

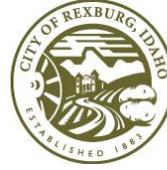
City Council Meeting

June 25, 2014

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CITY OF
REXBURG
America's Family Community

June 25, 2014

Mayor Richard Woodland

Council Members:

President Sally Smith Jordan Busby
Donna Benfield Jerry Merrill
Christopher Mann Brad Wolfe

City Staff:

Stephen Zollinger – City Attorney
Matt Nielson – Finance Officer
John Millar – Public Works Director
Val Christensen – Community Development Director
Scott Johnson – Economic Development Director
Blair Kay – City Clerk

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

Gary Hagen led the pledge.

Robert Scott said the prayer.

Roll Call of Council Members:

Attending: Council President Smith, Council Member Mann, Council Member Benfield, Council Member Busby, Council Member Wolfe, and Mayor Woodland.

Council Member Merrill asked to be excused.

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

NONE

Presentations:

Committee Liaison Assignments for 2014:

A. Council Member Christopher Mann: *Golf Board · Emergency Services Board · MYAB*

Council Member Mann reported his committees have not met; the golf course looks good and Emergency Services is doing well; MYAB is running the Carousel this Saturday and all proceeds will go toward the MYAB.

B. Council Member Jordan Busby: *GIS Oversight · Airport Board · Traffic & Safety*

Council Member Busby reported his committees have not met.

C. Council Member Donna Benfield: *Police · Trails of Madison County · IBC · Teton Flood Museum Committee*

Council Member Benfield reported Trails of Madison County met to schedule a cleanup day in July. She read a letter to the police from the Afton, Wyoming police. It was in reference to the funeral service for a Las Vegas police officer in Afton, Wyoming. The Rexburg Police officers are to be commended.

D. Council Member Sally Smith: *Legacy Flight Museum · Rexburg Arts Council (Romance Theatre & Tabernacle Civic Center, Orchestra) · M.E.P.I.*

Council President Smith reported on a successful airshow. The weather was just right with 300 people being fed the night before the event. The Arts Council met two weeks ago to line up the summer concerts. The Romance Theatre is under repair. Ms. Elizabeth Bossard, one of the Arts

Council members, passed away yesterday. She will be greatly missed. MEPI has not met. The AIC meeting in Boise was a great conference last week. She mentioned that it was well attended and a great conference with good key note speakers. The AIC President is the Mayor of Meridian so they learned a lot about Meridian and toured the new 60 acre park with a shopping complex called The Village. Ken Harwood, the head of the AIC, is retiring.

E. Council Member Jerry Merrill: *School Board · Parks & Recreation · Urban Renewal Agency*

Council Member Jerry Merrill was excused.

F. Council Member Brad Wolfe: *Planning & Zoning · Beautification Committee*

Council Member Wolfe reported Planning and Zoning met last Thursday bringing forward some items for City Council to review. Richie Webb retired and Tisha Flora was instated in Planning and Zoning.

Council Member Benfield mentioned that the Police Department has a new Patrol Officer, Jordan Jensen, and they have hired a new Parking Attendant, Jen Andrus. There is a cook-out and shooting instruction tomorrow night.

Mayor Woodland said the City Parks are looking good. The Community Gardens are well utilized and they are looking good.

Mayor's Report:

The City is in good shape we will miss Elizabeth Bossard.

Public Hearings:

A. **7:10 P.M. Public Hearing** for (BILL 1014) to repeal and replace Ordinance 911 regulating booting and towing. (Notable changes include visitor parking increasing from 3% to 5% and booting and towing must be authorized at the time of each occurrence by the property owner or his agent).

Staffs review: (From the proposed BILL 1014)

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 6 spaces (with a minimum of one visitor parking space). Visitor parking equal to 5% will take effect September 01, 2014.*
2. **Visitor parking stall(s)** *must be conveniently located.*
3. **Tenants using Visitor parking:** *Tenants will not be allowed to park in visitor parking except during the following times:*
 - a. *From 12:01 a.m. until 1:00 p.m. Sunday thru Friday and from 1:00 a.m. until 1:00 p.m. Saturday for student housing complexes.*
 - b. *Non-student complexes may set convenient visiting hours, but shall be available at least between the hours of 1:00 p.m. and 12:00 midnight daily.*
4. **Visitor parking times** *may be variable but not less than 30 minutes.*
5. **Visitor parking areas** *must have adequate and visible signage and text. Signs must be at least 12" x 18" and include the words "Visitor Parking Only", "Permit Parking only during ** A.M. to ** P.M." (based on current BYU-I curfew and visiting hours), and "All others may be booted and/or towed"*
6. **Parking Permits:** *Properties may only issue parking permits equal to the number of available spaces (on and/or off-site parking).*
7. **Offsite parking:** *There shall be no limit to offsite parking. There shall be no restriction on distance from the residential complex to the offsite parking for residential complexes legally existing on the effective date of this ordinance. There shall be no required visitor parking for areas designated as offsite parking.*

- (B) Owners of multi-unit residential private property may, to the extent authorized by this section, boot or tow away any unauthorized vehicle on their premises. An unauthorized vehicle is any vehicle that is parked or stopped, in violation of any private property parking regulations which govern parking for authorized tenants and visitors and which restricts parking in loading zones, handicapped zones, fire lanes, and no parking zones only.
- (C) *It shall be unlawful for any person, firm or corporation to boot or tow away any motor vehicle on any authority other than by the direct request of the owner, authorized agent of the owner, or a Rexburg City Police officer present at the location from which the motor vehicle is to be removed. The towing of any vehicle shall be reported to the Rexburg City Police or the Madison County Dispatcher within one half hour thereof, using the current published non-emergency telephone number of the police department or dispatch.*

...

(G) **Before booting:**

- (1) Before booting or towing a vehicle located on private property a parking enforcement or towing company shall:
- (i) *Receive from the property owner or his authorized agent, who shall not be affiliated in any way with the parking enforcement or towing company, a signed request for each booting or towing of a particular vehicle up to one half hour after non-tenants are required to be off the premises;*

Council Member Mann asked about the 3% to 5% visitor parking change. Would that be for new apartments and would existing apartments be grandfathered in? City Attorney Zollinger explained that if they want to continue with the non-consensual towing, they would have to increase parking to 5%. New apartment complexes would be held to the standard of the current code.

Mayor Woodland opened the public hearing.

Public Testimony in favor of the proposal (5 minute limit):

Audra Brown is a student at BYU-I. She thinks the ordinance should be changed to stop predatory booting. She provided the following input:

Possible Talking Points for Predatory Booter Hearing

- Predatory Booting is a most extreme response to what in most cases is a non-problem.*
- Apartment Managers and Predatory booting companies have gone way beyond the mark, especially when over parking is not a serious problem. Apartment managers should not be able to empower a private company to enrich themselves on financially struggling students, and those who are visiting them by taking possession of their vehicles and holding them ransom.*
- Apartment managers and booters should be required to take some responsibility for making responsible, nuanced decisions when enforcing parking rules.*
- There are many cases where bishopric members and parents have been booted while they are legitimately fulfilling their jobs as church leaders and parents.*
- Predatory booters are taking on the role of very powerful law enforcement actions, which they use to prey on poor students. They have often been seen lurking, waiting to take possession of vehicles the second the clock hand ticks in their favor.*
- A Private company with no sanction of deputization from law enforcement, should not have unfettered power to take possession of persons vehicles over such minor infractions. The city can give modest parking tickets, why are these private companies allowed to enforce the law in a much more radical way?*
- It makes sense that apartment owners and the booting companies are provided some guidelines to check their actions. Power without checks and balances has a tendency to increase itself and ignore balance. This is why power so often corrupts when left unchecked.*

Nolan Sim is a BYU-I student. He said he was booted after just a few minutes while dropping someone off. He knows someone who was booted one minute after midnight curfew. It is ridiculous. They patrol right after curfew. He believes the reason why, is for the profit incentive. Rexburg is the worst city for booting. He has never been booted in other towns. Imagine if city parking or speeding tickets were handled this way. Parking shortages are always a problem close to the University.

Gage Olsen is a BYU-I student. He shared his experience of getting booted after four minutes. He was dropping off an assignment. Visitor parking was full. The parking lot was not full at the

time. He waited 40 minutes for the booter to come take off the boot and had to pay \$50.00. He indicated they are not in a free market situation. Parking is very limited. He is very careful not to get booted now. Apartment complexes should allow more time before booting.

Dillon Briggs is a BYU-I student who has been booted. It doesn't make sense that a police enforced parking ticket is \$15.00 but a private enforced parking boot costs \$50.00. He was upset at the booters approach and their attitude. He knows someone who needed to get to the hospital, but couldn't because a boot was on her car. What kind of town allows this action.

Michael Bullock is a BYU-I student who was trying to help a friend. Visitor parking was full; however, there were other parking spots available. He was booted at 12:54 A.M... There were still other available spots. It is ridiculous, even when you use common sense. He asked about grandfathering.

Nicholas Dierly is a BYU-I student. He said punishing a person for being in a parking lot by keeping the car in the parking lot is backwards. Towing, although a bit dramatic, makes more sense. He agrees with having the apartment managers give consent before any vehicle is booted.

Mitchell Schwartz is a BYU-I student. He indicated in Aspen Village, during a ward activity, the whole bishopric got booted. These are men fulfilling their callings. It put a damper on the whole evening. These men had to wait a half hour for the booter to come later getting home to their families. The whole parking lot was practically empty; however, visitor parking was full.

Marin Gunnell is a BYU-I student. It is unfair for the booters to do what they do. She is in favor of the new ordinance. The students don't have enough places to put their cars. Private companies should not control our lives.

Nolan Sim is a BYU-I student. He was also concerned about safety in regards to visitors helping out girls that don't have cars to get to a hospital if needed.

Rusty Ward is a BYU-I student. He said the current law has inconsistencies. You can't tell from one parking lot to another. He was booted at a parking lot that is all gravel. The parking signs are inconsistent.

Blake Yamnik is a student at BYU-I. He indicated booting happens throughout the day; not just at curfew.

Public Testimony neutral to the proposal (5 minute limit):

Kelly McKamey from Rexburg was opposed the use of the word predatory. He was concerned with the City Council controlling private business. He was in favor of eliminating the ordinance. He reminded everyone that there is an appeal process through the University.

Heather Dunken from Rexburg said the businesses are not providing enough parking for their customers.

Ray McDougal from Rexburg was wondering about changing the visitor parking. Does that mean the apartment complex must increase the overall amount of parking? Land is scarce and it would put a bigger burden on the developer is they have to increase parking.

Kevin Boarder is a BYU-I student. He was opposed to predatory booting. Being greedy is a business model.

Darrin Jensen is a BYU-I student. He is neutral to the BILL. The BILL has its pros and cons. He was concerned with causing the managers to control the booting. He supported the free market approach. Emergency issues are a concern. More visitor parking is needed. He likes the way they boot at the IVY where he lives. He knows he can expect to have a parking space when he comes home. Tuscany did not boot him. He thinks the booting depends on the manager and that's where the issue should be debated.

Public Testimony opposed to the proposal (5 minute limit):

Lisette Meynders from Rexburg indicated those opposed were parked illegally. It is up to the individual complexes to regulate booting. She does not allow booting for check in and check out periods. She referenced parking in Holland where they were ticketed for parking. She does not want her manager to stay up to watch the parking lot or even during the day. She does not want her manager to be the bad guy. Booting companies get their cars vandalized. She suggested handing out semester passes to the clergy. She tries to accommodate and be nice to students. Old people get booted too. If you know it is going to happen; don't park illegally.

Bryant Rosell from Rexburg was opposed to the proposal. It should be between the booters and the owners. He did not want the manager to do the booter's job to monitor the parking lot. People who are booted are taking a paid parking stall from another person.

Van Rolls is a student at BYU-I and a manager at Mountain Lofts which is a large complex. He suggested some changes; however, he was opposed to the manager patrolling a 600 parking stall lot. He would like the managers to be able to have an overriding veto. Understandable mistakes can be written off. Apartment complexes should support the students in a fair manner.

Blake Willis from Rexburg is a part owner of a complex. He wanted more parking on the street. There residents are paying for their parking. One to One parking requirements did not have these parking problems. His booting company only comes when they ask for them; not on Sunday and Monday evening. He wanted Ordinance 911 to remain in place.

Melanie Davenport from Rexburg said they have discussed this issue with other apartment owners. Towing companies do have a place. She thinks apartments should give out ecclesiastical passes or perhaps allow ecclesiastical people to put their business card in the window to alert the booting company that they shouldn't get booted. She suggested that towing company's first text or take a picture to time stamp the vehicle and then wait at least 10 minutes before booting the vehicle. She said the manager could be more involved to control the situation. This could be a great opportunity to establish some trust between the city and the Rexburg Off Campus Housing Association.

Council Member Busby asked Ms. Davenport how many people belong to the Rexburg Off Campus Housing Association. She said all the owners are members.

Ben Cuevas is a BYU-I student. He is a booter who knows it is a huge burden for the managers. The booting company employees face threats and angry people all the time. Everyone needs to learn responsibility. If you park illegally, you take the risk of getting booted. Their company tells people, if they see them park illegally, to move their car or they will get booted. Their job is to keep the lot clear. He wants to keep Ordinance 911.

Jason Swatsenbarg is associated with River Bend who is building the North Point Apartments which is the first apartment complex to build a multi-story parking garage. Scarce resources will always be scarce. It will never be possible to provide enough parking for everyone. He does his best to work with students and managers. He wants a place where people want to be. He wants to protect his students' parking spaces. Common sense should prevail. He tries to avoid predatory booting but has to do what is necessary to protect the parking for his tenants. He does not want the proposed changes.

Caleb Barker is a student at BYU-I. He was asking why booting was allowed. His wife manages an apartment complex. He did not think this BILL was the answer. It places the burden on the managers. He wanted to keep his wife from taking late night calls. Maybe booting companies will take this issue into consideration and change their behavior.

Darrin Helm with Guardian Booting and Towing said this ordinance does not solve the problem. We have a parking problem and this ordinance does not solve that. Owners hire them to do the job; safety can go both ways when cars park illegally in the street, etc. He is there to help the manager keep the parking lots clear. He tries to do a good job. A few things they do is to try to give students as much of a chance with the manager sending emails and signs at every entrance. People will try to push the limit. This ordinance has a lot of problems with the costs;

he needs to pay for his expenses. This bill does not promote a free market. He has had property damage to his vehicles during the booting process. He trains his employees to work through tough situations. Some managers might be able to handle parking enforcement, but some can't; he has new managers each semester. He is not in favor of the proposed changes.

Heather Spring is an apartment manager who gave a reference to her husband getting a speeding ticket; he broke the law; it was not a predatory law. They work with tenants and visitors to keep everyone aware of the parking situation. They also work closely with the booting company. It would cost her \$10,000 a year to monitor the lot all day.

Virginia Pratt is an apartment owner. She spoke to the concept of being an adult and being responsible for obeying the parking law. She likes the free market concept with fewer regulations. She referenced the city hiring a parking attendant to monitor parking; it's the same as hiring a booter to monitor parking. She encourages students to read the signs and obey the contracts that they signed. Be responsible and take the consequences of your mistakes. We do not need more regulations.

Kelly McKamey would like to clarify that he is against BILL 1014. He is in favor of leaving it between the apartment complexes and the booting companies. He would like to repeal Ordinance 911.

Ray McDougal said there are always unintended consequences; as a business and an apartment owner he would like to see Ordinance 911 repealed. He would like the free market to take care of itself.

Written Input:

BYU Idaho Approved Men's Housing



570 S 2 W
Rexburg, Idaho 83440

Re: Bill 1014

To The Rexburg City Council:

As owners of the Shelbourne Apartments at 570 S. 2nd W., we would like to provide our input on the suggested new parking regulations contained in Bill 1014. We base our input on the following facts:

1. The majority of our tenants have jobs, some as far away as Idaho Falls and many are at night. A car is a necessity for them.
2. The current parking crisis in the university overlay is a direct result of past and current building codes allowing for less than 1:1 parking.
3. There is more than adequate capacity on the city streets surrounding student housing to allow for visitor parking with only minor modifications to the current permit parking regulations.
4. The city has a responsibility to ensure that visitors to the city, many who may not want to visit a particular apartment complex, can park on the city streets. Currently that is not possible without a permit in the university overlay.
5. Asking property owners to increase the number of visitor parking spots in their private lots, while the city does not allow for such on the public thoroughfare, is unreasonable.
6. The fewer parking spots that a landlord can assign to students, the less likely a student who needs a car will go to that property. With vacancy rates expected to reach 20% for Fall 2014, this is a major cost to be asking of the private sector. As a family owned business every empty bed has a major impact on our ability to remain profitable.

is

Based on the above, we ask the City Council to do two things:

1. Remove the increased parking space requirement in bill 1014, keeping it at the current level, and
2. Modify the on street parking regulations to allow for 1 hour of visitor parking without requiring a permit. This is the fairest and easiest solution.

Thank you for your consideration,
Nick and Debra Marassi
Shelbourne Apartments

Dear Mayor Woodland,

We at The Colonial House join BYU-Idaho in support of ordinance 911.

We would suggest that there be a "bishop pass" type bumper sticker that would be good for all complexes and all parking spots whether it be visitor parking or regular student parking.

Our support of 911 is as follows:

- *Parking illegal is illegal*
- *It is not reasonable to have someone available 24 hours a day 7 days a week.*
- *Complexes next to BYU-Idaho have real problems*
- *New complexes with limited parking that cost up to \$100.00 a semester need to protect the students right to park.*
- *There is a grievance path for students through BYU-Idaho. Complaints to the city should be referred to BYU-Idaho.*

Thank you for your time and consideration

Denny Austad

*The Colonial House
151 Viking Drive
Rexburg, ID 83440
208-589-2194*

Dear Mayor and City Council,

I am sorry I cannot be at City Council meeting Wed. evening. I have business affairs in Salt Lake City that I cannot change. I would like to submit my opinion on the towing and booting ordinance to be discussed. I have read the suggestions from the Marassi's and I think their arguments do have some merit. I am opposed to requiring Apt. Owners to provide more Visitor parking spaces. I believe their suggestion to allow 1 hour of street side parking has some value. It may be worth suggesting to the Apt. Owners that they have their Managers or Assistants be more active during their check-in/check-out periods and monitor their parking lots so that parents/friends can park in their lot for a limited time without being booted or they could issue a permit from the Office that is good for 20 or 30 minutes for unloading and then they need to move out of the parking lot.

Having said that I do recognize that policing the 1 hour limit could be problematic without adding more Parking Enforcement Officers which I don't believe we want to do. Another option might be to not enforce the "U" parking zone during the 3-4 days around the University classes starting and ending dates so that visiting parents can move their students in and out without fear of booting and once that period is over there should be enough regular Visitor parking spots to accommodate any stragglers or other visitors.

Another suggestion would be to form a committee comprised of Reps. from the Apts. and students to whom a booted person could appeal to for a review and if the booting party was found to have booted a car unreasonably (according to a set of accepted rules agreed to by the committee and booting companies), that person would be required to pay double or triple the booting cost back to the victim of the unreasonable booting practice (I include towing in this as well). This would help the towing/booting employees to think twice and make a logical judgment before towing or booting a car when it is not necessary.

These are just suggestions for discussion. Parking always comes with its own set of challenges but I would hate to see us impose more onerous regulations on the Apt. Owners who are facing their own set of challenges. Somehow we need to come up with a way to be both visitor friendly and business friendly.

Thanks for your time and good luck!

*Warm Regards,
Jerry Merrill*

Staff Report:

City Attorney Zollinger said the manager is not required to monitor the parking lot it only requires the manager to authorize the boot or tow. This is a common practice in many communities. The problem is not solved by involving the managers. Provo took this action to solve the same problems over the years. Attorney Zollinger said that he has had several meetings with Darren Helm and Mr. Helm has tried to modify the approach, but always within the parameters that he is the one that needs to make the decision because the managers don't want to be involved in policing the property. Prior to 1996, managers controlled the booting situation. This ordinance does not prohibit predatory booting; however, it does involve visitor parking. The off campus housing association did not want to allocate any more visitor parking. The compromise at the time was to quit preying upon people coming to the complex to see tenants. The city police the streets because they are responsible for traffic flow not because they will gain extra compensation for each ticket they write. They don't give bonuses out to the police officer who issues the most tickets. The history behind Ordinance 911 was to facilitate visitor parking for the tenants. At the time this ordinance was written, Planning and Zoning was recommending 10% visitor parking, but it ended up being only 3%. The IVY has the highest percentage of visitor parking and the lowest number of booting complaints. Visitor parking is always available at the IVY. Booters are not allowed to boot or tow at the Ivy without authorization from the manager. It is not feasible to expect that 200 young girls will only have 6 visitors at a time. The reason for the BILL is to comply with an earlier compromise. City Staff is supportive of the BILL to control predatory booting. The Rexburg Police Department still gets complaints do to predatory booting and towing practices.

Discussion: Provo parking ordinance, Bozeman parking and state code.

City Attorney Zollinger explained the one to one reduction is based on an agreement between the city and the apartment owner.

Mayor Woodland closed the public hearing for deliberations.

Deliberations: (BILL 1014)

Council President Smith thought it is was an issue between the owners and the booters. Would increased visitor parking help?

City Attorney Zollinger said more visitor parking was recommended by the staff. The apartment owners did not want to increase visitor parking.

Council Member Wolfe indicated the businesses should have control of their lots; however, more visitor parking would be good. He would like the apartment owners to solve it on their own. He is in favor of more visitor parking.

Police Chief Turman referred to Ms. Spring's discussion on speeding tickets. The city does not take the car immediately and require the money on the spot. He recommended a billing system with common sense and compassion. Civil disputes are coming in weekly to the police department. He asked for some common sense in the process without holding the person hostage.

Council Member Benfield said this is a prime example of issues the City Council is unaware of. She wanted more discussion between the owners, the towers, and the police. She does not like the predatory word. It is private business between private parties.

Council Member Mann said the cars could be driven less around campus. He does not want the city in the middle of every incident. Is it out of line to ask managers to initialize the tow? He doesn't think so.

Council Member Busby asked how many booting companies are registered with the city and if that number has gone up. He asked to make a motion.

Mayor Woodland said the apartment owners indicated they would solve the problem four years ago; however the problem still exists. He was embarrassed for the city. We seldom use common sense when money is involved.

Discussion:

Council Member Busby moved to leave Ordinance 911 in place with the hope apartment owners will solve the problem; Council Member Benfield seconded the motion; Discussion: Council Member Wolfe asked to amend the motion; He decided to wait for a later discussion. Mayor Woodland asked for a vote:

Those voting aye

- Council President Smith
- Council Member Benfield
- Council Member Busby
- Council Member Wolfe

Those voting nay

- Council Member Mann

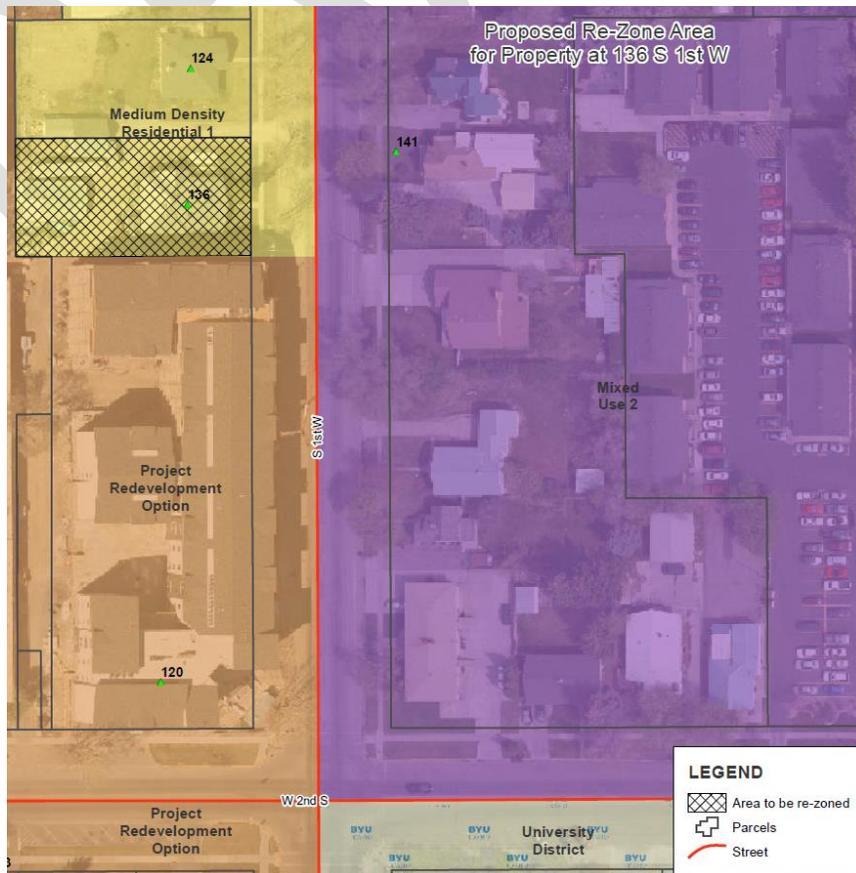
The motion carried.

Break at 9:03 P.M. for 15 minutes.

B. 7:20 P.M. Public Hearing for (BILL 1117) Job (#14 00210) for a rezone from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone). The property is located at 136 South 1st West.

Richie Webb from Rexburg reviewed the proposal for the Darrell Ard home. They want to convert the home into commercial use. The purpose is to restore and preserve some of the homes on the block. They want to restore the home and use it for office space. They have added parking to the development for a new tenant in the basement. They share a garage with the Hancock's on this property. They have signed an agreement with the Hancock's to develop the property. A buffer fence will be installed to divide the property that will take out a small storage building. The Hancock's were concerned with allowed uses in the Pro-Zone. Seventeen uses were agreed to be allowed without further discussion. Hemming's have a first right of refusal to purchase the Hancock home. The Hancock agreement will be recorded with the deed. It is a reasonable plan for the Pro-Zone Development. This will bring a new business to town.

Council Member Busby thanked Mr. Webb for being a good developer in the city. Council Member Wolfe concurred with the accolade.



Mayor Woodland opened the public hearing.

Public Testimony in favor of the proposal (5 minute limit): – NONE

Public Testimony neutral to the proposal (5 minute limit): – NONE

Public Testimony opposed to the proposal (5 minute limit): – NONE

Staff Report:

Community Development Director Christensen said the lot is .3 acres. There were no public works concerns. Planning and Zoning unanimously recommended the proposal.

Council Member Mann asked about the other neighbors. Sally Rasmussen lives two houses down from the property. She is pleased with what has been done. She is okay with proposed zone change.

Mayor Woodland closed the public hearing for deliberations.

Deliberations: (BILL 1117)

Mayor Woodland asked for a motion:

Council Member Busby moved to approve Job (#14 00210) rezoning 136 South 1st West from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone); Council Benfield seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

- Council President Smith
- Council Member Mann
- Council Member Benfield
- Council Member Busby
- Council Member Wolfe

Those voting nay

None

The motion carried.

Council Member Busby moved to suspend the rules for BILL 1117 for Job (#14 00210) rezoning 136 South 1st West from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone); Council Member Benfield seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

- Council President Smith
- Council Member Mann
- Council Member Benfield
- Council Member Busby
- Council Member Wolfe

Those voting nay

None

The motion carried.

Council Member Busby moved to third read BILL 1117 rezoning 136 South 1st West from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone); Council Benfield seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

- Council President Smith
- Council Member Mann
- Council Member Benfield
- Council Member Busby
- Council Member Wolfe

Those voting nay

None

The motion carried.

Items for Consideration:

A. Exchange property: One Acre at 140 E. 7th North for Six Acres on 5th West and 7th North – Staff

Staffs review: **City Attorney Zollinger** reviewed the proposal to exchange property with Basic American Foods, Inc. Joe Milligan and Attorney Larry Larsen from Basic American Foods were at the meeting to discuss the proposal. An earlier agreement with Basic American Foods allowed Rexburg to develop Eagle Park on an annual lease. Larry Larsen indicated in his letter to City Attorney Zollinger dated June 23, 2014, the following points:

The Mendoza Trailer Park on 2nd East is the proposed property to exchange with the Eagle Park property.



City Attorney Zollinger explained that the Mendoza Trailer Park has been demolished and leveled with the septic system blasted out. The necessary remediation has been done. The property is the entrance to Basic American Foods. Basic American approached the city to do the land exchange which would allow them to get out of the license agreement on Eagle Park. This would give them the option to put up an entrance sign and possibly put in some parking for visitors. He referred to the letter written by Attorney Larsen with one exception on item seven, limiting its use to recreational use only.

- 1. Basic will trade that portion of its Madison County property lying south and west of the South Fork of the Teton River (about 5.5 acres currently subject to the License Agreement dated August 14, 2007, called the "Basic Parcel") for the roughly 1.6-acre parcel on W. 1000 North between the railroad tracks and the credit union property on N. 2nd East (called the "City Parcel"). The City Parcel will include any water rights associated with the well on the property.*
- 2. The City will provide a survey of the Basic Parcel.*
- 3. Basic will have 90 days after the signing of the agreement to complete its inspections of the City Parcel, to ensure that there are no prohibitive environmental conditions or easements.*
- 4. Real property taxes on both parcels will be pro-rated as of the date of the exchange. Otherwise, both parcels will be traded free and clear of all liens and encumbrances that would affect their value or future use.*
- 5. The City will provide a title report on the City Parcel, and Basic will provide a title report on the Basic Parcel. Each will provide title insurance for the other. The agreed value of both parcels will be \$190,000.*
- 6. The trade will be considered a tax-free "1031 exchange" from Basic's standpoint. The City will cooperate with that objective, although the City will not be obligated to incur any expense to accomplish that.*
- 7. The Basic Parcel will be transferred to the City subject to a restriction that limits its use to public, recreational use other than hunting or target shooting. No other public, commercial, industrial, or residential development will be allowed.*
- 8. Upon the filing of an appropriate application by Basic, the City will grant a building permit for Basic to place an internally illuminated business sign on the northeast corner of the City Parcel.*

There could come a time when this could become a major thoroughfare for the city. This has been discussed with both parties.

City Council Member Mann asked about an appraisal. The Mendoza property has some environmental issues that are of concern. The City purchased the property to start the process to address the environmental concerns. The property exchange requires a public hearing.

\$190,000 estimated value for the park.

\$243,000 estimated expense for the Mendoza property.

The request from Urban Renewal is for a 5th West bridge proposal in the future. The City Council is requesting this property exchange to be included in a Urban Renewal District to allow the possibility of a future bridge across the Teton River at this location.

The public hearing will have to make a finding that will support the transfer. Wastewater funds have been used to purchase the Mendoza property.

Discussion:

Mayor Woodland asked for a motion:

Council President Smith moved to set a public hearing July 16, at 7:10 P.M. for the land exchange as discussed; Council Busby seconded the motion; Discussion: Council Member Wolfe asked about the values to be discussed in the Public Hearing. Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Mann
Council Member Benfield
Council Member Busby
Council Member Wolfe

Those voting nay

None

The motion carried.

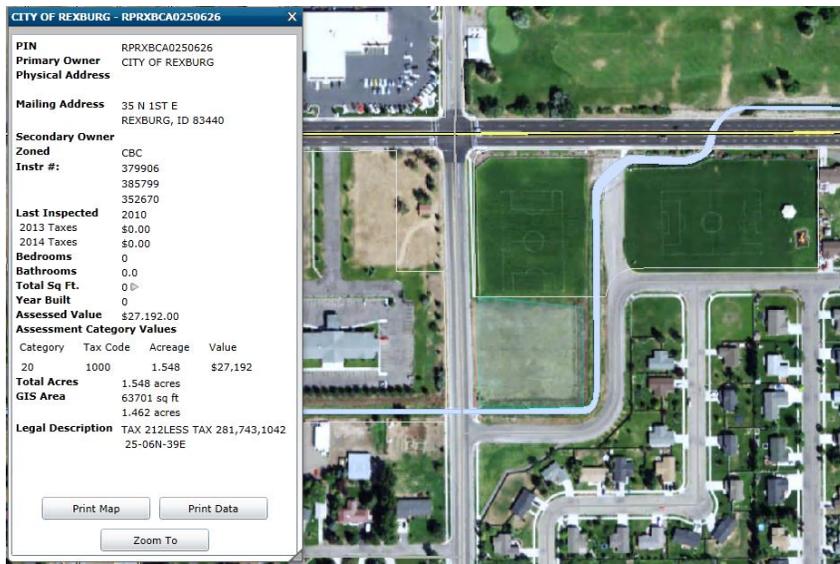
Staff Reports:

A. Public Works: – John Millar

1. Approve construction of Evergreen Parking lot to be bid July 02, 2014 – Staff

Public Works Director Millar asked City Council for approval to construct the Evergreen Parking lot to be bid opening July 02, 2014. The parking lot would be on the north end of the park by Main Street.





Discussion:

Council President Smith confirmed the funding was from Park Impact Fees. Parks Director McInnes is in favor of the project.

Council Member Mann was concerned with the need for more rest rooms in the future.

Public Works Projects:

1. Romance Theatre west windows will be started tomorrow.
2. Leveling University Blvd at the RR Tracks is possible.
3. 2nd West project is on schedule.

Council Member Benfield asked about Park Street. There is a problem with the curb and gutter there. Also, the number of chickens allowed. Some people have too many. The ordinance allows for 5. Complaints need to go to Compliance Officer Powell. Speed limit sign at Barney Dairy Road? There are signs posted. Discussion about parking by the baseball diamonds on Barney Dairy Road. Dirt will be hauled in this fall. Council Member Benfield said that she often gets compliments on our parks, but someone said the Tabernacle lawn is not looking good. Parks will be notified of that. She wants to be sure to include Sugar City in the Teton Dam Marathon planning.

Council Member Busby asked about the Cresthaven LID. The proposal is ready to go. He also asked about parking for apartment tenants and store owners behind City Hall. New stalls have been added. Customers can park for up to 3 hours at a time. Discussion about parking at the Farmers Market.

B. Finance Department – Matt Nielson

Chief Financial Officer Matt Nielson reported on utility cost for water, sewer and garbage. The proposal is to increase the cost for garbage service fees by 3.2% or .62 cents per month for every week pick-up. He also went over the Waste Water and Sanitation calculations. A public hearing would not be needed since it is less than 5% increase.

REXBURG RESIDENTS -SAMPLE BILL					
	AVERAGE	OLD	NEW	INCREASE	INCREASE
SEWER	(10 th. gal)	49.14	49.14	0.00	0.0%
WATER	(10 th. gal)	19.15	19.15	0.00	0.0%
GARBAGE	(90 gal)	19.53	20.15	0.62	3.2%
LIGHTING		1.65	1.65	0.00	0.0%
TOTAL		89.47	90.09	0.62	0.7%

Calendared Bills and Tabled Items:

A. USE ACTION” – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE:

1. (BILL 1117) to rezone 136 S. 1st W. from MDR1 to Hemming Pro-Zone. Approved in the public hearing.

Council Member Busby moved to suspend the rules for BILL 1117 for Job (#14 00210) rezoning 136 South 1st West from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone); Council Member Benfield seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Mann
Council Member Benfield
Council Member Busby
Council Member Wolfe

Those voting nay

None

The motion carried.

Council Member Busby moved to third read BILL 1117 rezoning 136 South 1st West from Medium Density Residential One (MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone); Council Benfield seconded the motion; Discussion: Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Mann
Council Member Benfield
Council Member Busby
Council Member Wolfe

Those voting nay

None

The motion carried.

B. BILL Introduction: – NONE

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

1. **(BILL 1014) Repealing Ordinance 911** and modifying the regulations for booting and towing.
No action was taken.

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

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

1. **(BILL 1115) to repeal and replace Development Code (Ordinance No. 1026)** to simplify the code by removing conflicts.

Council Member Busby moved to 3rd read and approve BILL 1115 to repeal and replace Development Code (Ordinance No. 1026) to simplify the code by removing conflicts; Council Member Wolfe seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Mann
Council Member Benfield
Council Member Busby
Council Member Wolfe

Those voting nay

None

The motion carried.

2. **(BILL 1116) to rezone approximately 222 East 3rd South** from Low Density Residential Two (LDR2) to Medium Density Residential One (MDR1).

Council Member Wolfe 3rd read and approve BILL 1116 rezoning approximately 222 East 3rd South from Low Density Residential Two (LDR2) to Medium Density Residential One (MDR1); Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Benfield
Council Member Wolfe

Those voting nay

Council Member Mann
Council Member Busby

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.

- A. Minutes from May 07, 2014 meeting
- B. Approve the City of Rexburg Bills

Discussion:

Mayor Woodland asked for a motion:

Council Member Wolfe moved to approve the Consent Calendar and pay the bills; Council President Smith seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Smith
Council Member Mann
Council Member Benfield
Council Member Busby
Council Member Wolfe

Those voting nay

None

The motion carried.

City Council discussed participating in the 4th of July parade.

Adjourned at 10:35 P.M.

APPROVED:

Richard S. Woodland, Mayor

Attest:

Blair D. Kay, City Clerk