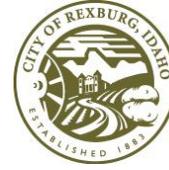


City Council Meeting

November 18, 2009



CITY OF
REXBURG
America's Family Community

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November 18, 2009

Mayor Richard Woodland

Council Members:

Christopher Mann – Council President
Rex Erickson Randy Schwendiman
Bart Stevens Brad Egbert
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 Woodland asked Bishop Nate Williams to start the meeting with prayer.

Roll Call of Council Members:

Council Member Erickson, Council Member Stevens, Council Member Schwendiman, Council Member Stout, and Council President Mann and Mayor Woodland were in attendance.

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

Presentations:

A. Unsung Hero “Life Saving Award” Presented by Mayor Woodland and Fire Chief Child

Fire Chief Child presented the following information to the City Council to recognize Caroline Cooper and Mark Myers and others for saving a life at BYU-I. Included is a letter from Caroline’s parents providing some insight into Caroline’s history when she was in the 6th grade.

On October 21, 2009 our department was paged out to a 22 year old male having a seizure in the Hinckley Building on BYUI campus. Upon arrival on scene, the medics were told the patient was no longer breathing, had no pulse and CPR had been initiated by bystanders.

Joseph Haeberle, Trevin Ricks and Cameron Johnson were the medics from our department who initiated care. They were told that CPR had been in progress for approximately four minutes—they continued CPR for two more minutes and then defibrillated the patient. CPR was continued and then a second defibrillation delivered.

After the second defibrillation and a third round of CPR, the patient was noted as having an organized rhythm. The patient was also incubated to deliver oxygen to the lungs and to maintain the airway.

All too often we fail to recognize those involved in saving a life. Tonight, I would like to recognize and honor five individuals. The first three are the previously noted medics who cared for Daniel: Please come forward as I read your name: Fire Fighter/ Paramedic Joseph Haeberle, Fire Fighter/ EMT Trevin Ricks and Fire Fighter/ Paramedic Cameron Johnson—With great honor I will present an award of commendation to each of them at our yearly department awards ceremony in December.

*Perhaps the most remarkable story to be told tonight is that of **Caroline Cooper and Mark Myers**—the two bystanders that initiated CPR and ultimately preserved Daniels life during a very critical time period before definitive paramedic care could be given. Both Caroline and Mark’s actions not only preserved Daniels life but allowed for Daniel to live without incapacitating deficiencies. With much gratitude from Daniel and his family and the City Of Rexburg it is my honor to present to each of you, Caroline Cooper and Mark Myers the City of Rexburg’s “Unsung Hero Award for Life Saving.” Additionally, I would like share with you a little bit about Caroline. Her father emailed me the following letter: He said, “I thought you might find some additional information about Caroline interesting. Caroline was diagnosed with a seizure disorder in the sixth grade. Two years of treatment involving a number of medications and combinations had no impact, indeed the seizures increased in frequency and severity. It affected her entire life and personality as we could not predict when and where she would have an event.*

In the eighth grade, a change in physician and focus led to discovering a tumor in her left temporal lobe. The seizures were so severe we pulled her from school in January, with surgery to remove the tumor planned for March. The procedure was successful, despite several logistical challenges related to brain activity and centers of speech and memory.

If she were to stay seizure-free for 3 years, she would be declared cured. But, to our immense disappointment, the seizures returned in two and a half years. More CAT scans and other brain diagnostics revealed scar tissue and other abnormal brainwave functions that were not detectable earlier. Another surgery was planned.

All this time Caroline returned to school to re-do the 8th grade, passed into HS, played soccer, including starting as a freshman in goal for a state-championship contender, attended Church, YW, Camp, etc., all the things a young woman wants to do. The residual effect of the original tumor and surgery left her with some 'gaps' in her learning, specifically related to speech and vocabulary, but she persevered with great courage. She can't always think of the right word to say, but that generally doesn't stop her from speaking!

Occasionally she complained, but for the most part she has gained great strength and inner discipline from this experience.

The second surgery resulted in removing scar tissue and the left hemisphere of her hippocampus. That was 5 years ago. Her medications have been reduced to a minimal level. She hasn't had an event in a very long time.

Her experience has made her extremely sensitive to persons with seizures and seizure disorders, and her first aid training and certification as a life guard has given her skills. When she saw this young man go down, she immediately went to his side. You already know what happened from that point on.

However, Caroline was quite upset for several days due to the extreme emotional charge, and being pumped full of adrenaline in her response. She was literally sick for almost 4 days, and relived the event over and over. She was very happy to have been there, to have had the training and to have had the experience to know what to do. And, she was especially happy that she did what she knew she could.

Her Mother and I have cried for her, the young man and his parents, so happy that things turned out well, so concerned for Caroline being in such a traumatic situation so far from our home in South Carolina.

Thank you.

*Chris and Leslie Cooper
Charleston, SC*

Chief Child commended Caroline for her heroic efforts in saving a life and also for her heroic efforts as she has worked her way through her own healing processes.

B. Appoint City Council Member to fill a position vacancy.

Mayor Woodland indicted much study and pondering has happened to decide who he should appoint to the office of City Council. He announced a new City Council member "Brad Egbert" to fill the vacancy created with his appointment to the office of Mayor of Rexburg. The City Council members were asked to ratify the appointment of Brad Egbert as a councilmember to fulfill the remaining term of Richard Woodland. Council Member Schwendiman moved to ratify the appointment of Brad Egbert to City Council to fill the vacant position; Council Member Stout seconded the motion; Roll call vote:

Those voting aye

Council Member Stout
Council Member Schwendiman
Council Member Stevens
Council Member Erickson
Council Member Mann

Those voting nay

None

The motion carried.

City Clerk, Blair Kay immediately swore Mr. Egbert in as a City Council member.

Official Oath

STATE OF IDAHO

} SS

County of Madison

I, **Brad Egbert** do solemnly swear (or affirm) that I will support the
(Print Name of Elected or Appointed Official)

Constitution of the United States and the State of Idaho, and the Laws and Ordinances of

Rexburg City, and that I will to the best of my ability, faithfully perform the duties of the office of **Councilmember** in Rexburg City, Madison County, Idaho, during my continuance therein, so help me, God.

(Signature of Elected or Appointed Official)

Subscribed and sworn to before me this 18th day of November, 2009.

Blair D. Kay, City Clerk

Committee Liaison Assignments for 2009:

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

Council Member Mann reported on the East Main Street beautification project; noting it looks really good. (There is a new informational sign and landscaping at the corner of 2nd East and Main Street) He is proud of the efforts of the emergency services team in the life saving efforts presented in tonight's meeting.

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

Council Member Erickson did not have report.

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

Council Member Stevens reported on the Madison School District ball fields. Those people using the fields don't really care who owns the ball fields. They just want a place to play ball. He indicated the city will continue to work with the school district on issues of shared use facilities. After a meeting next week with school officials, Council Member Stevens will bring a report back to the city concerning any land transfer proposals. A member of the community has requested a partial lease of the Westwood Theatre. They will meet on the issue and bring any proposals forward to the City Council.

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

Council Member Schwendiman reported Traffic and Safety met to select a new chair person (Rosco Orton) and a vice chair person (Rick Robbins). They reduced the number of committee members by two to make a better attended committee and to meet the quorum requirements. Council Member Schwendiman asked to have the city committees reviewed to make sure they are able to meet and function with enough members attending to conduct business.

E. Council Member Brad Egbert *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*

Mayor Woodland reviewed a recent grant for the Arts Council of \$4,000 to replace tabernacle windows. They are excited to receive the money. There is an upcoming Thanksgiving event at the Tabernacle performed by the "Turkey Choir" to celebrate Thanksgiving.

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

Council Member Stout did not have a report.

Public Hearings: None

Items for Consideration:

A. Review Reverse Angle Parking – Staff

City Attorney Zollinger reviewed some accident history 12 months before reverse diagonal parking was initiated on 1st East and 2nd South. There were eight accidents in the preceding 12 month period associated with backing out of parking stalls into traffic. Since the reverse diagonal parking was initiated on these two streets, there has been one backing accident getting into a parking stall. There have been no speed accidents. He addressed the compliance issues noting the first few weeks after initiating reverse angle parking there was about 90% non-compliance. The compliance reviews between 9:00 A.M. and 11:00 A.M. the last three days for 88 parking stalls showed the following results:

Day One – 100% compliance.

Day Two – 100% compliance.

Day Three – Two non-compliance parked vehicles.

During school hours they believe the parking plan has achieved complete compliance with the reverse diagonal parking plan. They maintain it is ultimately a safer method of parking to pull out into traffic verses backing out into traffic. City Attorney Zollinger explained it is within the City Council's prerogative to instruct the Public Works Department to remove reverse diagonal parking from the parking plan.

Council Member Stout likes the reverse diagonal parking plan; however, he does have a couple of concerns. He believes it is too early in the process to make a decision to back off.

Council Member Mann said it is problematic because it is the only section in town with this type of parking. He understood the Hemming's project is planning this type of parking too. He was concerned with having spot areas where reverse angle parking is utilized. It is a concern to have different parking in different areas. He agreed it was a safer way to park in the long run; but it is problematic for one little section in town. He thought it would be better to have the same kind of parking on the entire street.

City Attorney Zollinger said it is more dangerous parking in reverse angle parking stalls. It reverses the danger and puts more concern on parking, but it is safer to exit.

Council Member Stevens was concerned with eliminating reverse angle parking after investing in signage, striping, etc. He thought it was more dangerous to park; however, it is a lot safer to pull out into traffic. He referred to several cases where he has had people slam on their brakes to park. He wondered where these people are going; then they proceed to back into a reverse angle parking stall. It reverses the danger.

Council Member Schwendiman was willing to allow it to work for a while.

Council Member Stout said it was initiated in a small area of town; however, the reverse angle parking area is on a street where parking permits are required. The people parking in the reverse angle stalls use the parking permit streets daily and they typically have an annual parking pass.

Public Works Director Millar indicated repainting the parking strips in November would be a problem due to the weather. It would be very difficult to do in the winter.

Mayor Woodland reviewed the reverse angle parking streets last night after hours. He counted up to 30% or more parking violations with cars parking forward in a reverse angle parking stalls. He has had a lot of complaints from people who use those reverse angle parking streets on Sunday. One issue is the due to the camber of the road; their mirrors have to be adjusted to see the painted strips when they back up into the reverse angle parking stalls. He would like to see it end for now until an entire street could be done.

Public Works Director Millar said Hemming's reverse angle parking plan is only for ½ block for a new building.

Mayor Woodland asked if there was a motion to change the reverse diagonal parking plan. There was not a motion; therefore, the reverse diagonal parking plan remained unchanged.

B. Discuss the PRO-Zone concerning its application to the city's zoning code - Staff

City Attorney Zollinger asked the City Council for their concerns with the Pro-Zone and the original intent of Planning and Zoning. Council Member Stevens said there were concerns for allowing the developer to create their own zone inside the standard zoning ordinance including set back rules, etc. He did not want an option in place that would not have oversight by the city. City Attorney Zollinger explained it allows a developer the right to make a proposal; to pursue options for a development that are not allowed in existing zoning configurations. An example would be a student housing development where the developer is trying to put apartments on a skinny piece of property. The property owner is unwilling to develop the property into the standard 8,000 to 10,000 square foot lots required by the current residential zone. The purpose of the Pro-Zone would be to allow the property owner to come before Planning and Zoning with a proposal showing what they would like to try to develop on their piece of property. Row housing similar to Georgetown in Washington DC where the housing would have access to an alley; allowing buildings closer to the street because there would be no access to the street. The city does not have a zone that allows it at this time. Using the Pro-Zone with a public hearing, this type of development could be allowed. The purpose of the Pro-Zone is something I would like to try on my property.

Council Member Stevens said the Pro-Zone allows for large pieces of property to be developed in a unique manner outside the traditional code allowing for unique setbacks, etc. He was concerned the Pro-Zone was sight specific without the traditional oversight by the code. A developer said after getting a Pro-Zone approved his development could move forward without City Council oversight.

City Attorney Zollinger said it allows for proposals in certain areas where traditional development won't work. Based on an approved Pro-Zone a unique development can be designed for a unique piece of property. A Pro-Zone is not a zone. It is a mechanism to create new zones for a particular development similar to a development agreement; if it is in an area of the city which allows a Pro-Zone. This allows a developer the opportunity to utilize some creativity to propose a development that could be squeezed into a particular piece of property. The Hemming's property is the only place where that particular Pro-Zone will apply. If someone else came in to ask for the very same Pro-Zone used in Hemming's development for their development, it could not be done. It would have to be re-designated as the "Val Christensen Pro-Zone", etc. if Val Christensen was the one making the proposal.

Building Official Val Christensen explained the Pro-Zone would be a good tool if used correctly. The problem may be the city has not used the tool correctly. If the Pro-Zone is left in the code as a tool, it would put some pressure on the city to monitor it for compliance. Where the city gets into trouble is monitoring building heights, parking, etc. where the Pro-Zone varies from a traditional zone that has been tested over time. There is a problem with the Pro-Zone if it is written too loosely. It is a good tool if monitored correctly.

Mayor Woodland explained the concern with a Pro-Zone is the lack of City Council oversight once the Pro-Zone has been approved. If changes to a Pro-Zone are proposed, those changes can be approved through staff review.

Building Official Christensen said the problem with a Pro-Zone is setbacks can be approved on a case by case basis for each Pro-Zone independently of the traditional zone. The Pro-Zone can be written up requesting Planning and Zoning and City Council approval of any changes, etc. If it is not written up with proper controls, it can get you into trouble. If a plan is approved by a particular presentation and the plan is changed later, it will get you into trouble.

City Attorney Zollinger explained the Hemming Pro-Zone listed a number of allowed uses that would not require City Council oversight. Any oversight problems can be corrected by including a sentence in the Pro-Zone stating "All modifications or all structures must be approved by a vote of the City Council or a vote of Planning and Zoning." This statement was not included in the Hemming Pro-Zone, so they did not have the oversight requirement; therefore, they did come to the City Council and Planning and Zoning as a courtesy to explain some changes to their approved Pro-Zone. It is similar to the University Zone; where parking is not reviewed for code compliance by the city as long as staff determines it meets the University Zoning code.

Council Member Stevens was concerned with the lack of review by Planning and Zoning and City Council. As elected officials may change from time to time, staff will have to deal with development changes which take on a life of their own. He was concerned with the staff oversight twenty years later for Pro-Zone changes outside the intent and approval of the original Pro-Zone. He was concerned the Pro-Zone will take on a life of its own. Is there another code that can be used outside of the traditional zoning ordinance? He indicated these are concerns he has with the Pro-Zone.

Council Member Schwendiman asked for more information on the Hemming Pro-Zone discussion at Planning and Zoning. City Attorney Zollinger explained Planning and Zoning recommended taking the Pro-Zone out of the ordinance and then after more discussion at their next meeting the asked to keep the Pro-Zone in the ordinance to allow for development where there can't be effective development with traditional zoning. Planning and Zoning wanted significantly more oversight in the Pro-Zone application to control how the zone would be developed for a specific development. If a developer comes in to the city asking to develop a six acre piece of property with a plan not approvable in a traditional zone, Planning and Zoning wants to have the option of a Pro-Zone that can have more restrictions to allow for development. He referred to the alley example where traditional zoning does not allow for alley development because it is not a public street. Singular changes to the development code without the Pro-Zone would not happen.

Council Member Stevens asked to have Planning and Zoning revisit the Pro-Zone application. City Attorney Zollinger explained the timing to keep the Pro-Zone was only one meeting after the discussion they had to remove the Pro-Zone. They wanted to keep it in the code for an option to use for unique developments.

Council Member Stout was concerned with the Pro-Zone application over time as staff and elected officials come and go. He was concerned with oversight of the Pro-Zone application over time. What keeps us from making the same mistakes with future Pro-Zones?

Building Official Christensen explained some history of the Pro-Zone. The Pro-Zone was initialized and implanted over time. Initially the administrator was positive with the Pro-Zone creation; however, over time, he thought the Pro-Zone was difficult to administer due to the loose nature of the code. You have to be watchful on how it will be used. If it is written wide open, then that is what you get. He said the City Council will have to decide if they are comfortable with using the Pro-Zone as a tool. If it is kept as a tool, it will have to be managed correctly.

Council Member Erickson said the Hemming Pro-Zone was the first Pro-Zone; The Planning and Zoning Administrator loved it when it was adopted; later it became a burden to him. Planning and Zoning does not want the Pro-Zone left in as a tool. He didn't think there would be a possibility for many more Pro-Zones in Rexburg. Planning and Zoning does not have to use the Pro-Zone. He mentioned that it started with the development of College Street. It was planned for a single development using a Pro-Zone, but it fell apart. Hemming's owned almost the entire block which made a Pro-Zone possible. The College Avenue proposal did not move forward because of multiple owners. Planning and Zoning will not allow improper use of the Pro-Zone.

Council Member Mann said he is hearing the City Council does not want to lose control. We are going to watch development very carefully. It will be incumbent on the city departments to keep the City Council in the loop on Pro-Zone development.

Council Member Stevens was concerned the Pro-Zone controls rely on staff for oversight. He gave an example of a proposed development cutting down on the width of a street. Snow still has to be moved off the streets, etc. A small trail in a subdivision for a street will be hard to remove the snow. We need to watch what comes in for development.

Council Member Erickson said the City Council has to rely on Planning and Zoning to do the right thing. The Pro-zone requirements are pretty hard to meet. City Council has to be diligent and make the final approval. We have the Kartchner Development with narrower streets being proposed. The city does not want narrower streets.

Council Member Egbert requested safeguards so human error would not miss critical items. Human error can miss things. He wanted to study the overall structure of the code.

Council Member Schwendiman was concerned with a development going forward without proper oversight.

Council Member Stout said maybe it will be a possibility of missing something in the future.

Council Member Stevens continued to express his concern with the lack of Pro-Zone oversight.

Council Member Schwendiman wanted some expertise written into the code to protect the city.

Council Member Erickson said Planning and Zoning can take another look at the code.

Council Member Mann said code "changes" can be included like parking, etc.

Building Official Christensen said the purpose of the Pro-Zone is to allow creativity. Staff, Planning and Zoning, and City Council can keep a diligent eye on it.

Council Member Stevens continued his request to require City Council scrutiny. He did not want the developer to be able to skirt the process of code compliance.

Discussion on scrutinizing the proposals before approval.

City Attorney Zollinger said all Pro-Zones will have the caveat of a check list of items approved by City Council. He will seek a check list of items to be presented from Planning and Zoning to City Council.

Mayor Woodland was concerned with the development presented in the initial proposal being changed after they get approved.

Continued discussion:

City Attorney Zollinger said the Hemming project was approved with the ability to move the building around in the one block area. Staff asked for some changes to Hemming’s development through the process. They are close to the limit with line of sight, but they are in compliance. Building Official Christensen explained other experiences he has had where the Pro-Zone was used as a whole; not in concept, it was in fact; deviations would have to be approved.

Discussion on the 2nd West entrances into the Hemming project.

Staff Reports:

A. **Public Works:** – John Millar

1. **Barney Dairy Rd./North Hill Rd. Water Line bid approval.**

Bid Results:

<u>Contractor</u>	<u>Bid Amount</u>
DePATCO	\$ 59,895.00
3H	\$ 70,824.60
Jerome Bowen	\$ 76,273.25
Barney Towing	\$ 87,249.23
HK	\$ 96,225.00
Edstrom	\$ 107,640.00
Zollinger	\$ 118,425.00
TMC	\$ 120,520.00
Greg Bybee Excavation	No Bid



Public Works Director Millar reviewed the proposed 12 inch connector water line on the overhead screen. He explained an additional 12 inch water line was needed to loop the Hidden Valley area with the North Hill Road/Barney Dairy Road area. He reviewed the bid list and asked the City Council to award the lowest bid to DePATCO for **\$ 59,895.00**. The work is scheduled for the spring of 2010. He explained \$250,000 is allocated in the water department each year for water line maintenance.

Council Member Stevens asked if there was a rock exclusion in the bids. Public Works Director Millar explained rock was included in the bids.

Council Member Erickson asked if all the water lines are 12 inch for the loop connection. Public Works Director Millar said there were six and eight inch lines in past going to this area; however, the subdivisions have built out requiring larger water lines. The smaller water lines were changed to 12

inch water lines for fire prevention flow requirements in the area. During hot summer days the line verily meets fire flow requirements. Looping the water line is needed to ensure fire flow requirements are satisfied. The 12 inch line on North Hill Road will tie to the water line from Harvest Heights on the hill.

Council Member Stevens moved to approve the low bid from DePATCO for \$ 59,895.00 for the Barney Dairy Rd./North Hill Rd. Water Line; Council Member Egbert seconded the motion; all voted aye, **the motion carried.**

2. Sanitation Truck information:

Public Works Director Millar presented an information packet to the City Council:

The current sanitation truck has been in service for the past 15 years. The new truck chassis is on hold until approved. The same manufacture will do body for the truck too. Some funding will come out of wastewater operating revenues.

Council Member Erickson questioned the timing of the proposal given the tight economic conditions and the city waiting for the February revenue allotment. Public Works Director Millar explained funding for the replacement sanitation truck comes from user fees.

Council Member Schwendiman reviewed the proposal to save \$12,000 on the engine costs if the truck is ordered before as soon as possible. He supported the proposal to purchase the truck now to save the additional expense.

Council Member Stout was not happy about the pickup purchase by the Public Works Department in the recent past; however, he was agreeable with this purchase coming from the wastewater enterprise fund.

Council Member Mann said this purchase was already deferred for a year; he was ok with the purchase. Public Works Director Millar said there was 11,000 hours on the old truck. They could continue to spend a lot on truck maintenance. This purchase will allow the city to have two old trucks to keep as spares for parts. Finance Officer Horner explained it would cost \$30,000 to \$40,000 a year to maintain this truck. It is hard to keep the old truck running by taking parts off of an old spare truck.

Council Member Erickson was concerned with allowing an expense for this department before the February revenue numbers were verified; other departments are not allowed to expend funds until the revenue is verified.

Council Member Mann moved to approve the purchase of the sanitation truck; Council Member Schwendiman seconded the motion; all voted aye, **the motion carried.**

3. 12th West reconstruction from Main Street to 7th South:



Proposed street widths:

- Ⓒ 28’ Two 12’ lanes with 2’ Shoulder
 - Canal Bridge 30’ width
- Ⓒ 34’ Two 12’ Lanes with 5’ Shoulder
- Ⓒ 38’ Two 12’ Lanes with 7’ Shoulder

Public Works Director Millar reviewed the options proposed to develop 12th West from Main Street to 7th South on the overhead screen. There has been grant money awarded to Rexburg for the project. The stimulus grant is for \$467,000 which covers the basic cost of reconstruction. A \$100,000 portion of the grant will be directed towards planning, design, and construction oversight. The width of the two lane street reconstruction could range from 28 feet to 38 feet. The street construction items include road edge damage, a bridge, irrigation culverts, utilities, etc. They have looked at three options for street width. A 28 foot street reconstruction could be covered by the grant.

- a. 28 foot street with two lanes and a **two foot shoulder**.
- b. 34 foot street with two lanes and a **five foot shoulder**.
- c. 38 foot street with two lanes and a **seven foot shoulder**.

Water and sewer lines parallel the street on 1 1/2 mile stretch. Widening the bridge to 70 feet would be costly. Council Member Erickson reviewed costs out of pocket for the city. It would take \$125,000 of city funds over the grant to reconstruct a 28 foot street.

Council Member Egbert asked how wide the bridge needed to be for a 34 foot road. Public Works Director Millar explained if the bridge is going to be widened, it should be widened a minimum of 44 feet. At a minimum, the current 30 foot bridge should have a guard rail.

Council Member Schwendiman asked if a bike and pedestrian lane are being planned. The road width at 38 feet with a seven foot shoulder would allow for bike lanes. Turn lanes would be part of the project by widening the road at the intersection locations. There would be a turn lane midblock at the parking lot entrance to the high school. The whole intersection at University Blvd. and 12th West would be widened too.

Council Member Erickson reviewed the costs for the street reconstruction at different widths.

The total cost for each road width choice is as follows:

	<u>Cost</u>
1. 28’ Width Road Widening	\$367,000 for construction
	\$100,000 for engineering and oversight
Culvert Replacements	\$ 25,000 for culvert replacement
Utilities	<u>\$100,000</u> for utilities
Total	\$592,000
2. 34’ Width Additional Cost	\$367,000 for construction
	\$100,000 for engineering and oversight
	\$200,000 for additional width
Culvert Replacements	\$ 25,000 for culvert replacement
Utilities	\$100,000 for utilities
	<u>\$ 65,000</u> for 44 foot wide bridge
Total	\$857,000
	-44 foot bridge
	-\$ 65,000
Add for 70 foot wide bridge	<u>\$180,000</u>
Total	\$972,000

3. 38' Width Additional Cost	\$367,000 for construction
	\$100,000 for engineering and oversight
	\$315,000 for additional width
Culvert Replacements	\$ 25,000 for culvert replacement
Utilities	\$100,000 for utilities
	<u>\$ 65,000 for 44 foot wide bridge</u>
Total	\$972,000
-44 foot bridge	-\$ 65,000
Add for 70 foot wide bridge	<u>\$180,000</u>
Total	\$1,087,000

Discussion: The city has conducted traffic counts (see next page) which were presented to the City Council. Public Works Director Millar explained new growth in the 12th West area including Summerfield Subdivision (4,600), Burton School (2,650), and existing traffic (2,600) will have 9,850 cars per day on 12th West which is currently 28 feet wide. He compared this with the current traffic flow on north 2nd East by the Rexburg North Interchange which has 9,000 cars per day. The traffic at the school will generate about 2,800 trips per day. They estimate 1,000 trips between 7:30 A.M. and 8:30 A.M. and another 1,000 trips between 3:30 P.M. and 4:00 P.M. the remaining 800 trips will be leaving during lunch time or other periods during the day. The traffic counts were reviewed on Main Street and 12th West. The counts on 2nd East by Wal-Mart were about 25,000 trips per day; North Yellowstone to Sugar City has about 3,700 trips per day; etc.

Public Works Director Millar said a 100 foot right-of-way is needed long term to widen to the street to 77 feet. This may be 10 to 15 years away.

Discussion concerning the local subdivisions needing walking routes to the local Burton grade school and the new high school. Willowbrook Subdivision is east of 12th West in this area and Kartchner Homes is planning a subdivision (Summerfield) on the west side of 12th West. Pedestrian and bike traffic will be using the street or crossing the street to go back and forth to school.

Council Member Erickson asked if Kartchner Homes agreed to put in sidewalk, curb, and gutter. Public Works Director Millar explained Kartchner Homes will cover these costs for the street area adjacent to their property.

Council Member Mann said a pedestrian crossing is needed for the local subdivisions for the safety of the children.

Council Member Stevens asked if "Safe Routes to School" funding could be available if the street is widened to 38 feet. Public Works Director Millar said the city could apply for that funding. In the past, funding was available for "Safe Routes to School."

Public Works Director Millar said it is CRABS project; however a 38 foot street requires additional road width.

Discussion on the different costs associated with the different widths for 12th West.

It would cost an additional \$500,000 or more in city funding to build a 38 foot street. The funding could come from set-aside funding for Main Street. Impact Funds could be another source of funding. Finance Officer Horner explained there was some funding available from Impact Funds; however, he would need to get the numbers together for City Council review before the Thanksgiving break. Council Member Stevens wanted to make the road safe.



Engineers Preliminary Opinion of Probable Costs:

● LHTAC Funds	\$466,000.00
● 28' Width Road Widening	\$367,000.00
● 34' Width Additional Cost	\$200,000.00
● 38' Width Additional Cost	\$315,000.00
● Culvert Replacements	\$ 25,000.00
● Utility Extensions	\$100,000.00
● Bridge (30' Width)	
● 44' Wide Bridge	\$ 65,000.00
● 70' Wide Bridge	\$180,000.00

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Other Public Works Projects:

- A. Hawke Signal and mast arms should be up in a week on 3rd South and 2nd West.
- B. 12th West signal being constructed to be delivered in December.

- C. Pioneer Road is open and the old road connection is being tore up.
- D. 7th South Storm Water Detention Facility



E. Recycling options:

SANITATION RECYCLING:

CURRENT STATUS: At the present time, we have blue bins at Albertson’s/Wal-Mart for newspaper, office pack, plastics, card board and aluminum. We have a contract with Barney Towing to collect and dispose of the collected materials. We have been doing this for approximately two years. His contract is for \$3,500 per month (\$42,000 per year), and he keeps any proceeds from the sale of the materials. During the past year he has collected approximately 600 tons of materials. We pay the county \$60.00 per ton for any refuse we take to the transfer station. Assuming that all of the collected materials come from city residents we would be saving approximately \$36,000 on fees that we would have paid to the county. The actual saving is probably something less than this.

FUTURE: We are at a point where we need to renew our contract with Barney’s or look at an alternate plan. Possible alternatives are as follows:

- Do nothing, and let our contract expire with Barney’s and do no recycling.
- Negotiate a new contract with Barney’s and continue with the existing plan.
- Take over the contract and collect and haul the materials ourselves and transport the materials to Idaho Falls for recycling. This would require the purchase of an additional truck to handle the larger containers.
- Expand the service to include curb side, single stream recycling. This could be done using our existing equipment but would require the acquisition of additional containers. This could be done by one of several methods.

RECOMMENADTION: If the city is interested in continuing or expanding the program it would be good to have a work session with the council or the public works committee to explore the alternatives and costs.

Mayor Woodland asked for tipping fee savings information from Barney Towing. It will soon be available.

Single Stream recycling discussed. All recycling material is dumped into a single truck. Each residence would have recycling bins separate from garbage bins. Western Recycling is the nearest site to take single stream recycling material. Council Member Schwendiman asked for cost numbers.

Public Works Director Millar said Pocatello charges \$5.00 per month as an optional service. Twin Falls has mandatory recycling program. Council Member Stevens thought it was a great idea.

Discussion: Boise set out 60,000 blue and black containers this year for recycling. Council Member Erickson asked if it is working in our community. Do they like the program? He noted it was costing an additional \$6,000 to have a working program. We don't have to have more trucks and employees to do it. It is a bargain. He thought for \$6,000 it was a favorable Public Works Director Millar said it is working with some additional cost over the normal county tipping fees. The city has collected 600 tons of recycling material to date. Council Member Erickson said "Don't fix what is not broken." Council Member Stevens reviewed the history of the plan to save the city tipping fee costs and turn a profit. Then in the second year the program was changed to pay Barney Towing for some expenses.

Council Member Schwendiman said recycling needs to be more convenient. He asked for some bids to do curbside recycling. Council Member Mann said when the participation level gets to about 65% it could become a mandatory program. Council Member Schwendiman asked for a survey to see who would participate in a **Single Stream recycling** program. Council Member Stevens asked for the survey to ask who would participate if it was an "optional" program to use one container for recycling. Mayor Woodland said the survey could be done with city bills. Public Works Director Millar will summarize the proposals.

Staff Reports Cont:

B. Finance Department: – Richard Horner

1. Monthly Budget Report

Finance Officer Horner said report is not available at this time. The Finance Department is getting ready for the annual audit.

Calendared Bills and Tabled Items:

A. BILL Introductions: NONE

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

1. **BILL 1027 – Amend Ordinance 908 Temporary Sign Sections** – Staff

City Attorney Zollinger reviewed the proposal to change the sign code. Planning and Zoning and his office made changes to allow for banners, and other signage requested by industry. The City Council took the BILL up for review at a future meeting.

C. Second Reading: Those items which have been first read.

1. **BILL 1035** – Amend the Downtown District Redevelopment Plan "Hemming Site"

Mayor Woodland asked for a motion to 2nd read BILL 1035.

Council Member Stout moved to second read **BILL 1035** – Amending the Downtown District Redevelopment Plan "Hemming Site"; Council Member Stevens seconded the motion; Discussion: The next meeting will be a public hearing. All voted aye, **the motion carried.**

D. Third Reading: Those items which have been second read.

1. **BILL 1014 – Towing and Parking enforcement** – Staff

City Attorney Zollinger did not have any additions or changes. Council Member Stevens asked for any proposed changes. He referred to an email he received on the issue.

Council Member Schwendiman has studied the issues and he has concerns with predatory practices. He has heard the apartment managers do not have control over people hired to do

towing and booting. He referred to national budget concerns where people do not use common sense. A national financial meltdown was caused from a lack of controls. The same thing is going on with this towing and booting issue. There is no common sense out there as far as when and when not to tow a car. He has been on the City Council for four years and this problem has not gone away. The University and apartment owners were going to get together and fix the problem and it hasn't happened. He was undecided as to what to do with the problem.

Council Member Mann indicated this BILL is a great compromise. Half of the city's residents are students. They don't ask a whole lot from the city; however, they did come to the city and ask the city address the problem. This BILL is a way to address the problem. He has heard the arguments last meeting and he wants to third read the BILL tonight.

Council Member Stout would like to tweak Section 9; He asked to push date to January, 2011. People are already selling one year contracts.

9. Non-Consensual Towing and Booting Practices on Multi-Unit Residential Private Properties.

(A) All of the following conditions must be met:

- 1. **Visitor Parking:** Properties with less than 10 on-site parking spaces shall not be required to provide visitor parking. Properties with 10 or more on-site parking spaces must provide visitor parking equal to 5% (rounded up to the nearest whole number) of the number of onsite parking permits or spaces (with a minimum of one visitor parking space). Visitor parking equal to 5% will take effect **September 01, 2010.***

Council Member Schwendiman asked if there was an appeal process.

Attorney Phil Packer representing BYU-I said President Clark asked the housing office to do what they could to work on this problem. Single student housing is only part of the market. They pledge to take on part of the problem. People come to Rexburg and visit the city and the University. The two points causing problems are visitor parking and manager involvement. They think both parties need to be involved. It is for the city to determine if the code needs to be changed.

Mayor Woodland said it would be nice to have a clergy pass.

City Attorney Zollinger said the most recent complaints have come from married student housing. The Police Department does not track complaints by type of housing (single vs. married). He explained society should have a standard higher than what the law requires.

Discussion on parking illegal with an empty parking lot but still getting towed. This gives Council Member Schwendiman a lot of heartburn. The people getting towed have been invited to the apartment complex by residents and they (pizza delivery, etc.) get towed. Laws are passed to make people more ethical. It was noted the city still gives parking tickets when the street has empty stalls. Council Member Schwendiman said the city has gone from America's Family Community to America's Towing Community.

Discussions on having the property owner decide to tow or continue having the towing companies decide when to tow. Unless it is a problem, the tower will not be allowed to make towing decision.

City Attorney Zollinger said the Police Department tracked about 70 "reported" towing complaints last year worth \$7,000. He explained the original proposal for regulating towing and booting was to have the apartment manager make the decision to tow versus the tow truck operator. If parking is not a big enough problem for the owner to walk out and make the decision his parking lot has a problem; so, I need some cars moved so I can accommodate my tenants; then it shouldn't be a big enough problem to allow predatory towing. Cities across the country are starting to address the towing problem; unless it is a problem sufficient enough for the property owner to weigh in on it, then we are not going to allow the towing industry to make that decision for people. In exchange for that proposal, the city will allow the private property owner to continue to have possible less than adequate visitor parking. The city will trust that the property owner will make the right decision. The Ridge complex's parking lot was used as an example with extra parking stalls from 7:00 P.M. to 11:00 P.M. People drive right by parking signs stating a permit is required. They are technically parked illegally; however, they have been

invited to the complex. They are sitting in a parking lot with hypothetically 19 empty parking stalls within the young man's view as he stands there looking for his car. There are 20 empty spots now including the one where his car was parked. What problem was addressed when the invited guest of 42 residents of the Ridge complex having his car towed? If the manager had walked out into the parking lot and said I have no parking problem here. I am not going to risk the wrath of my tenants by having an invited guest towed. The chances are whatever complaints the city is experiencing will be reduced because the manager is going to exercise the business decision related to the apartment complex; whereas, the tow truck operator is exercising his absolute right; a business decision based on what is in the best interest of his business. The best interest of his business is towing that car out of a virtually empty portion of the parking lot and collecting a \$100.00 from the young man who was invited to come and visit the people that live there at the Ridge. Nobody questioned the \$100.00 fee because the young man parked in the wrong place; but, that doesn't change the circumstance. We continually get called on the carpet by those angry parents or those angry citizens who say "You know what, if you are going to let them tow us in a predatory fashion, then we think you ought to treat them like every other business in town and require them to have parking consistent with the business they are conducting which is residences. If there are 100 girls living in an apartment complex, it is unrealistic to think the appropriate number of stalls consistent with those 100 girls living there is three visitors. Instead of the city saying the practical number of visitor parking is 40% for 100 girls; it being an unrealistic expectation of a property owner; the city makes a proposal: you be responsible to make sure when a car gets towed out of your parking lot, you are prepared to defend why you had the car towed. The city is experiencing on a repetitive basis the manager has been contacted. The people who invited the young man to come to the complex go with him to the manager and they say "Hey, what happened to our friend's car? It got towed. The manager say's "I wish I had some control over this, but I don't;" The owners have contracted with the towing company and I have absolutely no discretion over this; it is purely up to the tow company." The young man goes down and pays the \$100.00 and gets his car back. The 42 friends each chip in a couple of bucks and help him pay for his car. What was the problem that was solved? "Nothing." The property owner has been allowed to take advantage of their residents because the city didn't require the appropriate number of visitor parking stalls.

City Attorney Zollinger explained visitors are invited; however, they park illegally with empty stalls. The city is addressing a problem of traffic congestion (churning) on a number of streets around the University between the hours of 8:00 A.M. and 5:00 P.M. The solution was to reduce the number of cars to a number that is equal to or less than the available number of parking stalls around the University by issuing parking permits to control the traffic churning problem every hour on the hour around the campus. The city took responsibility for the problem and issued permits to directly affect the problem. No one gets a parking ticket unless a city employee issues a ticket. The city employee does not get a dime benefit from writing the ticket to someone who has parked in an assigned parking place on a one to one basis or a less than one to one basis to car the city has authorized to be parked in that parking stall.

City Attorney Zollinger explained if the owners are willing to do exactly what the city did with parking permits, and send an owner or an owner's representative who does not stand to benefit financially from the decision to have the car towed, we will be on the same foot; that is what this ordinance recommends even if the street is empty. If the street is empty, the city will probably not send someone out to write a ticket. When tickets are issued on streets with available parking, it is to limit the number of cars moving. The city does not want to encourage the cars to be moving. City Attorney Zollinger did not suggest an owner could not have a car towed. He wanted the owner to be responsible for deciding if the car gets towed. Parking meetings with BYU-I were held and many suggestions from the meetings were incorporated into the current version of BILL 1014. An example was to reduce the visitor parking from 10% to 5%. These meetings were held about five months ago. A recent meeting was held where a recommendation to reduce the visitor parking requirement if the complex has sufficient parking to accommodate visitors.

Council Member Stout referred to page 4 Section 9 clarifying the visitor parking issue. He wanted to clarify that parking permits will only be issued for the number of parking stalls available. The example of 100 space available requiring five visitors parking stalls; therefore, only 95 parking passes could be issued. City Attorney Zollinger clarified stating there is a provision allowing student parking in visitor parking stalls after curfew. 100 permits would be issued knowing five of the permits would not be available until after curfew. In the first generation of meetings a few years ago, it was noted that not all of the students were using the parking lot until after curfew. (I.e. students going home for the weekend, working, etc.)

Merrell Pratt reviewed the concept of allowing visitor's spaces available for tenant parking after curfew.

An owner/manager requested using another term instead of predatory booting. He felt it was disparaging to the towing person. He wanted to call it "contract" towing. He explained it was a copout to blame the city when a car is towed on private property. He was invested in the private property issues and he wanted the city to refrain from regulations on private property. City Attorney Zollinger clarified the "contract" towing to be a regulated event by calling to have a tow truck come and remove a vehicle.

Council Member Erickson welcomed recently elected Council Member Donna Benfield back to the City Council. She will take office in January, 2010. He reminded her City Council talked about booting and towing six years ago.

Council Member Schwendiman preferred to have single housing towing worked out with the University.

City Attorney Zollinger indicated by formally tabling the BILL, it will delay any action. It would have to be tabled each meeting. Council Member Stevens would like to wait for University action. Attorney Packer will be happy to work on it. He did not indicate it would be solved very quickly.

Darren Helm offered to have the City Council members come and ride with him to see the issues first hand when towing illegally parked cars in private parking lots.

Council Member Schwendiman moved to table BILL 1014 for 60 days; Council Member Stout seconded the motion; **Roll call vote:**

Those voting aye

Council Member Stout
Council Member Schwendiman
Council Member Stevens
Council Member Erickson
Council Member Egbert

Those voting nay

Council Member Mann

The motion carried.

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

Mayor's Report:

- A. **Appoint City Council Member** to fill position vacancy.
(The appointment of Brad Egbert was done earlier in the meeting.)

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

Minutes:

- A. November 4, 2009 meeting
B. Approve the City of Rexburg Bills

Council Member Mann noted a word on page five should be changed to "fluff."

Council Member Erickson moved to approve Consent Calendar with noted changes; Council Member Stout seconded the motion; all voted aye. **The motion carried.**

Executive Session 67-2345 (B) & (F) to consider personnel and legal issues.

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

Mayor Woodland asked for a motion to go into executive session:

Council Member Erickson moved to go into Executive Session per state code 67-2345 (B) & (F) to consider personnel and legal issues; Council Member Schwendiman seconded the motion; **Roll call vote:**

Those voting aye

Council Member Stout
Council Member Schwendiman
Council Member Stevens
Council Member Erickson
Council Member Mann
Council Member Egbert

Those voting nay

None

The motion carried.

Executive Session:

Executive Session ended.

Adjournment

Attest:

Richard Woodland
Mayor

Blair D. Kay
City Clerk