

# City Council Meeting

January 07, 2009



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

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January 07, 2009

**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:**

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

**Excused:** Council Member Schwendiman; Council Member Woodland.

**Mayor Larsen** welcomed the boy scouts to the meeting and invited them to introduce themselves.

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

**Presentations:**

**A. Military Freedom Team Salute Award – Sergeant Dale Jack Chambers**

**Mayor Larsen invited Sergeant Henry Crumb to explain the Freedom Team Salute Award.** **Sergeant Crumb** is the area ambassador for administering the Freedom Team Salute Award. He is in attendance to award this award to Dale Jack Chambers for past military service. The Secretary of the Army and the Army Chief of Staff launched the Freedom Team Salute in May 02, 2005. The program is designed to thank all generations for their Army service to this nation. Veterans eligible for the award are regular Army, Army Reserve, Army National Guard, Army Draftees, Army Air Core from the 2<sup>nd</sup> World War, Army Nurse Core and the Women's Army Core. Today's Army has combined these several branches into one Branch of the Army. Sergeant Crumb gathers Army Veterans' names and submits them to the Army headquarters in Alexander, Virginia to produce the certificate. There have been 1.8 million awards issued. The recipient also receives a lapel pin.

**Mayor Larsen** thanked Sergeant Crumb for his service to the State of Idaho and the United States of America. The City of Rexburg is working on a Veteran's Memorial in Smith Park to honor past Veterans.

**January 09, 2008 – Update to award presentation:** Mayor Larsen visited the recipient Dale Jack Chambers and presented him with the **Military Freedom Team Salute Award**.



**Mr. Chambers** related an experience in the war when the enemy was firing mortars at his position. The Germans were able to pin point mortar fire. They were noted for accuracy, being able to put a mortar shell in a bucket on the third try. Mr. Chambers was dug into a fox hole with another soldier. The second mortar round hit his fox hole killing the other soldier and wounding Mr. Chambers. **Mayor Larsen** thanked Mr. Chambers for his service in the military and his service to the country.

**Committee Liaison Assignments for 2008:**

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

**Council Member Mann** reported the Beautification Committee met this afternoon to discuss 2009 goals including: 1) some beautification work along the Main Street golf course; 2) some modifications to the east end of Main Street where the Christmas tree is located. The Emergency Services Board and the Museum Committee did not meet.

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

**Council Member Erickson** had nothing to report because the Golf Board and Planning & Zoning did not meet. The Rexburg Redevelopment Agency has not met since the last meeting.

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

**Council Member Stevens** reported the Airport Board met; however, there was not a quorum. They reviewed bylaws for the Airport Board. Mayor Larsen explained Senator Crapo's office notified the city of an Airport Grant for an airport study. The funding may be coming from existing FAA set aside money for the Rexburg Airport.

The City Council discussed the grant request for a Rexburg Airport study.

**Council Member Erickson** asked if the homes on the property adjacent to Pioneer Road owned by the city are going to be moved or razed for road construction. Public Works Director Millar will check on the status of one home on the property that is in a life estate agreement. A second home (mobile home) has been moved off the property. The other remaining homes will be removed (razed) from the property.

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

**Mayor Larsen** reported the Traffic and Safety Committee met yesterday and a member of the committee (Doug Stutz) presented a draft copy of a bicycling ordinance for City Council consideration. The Traffic and Safety Committee voted unanimously to support the proposed bicycling ordinance. Mayor Larsen said the bicycling ordinance would be scheduled on the next meeting agenda as a bill introduction. Another proposed ordinance concerning electronic devices (cell phones, iPods) used in high pedestrian areas on streets and crosswalks is being considered. This proposal would restrict drivers and pedestrians from using electronic devices in high pedestrian areas identified in the Comprehensive Plan (i.e. around the University and 2<sup>nd</sup> West). A third proposal is a utility lighting ordinance for City Council's consideration in the future.

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

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

Council Member Stout did not have any new committee items to report.

**Public Hearings:** - NONE

**New Business:**

A. **Approve annual Road and Street Report** for Idaho State Controller – Richard Horner

Mayor Larsen reported on the annual Road and Street Report prepared for the state. The Idaho Transportation Department (ITD) and the Local Highway Technical Assistance Council (Boise, ID) use the report to allocate state funding to the local jurisdictions. The annual Road and Street Report is filed with the state controller. Developers contribute to the city’s street budget by providing some street construction on new developments. Their contribution is considered local funds transferred. Local transfers were over one million dollars. Council Member Erickson reviewed the line items as noted below. Federal receipts contributed to the funding of University Boulevard. The closing balance is used by LHTAC to determine local ability to provide matching funds for projects.

Council Member Mann moved to approve the **annual Road and Street Report**; Council Member Erickson seconded the motion; all voted aye, none opposed. **The motion carried.**

**Annual Road and Street Financial Report  
(Abbreviated Report)**

BEGINNING BALANCE AS OF OCTOBER 1 PREVIOUS YEAR	\$667,390
Line 8      Local impact fees .....	\$270,895
Line 9      Local option registration fee .....	
All other LOCAL receipts or transfers in.....	\$1,629,465
Line 10                      Total Local Funding (sum lines 2 through 10).....	\$1,900,360
Line 11	
<b>STATE FUNDING SOURCES</b>	
Line 12      Highway user revenue .....	\$1,022,419
Line 13      All other STATE receipts or transfers.....	\$16,000
Line 14      Total State Funding (sum lines 12 through 13).....	\$1,038,419
<b>FEDERAL FUNDING SOURCES</b>	
All other FEDERAL receipts or transfers .....	\$5,758,590
TOTAL RECEIPTS (sum lines 11, 17, 23).....	\$8,697,369
TOTAL DISBURSEMENTS (sum lines 29 through 60).....	\$9,288,659
CLOSING BALANCE (dedicated to future projects) .....	\$76,100

**Staff Reports:**

A. **Public Works:** John Millar

Public Works Director Millar reported the city’s snow hauling costs for the past two or three weeks. The city expended \$72,000 on contract snow removal last year and the city budgeted \$75,000 for contract snow removal this year. Private contractors have been used to clear roads this year at a cost of \$30,000 to date. The city has three road graders moving snow and contractors have an additional three road graders doing snow removal for the city. Several trucks and loaders were hired around Christmas time to removal snow from city streets. Council Member Stevens reviewed the costs for contractors and the additional costs for city crews.

Council Member Stout asked if the state provides any funding for the state highway going through the city. Public Works Director Millar explained the city went away from having the state plow snow on State Hwy 33 going through the down town area a number of years ago because of the need to be more attentive to local needs on Main Street and 2<sup>nd</sup> East.

**Mayor Larsen** asked Public Works Director Millar about the lack of sidewalk cleaning on 2<sup>nd</sup> West. Can the city clear the sidewalk at the expense of the property owner? Public Works Director Millar asked the City Council to initiate a new ordinance to provide better control of snow clearing issues on streets and sidewalks.

**Council Member Erickson** was opposed to charging property owners for removing snow on sidewalks. Public Works Director Millar said snow storage area is not available for some sidewalks due to adjacent fences or other obstructions. The city would have to remove the snow from the area to clear some sidewalks. City crews have been clearing some sidewalks and assisting private property owners on 3<sup>rd</sup> South and 2<sup>nd</sup> West to clear sidewalks for pedestrian traffic. City crews will continue to work on snow removal on sidewalks where private property owners are unable to remove the large volume of snow on critical corners.

**Council Member Stevens** reiterated his point from prior meetings the need to keep wide streets instead of allowing proposed narrower streets in new developments. The wider streets allow some room for traffic flow in the winter time when snow removal from streets is a problem.

**Council Member Erickson** asked to clear the snow of East Main Street onto the Center Island on the inside of Main Street and Smith Park on the other side of Main Street.

**Council Member Mann** commended the Public Works Director Millar for clearing the streets after Christmas Day's 25 year snow storm. He reiterated the comments concerning charging property owners. He asked Public Works Director Millar why some private property areas are cleaned by the city while others are not cleaned by the city. Public Works Director Millar said if it is a safety issue, the city will take necessary action to eliminate the safety concern.

Discussion: Some concerns were expressed on city liability on 2<sup>nd</sup> West where pedestrians are using the street to walk up the street when the sidewalks are full of snow. Mayor Larsen said the same discussion was had in the Traffic and Safety Committee last night. The Traffic and Safety Committee is discussing the issue to come to a recommendation to make 2<sup>nd</sup> West safer.

**Calendared Bills and Tabled Items:**

A. **BILL Introductions:** – NONE

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

1. **BILL 1016 “Waste Water Sewer Use”** replacing Ordinance 800

**Public Works Director Millar** explained Ordinance 800 was replaced by BILL 1016 to comply with mandated EPA policy requirements. The fees for non-compliance and other requirements were reviewed on pages 45, 40 & 46. Most of the changes are considered housekeeping changes. City Attorney Zollinger explained the ordinance was rejected by EPA until the civil penalties were modified to comply with EPA standards.

**Page 45:**

**14.2 Septic Waste Haulers, and Disposal Fees**

**Fee Structure**

*\$.10 per gallon of septic waste, a 1000 gallon tank charge \$100.00*

*1500 gallon tank charge \$150.00*

**\* FEES:** *These fees are based on tank capacity.*

**\*NO SERVICE STATION or GARAGE SUMPS WILL BE ACCEPTED**

*Domestic sewage is the only waste that will be accepted*

**Page 40:**

*A. A user which has willfully or negligently violated any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon*

conviction, be guilty of a misdemeanor, punishable by a fine of \$250.00 per day per violation and up to \$1000.00 per day per violation, or imprisonment for a minimum of 6 months, or both.

B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1000.00 maximum under State law and/or be subject to imprisonment for 6 months. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation per day, or imprisonment for not more than 6 months, or both.

D. In the event of a second conviction, a user shall be punished by a fine of not more than \$1000.00 per violation per day, or imprisonment for not more than 3 years, or both.

**Page 46:**

#### **14.4 Excessive Strength Discharges**

Maximum allowable BOD 200 mg/l per day

Maximum allowable TSS 200 mg/l per day

When any user contributes wastewater having an average Biochemical Oxygen Demand (BOD) and/or (TSS) Total Suspended Solids loading in excess of the maximum allowable "normal limit as such shall be levied a surcharge. The user's "Surcharge for Excessive Strength" shall be computed as follows:

EXAMPLE:

Wastewater flow of 10,000 gallons/day having 800 mg/l of BOD,  $10,000 \times 800$  subtract  $-200 \times$  by the number of days, assuming 30 days is:  $8.34 \times 10,000 \text{ gal.} \times 600 \text{ mg/l} \times 30 \text{ days} = 1501.2 \times \$0.36 = \$540.43$

Total Suspended Solids would be charge in the same manner as the example of BOD, the excessive strength charge per pound on TSS being \$0.18 per pound.

#### **14.3 Severability**

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

#### **14.3 Conflicts**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

**Council Member Erickson** moved to suspend the rules for the reading of BILL 1016 "Waste Water Sewer Use"; Council Member Stevens seconded the motion to suspend the rules.

**Roll call vote:**

#### **Those voting aye**

Council Member Erickson  
Council Member Mann  
Council Member Stevens

#### **Those voting nay**

Council Member Stout

**The motion carried.**

**Council Member Erickson** moved to third read and adopt **BILL 1016 for “Waste Water Sewer Use”** replacing Ordinance 800; Council Member Stevens seconded the motion; Discussion: Council Member Stout asked about the fees. City Attorney Zollinger explained the civil penalties were the issue with EPA. It does not change the daily use fees; only the non-compliance fees. All voted aye; none opposed. **The motion carried.**

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

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

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

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

**Old Business:** - NONE

**Mayor’s Report:**

**Committee Reports:** Mayor Larsen asked the City Council to approve two new additions to city committees. He recommended Reed Nielsen be appointed to the Traffic and Safety Committee and Sean Cannon be appointed to the Trails of Madison County Committee.

**Council Member Erickson** moved to approve and ratify the appointment of Reed Nielsen to the Traffic and Safety Committee and Sean Cannon to the Trails of Madison County Committee; Council Member Mann seconded the motion; all voted aye, none opposed. **The motion carried.**

**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. December 17, 2008 meeting

B. Approve the City of Rexburg Bills

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

**Executive Session** pursuant to State Statute 67-2345 (C) to conduct deliberations to acquire an interest in real property which is not owned by a public agency.

**Council Member Mann** moved to go into Executive Session pursuant to State Statute 67-2345 (C) (Contract negotiations) to conduct deliberations to acquire an interest in real property which is not owned by a public agency; Council Member Stout seconded the motion; Roll call vote:

**Those voting Aye**

Council Member Erickson

Council Member Mann

Council Member Stevens

Council Member Stout

**Those voting Nay**

NONE

**Executive Session**

**Executive Session ended**

**Adjournment**

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Shawn Larsen

Mayor

Attest:

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Blair D. Kay  
City Clerk