken basalt bedrock. Both storm water ponds have a 12inch corrugated stand pipe standing about three (3) feet above the surface with a two-inch perforation in the side, along with an open top, to allow water to flow from the pond into the Canal should the ponds fill faster than the pond can infiltrate storm water. The detention pond located at the southwest corner of the intersection of University Boulevard and 7th South does not have an oil solid separator located on the outflow pipe, but the detention pond located on the southeast corner of the intersection of University Boulevard and 5th West does presently have an oil solids separator.

E. The City never obtained permission or a right-of-way from the Company to outlet the storm water retention ponds into the Canal.

F. Because of serious liability concerns from potential flooding, which has occurred in the past and caused the Company's stockholders to discharge floodwater onto stockholder farm ground, the company does not approve of the current wastewater system installed by the City.

G. In addition, because of potential environmental liability from storm water runoff from parking lots, streets, and other structures, the Company does not approve of the current storm water system installed by the City.

H. Furthermore, on June 18, 1996, the City entered into a "Rexburg Ditch Water Agreement" with the Company wherein the Company agreed to allow storm water discharge from the Rexburg Ditch to flow into the Canal. The location of the point the Rexburg Ditch meets the Canal is at a location north of the two points of discharge into the Canal constructed in connection with the Extension. The Rexburg Ditch Water Agreement referenced in the above, Paragraph 9 contains the following provision:

"The City agrees that if at any time the discharge of water at the Discharge Point is determined by the [Company] to be causing flow problems of any kind, that the discharge shall be discontinued until such time as the discharge can be resumed without flow problems. The determination of flow problems shall be the sole responsibility of the [Company]."

I. The Company has determined that the discharge points constructed with the Extension, as well as the discharge from the Rexburg Ditch, are and will cause flow problems because the Canal is not large enough to handle storm water discharge from the City. Because of this determination, the City shall cease its discharge of storm water from the Rexburg Ditch into the Canal.

J. Nevertheless, the Company is willing to allow the current storm water system to remain in place for a short period, subject to the provisions of the Agreement set forth below.

AGREEMENTS:

NOW THEREFORE, in consideration of the mutual covenants and promises set forth below, the Parties agree as follows:

1. CITY'S OBLIGATIONS: City hereby agrees as follows:

a. By January 1, 2009, the City shall have commenced the design and construction of a storm water system that does not include the Canal. In the event no such design and construction has occurred, then the permission to use the canal granted in Section 2.a. below will be revoked, and no storm water discharge shall be allowed into the Canal. The City will thereafter be required to cut off access from its storm water system to the Canal.

b. Under no circumstances shall the City be allowed to use the Canal after January 1, 2010. Any and all permission for use of the Canal for storm water shall be revoked.

c. The City hereby consents to the Company's determination that the provision of the Rexburg Ditch Water Agreement discussed above is not being met, and further, agrees to terminate the Rexburg Ditch Water Agreement.

d. The City shall assume liability as set forth in Sections 3 and 4 below.

2. COMPANY'S OBLIGATIONS: Company hereby agrees as follows:

a. Use of the Canal:

i. The Company hereby grants the City permission to use the Canal for storm water discharge for calendar year 2008.

ii. The City shall commence the design and construction of a storm water system by January 1, 2009. If the City has commenced the design and construction of a wastewater system that does not include the Canal by January 1, 2009, the Company will grant the City permission to use the Canal for calendar year 2009 for storm water discharge. In the event no such design and construction has occurred, then the permission to use the Canal will be revoked, and no storm water discharge shall be allowed into the Canal.

iii. Under no circumstances shall the City be allowed to use the Canal after January 1, 2010. Any and all permission for use of the Canal shall be revoked on this date.

iv. The Company agrees to terminate the Rexburg Ditch Water Agreement.

3. INDEMNIFICATION AND ASSUMPTION OF LIABILITY:

a. Indemnification: To the extent the City is allowed to discharge storm water into the Canal under the provisions of this Agreement, City hereby agrees to defend and indemnify the Company against and to hold Company harmless from any and all claims or demands for loss of or damage to property or injury or death to any person from any cause whatsoever from the City's use of the Canal for storm water discharge.

b. Indemnification for Environmental Harm or Injury: To the extent the City is allowed to discharge storm water into the Canal under the provisions of this Agreement, City hereby agrees to defend and indemnify the Company against and to hold Company harmless from any and all claims or demands for environmental damage from any cause whatsoever from the City's use of the Canal for storm water discharge. In addition, City is required to comply with all state and federal environmental regulations for storm water discharge as it relates to the Canal, and to obtain any and all permits that may be required, including, but not limited to:

i. The Federal Clean Water Act (33 U.S.C. §§ 1251 to 1387) and its associated regulations;

ii. *The Federal Oil Pollution Act (33 U.S.C. §§ 2701 to 2761, and 46 U.S.C. § 3703a) and its associated regulations; and*

iii. *The Endangered Species Act (15 U.S.C. §§ 1531 to 1544) and its associated regulations;*

4. **DAMAGE TO STOCKHOLDERS OF THE COMPANY:**

a. *To the extent the City is allowed to discharge storm water into the Canal under the provisions of this Agreement, City hereby agrees as follows:*

i. *In the event it is necessary for stockholders of the Company to open their respective canal head gates or diversion works in order to alleviate or prevent potential flooding from unexpected storm water and/or runoff, the City shall compensate said stockholders for any and all personal and/or property damage, including crop damage, caused by such releases.*

ii. *In the event storm water causes a Canal breach or other damage to the Canal, the City shall repair, at its sole cost and expense, the Canal breach or damage with as much dispatch as possible. If any delay in repair to the Canal causes injury to any crops raised by the Company's stockholders, City shall compensate each individual stockholder for such damage.*

5. **ENTIRE AGREEMENT.** *This Agreement sets forth the entire understanding of the parties with respect to the matters set forth in this Agreement. It supersedes all prior oral or written agreements of the parties as to the matters set forth in this Agreement, and it cannot be altered or amended except by an instrument in writing, signed by the Parties.*

6. **SUCCESSORS AND ASSIGNS.** *This Agreement is binding upon and inures to the benefit of the Parties to this Agreement and their respective successors and assigns.*

7. **HEADINGS.** *The headings in this Agreement are for reference only and do not limit or define the meaning of any provision of this Agreement.*

8. **NOTICES.** *Any notice given in connection with the Agreement must be in writing and must be given by personal delivery, overnight delivery, confirmed facsimile or United States certified or registered mail, addressed to the Parties at the following addresses:*

COMPANY: *Rexburg Irrigation Company
c/o Cora Ley Erikson
409 W. Poleline Rd.
Rexburg, ID 83440*

WITH A
COPY TO: *Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC
P.O. Box 50130
Idaho Falls, ID 83405*

CITY: *City of Rexburg
12 N. Center
Rexburg, ID 83440*

WITH A
COPY TO: *Stephen Zollinger
P.O. Box 280
Rexburg, ID 83440*

A complete copy of the agreement can be obtained at 12 North Center Street, City Hall in Rexburg.

Public Works Director Millar explained the reasoning for the new agreement to contain runoff water at 7th South and University Blvd. The canal company requested a storm water retention facility to stabilize flow into the canal and retain sediments in the retention pond by skimming and settling. The water would be pumped out of the retention pond into the canal.

Mayor Larsen asked what the alternative would be without a retention pond. Public Works Director Millar explained the city would have to build a retention basin with a pressure line running along the canal for six blocks heading north to 1st South where the water could be pumped into the city's storm water line at a cost of several hundred thousand dollars.

Council Member Woodland asked if the contract was in perpetuity. Public Works Director Millar answered, yes.

Council Member Schwendiman asked about the city's liability. Public Works Director Millar noted a couple of liabilities.

1. Spring runoff with frozen ground could cause flooding to top the canal and flood someone's home.
2. The EPA may tighten water quality discharge requirements to the next level for surface water return flow for irrigation applications. In the future they may go to the next level which entails EPA tightening up return flow water quality restrictions. Local return water from irrigation projects and storm water runoff flow into the Texas Slough which runs into the Snake River. The Texas slough is in an EPA protection water way.

City Attorney Zollinger explained the city would have to follow EPA guidelines even if this agreement was not in place. If the EPA tightened the standards for surface water runoff, any storm water runoff from city streets that is collected would have to follow EPA guidelines.

Council Member Stevens said that this agreement will save the city about three or four hundred thousand dollars over other alternatives.

City Attorney Zollinger recommended approval of this agreement with the Rexburg Canal Company. Rob Harris represented the Rexburg Canal Company in drafting this document through negotiations with me and Public Works Director Millar. The agreement is well written for the city.

Discussion concerning sediment and contaminants collected from parking lots flowing into the waste water collection system. The old agreement with Rexburg Irrigation Company will be voided by January 01, 2010 if this agreement is not enacted.

Council Member Woodland moved to approve the Rexburg Canal Use Agreement with the Rexburg Irrigation Company; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

Staff Reports:

A. **Public Works:** John Millar

1. Report on Project

Public Works Director Millar reported on a bridge under construction on 4th North connecting to Barney Dairy Road. The new city hall building remodel on 1st East is under construction.

2009 Street Budget allocation from all sources is \$1.52 million. There is \$400,000 in the Impact Fee Fund.

1. Rexburg Bench storm line on 7th South by Harvest Heights Subdivision. It is a storm drain facility costing \$286,000.
2. Pedestrian Safety Project on 2nd West installing a Hawk Signal System at 3rd South costing \$100,000.
3. Chip Seal & Crack Seal city streets costing \$167,000.
4. Barney Dairy Traffic Bridge (money comes from the urban renewal district) costing \$150,000. The bid for this project was \$108,000 from Canon Builders.
5. Pioneer Road realignment with Airport Road (install traffic light) costing \$1,050,000. Traffic Signal warrant analysis is underway. \$250,000 will be allocated from state for street light. The city is planning to put in a bridge over the canal and realign the road. The city will take possession of the final piece of property on May 01, 2009 for this project. Council Member Erickson indicated right-of-way has not been secured for this project on two adjoining properties. The North end needs 10 to 12 feet on the Walker Cross property. The Green property needs minimal right-of-way for the project which will benefit the remaining Green property adjacent to the proposed street.
6. 7th South Storm Sewer Retention Facility at 4th West costing \$275,000 with the University contributing \$225,000. This project will allow the city, by agreement with the Rexburg Canal Company, to pump city storm water into the canal.
7. Hwy 33 Storm Sewer outfall line costing \$275,000 is located behind Mother Hibbard's extending to the Teton River. The line was installed in 1918 and it is a

deteriorated clay tile pipe. The new piping will increase in size from 24 inches to 30 inches in size.

Discussion on using Impact fees for the project on Pioneer Road and Main Street. It would use the entire balance of the Impact Fee funds. There is \$350,000 set-aside budget money from the 2008's street budget in reserve. Council Member Erickson asked to continue to maintain the set aside street funds along with adding additional funds over time to increase the street set aside fund. Mayor Larsen asked for a motion to adopt the 2009 street projects as presented.

Council Member Mann moved to adopt the **2009 Street Budget** allocation as presented; Council Member Schwendiman seconded the motion; Discussion: Council Member Stevens asked to note the projects are not bid yet; so the final numbers will need further review and approval by the City Council. The City Council reiterated the priority list for completing the projects: **1)** Pioneer Road, **2)** 2nd West and 3rd South Pedestrian Hawk Signal. **3)** Mayor Larsen indicated the retention pond project is basically funded by contributions from the University. **4)** The Stag Grant project on the Bench is under construction leaving \$150,000 for completion. Mayor Larsen asked for a vote on the motion; all voted aye, none opposed. **The motion carried.**

Public Works Director Millar mentioned city water rights are still in the approval process. After the water rights adjudication process is approved, the city can proceed to drill two water wells with one well being held in reserve for backup for zone one. The wells will cost in excess of 1 million dollars.

Calendared Bills and Tabled Items:

BILL Introductions:

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

1. **BILL 1017** for Bicycle Operation – Staff

Mayor Larsen asked if there were any suggested changes or comments concerning the BILL on bicycle operations.

Council Member Erickson asked if the proposed “Bicycle Operations” BILL needs to be on the books. The old ordinance was passed in 1901. City Attorney Zollinger said it will provide an opportunity to teach bicycle operators the safety rules. The Police Department will have one ordinance referencing bicycle rules when they have bicycle rodeos with scout troops or school classes several times per year. This BILL consolidates all the state statute guidelines on bicycle operations and puts them into one location.

Mayor Larsen indicated the city has received feedback while conducting the “Share the Road” Campaign concerning a lack of education on bicycle safety.

Council Member Woodland asked to have language in the BILL requiring reflective material on bikes. City Attorney Zollinger explained state statute does require so many square inches of reflective material on a bicycle and a light for night operation visible from a certain distance.

Council Member Stevens asked about riding on sidewalks and having dismount zones where there is high pedestrian traffic. City Attorney Zollinger said this BILL would give the city the opportunity to have dismount zones on sidewalks and crosswalks for bicycle operation.

Council Member Erickson moved to consider BILL 1017 for Bicycle Operation first read; Council Member Stevens seconded the motion; all voted aye, none opposed. **The motion carried.**

2. **BILL 1019** for Sidewalk Access - Staff

City Attorney Zollinger reviewed the changes since the last discussion adding “Safe Routes to School” and “High Pedestrian Anticipation Routes” as sidewalks required to have snow removed within 24 hours of the snow falling on the sidewalk. These areas have not been designated yet;

however, Public Works Director Millar handed out a map showing some sidewalks currently cleared of snow by the city. Additional streets were identified as areas with high pedestrian traffic.

Council Member Schwendiman asked for clarification on enforcement.

Discussion: The City Council discussed the need to keep all sidewalks clear of snow. The sidewalk ordinance would be used as a tool for compliance. There are several areas where the city pushes snow onto the sidewalks making snow removal difficult by residents. There are areas considered “Safe Routes to School” and “High Pedestrian Anticipation Routes” that need to be cleared after every snow storm. The results of the discussion were to add wording to demonstrate the need to keep all sidewalks clear of snow. One option for plowing snow on streets with sidewalks against the curb would be to create a windrow of snow against the curb instead of on the sidewalk. This would narrow the traffic area. The issue is cost when plowing snow to the center of the street and hauling it away. The snow falling around Christmas 2008 cost the city about \$56,000 to clear the snow off the streets where the snow was loaded and hauled away.

City Attorney Zollinger explained if a sidewalk is not cleared and someone gets injured due to a slip and fall accident, the property owner would be subject to some liability for the injury which could be covered by the property’s liability insurance.

City Attorney Zollinger suggested the Sidewalk BILL could be used as a tool to encourage residents to clear sidewalks. Public complaints would drive the compliance officer’s investigation and review of sidewalk obstructions like snow. The complaint would not cause a fine unless the obstruction was not removed within 24 hours. Another problem is parked cars on streets causing snow plowing problems. The City’s of Driggs and Salt Lake have this same language in their sidewalk ordinance. Instead of designating certain streets on a map to have snow removal on sidewalks, language could be written into the code allowing the Mayor to declare a snow emergency on residential sidewalks. Commercial properties would be required to clear snow from their sidewalks with the option of paying the city to remove the snow from their sidewalks.

The City Council recommended modifying the statement limiting snow removal only for “Safe Routes to School” and “High Pedestrian Anticipation Routes”. They recommended have language supporting clean and safe sidewalks throughout the city.

Council Member Mann moved to table BILL 1019 to add clarifying language; Council Member Stout seconded the motion; Roll call vote:

Those voting aye

Christopher Mann
Richard Woodland
Rex Erickson
Bart Stevens
Adam Stout

Those voting nay

Randy Schwendiman

The motion carried.

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

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

Tabled Items: Those items which have been the subject of an affirmative vote to a motion to table:

A. **BILL 1014 Amending Ordinance 911** for “Towing and Parking Enforcement”

Old Business:

Mayor’s Report:

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. February 04, 2009 meeting
- B. Approve the City of Rexburg Bills

Question on Billings. An invoice was discussed where a rifle was purchased by an employee on payroll deduction. City Police buy their own weapons. Council Member Woodland reviewed a spray paint purchase.

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

Executive Session pursuant to State Statute 67-2345 (F) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for a contract;

Council Member Erickson moved to go into Executive Session; Council Member Mann seconded the motion; Roll call vote:

Those voting aye

Christopher Mann
Richard Woodland
Rex Erickson
Randy Schwendiman
Bart Stevens
Adam Stout

Those voting nay

None

The motion carried.

Executive Session

Executive Session ended.

Adjournment

Shawn Larsen
Mayor

Attest:

Blair D. Kay
City Clerk