

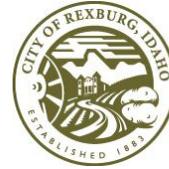
# City Council Meeting

May 21, 2014

35 North 1<sup>st</sup> East  
Rexburg, ID 83440

blairk@rexburg.org  
www.rexburg.org

Phone: 208.359.3020 x2313  
Fax: 208.359.3022



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

May 21, 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  
Richard Horner – 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**

**Austin Hoopes** from Boy Scout Troop 616 led the pledge.

**Farid Rivera** said the prayer.

**Roll Call of Council Members:**

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

**Council Member Wolfe** will join the meeting late.

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

**Presentations:**

**A. Horrock's Transportation Master Plan Engineering Study – Kelly Hoopes**

**Kelly Hoopes** from Horrock Engineering reviewed the process for the Madison County Transportation Master Plan study. He gave an update and contact information for the study. They wanted to collect data before school is out for the summer months. They are collecting traffic data and manually counting traffic on peak hours at certain intersections. The counters stay out of the way; thus not interfering with traffic patterns. After the data is collected, they will begin to work on the study. Mr. Hoopes said it would be completed by the end of the year. They are working with the Idaho Transportation Department (ITD) on this study throughout Madison County. Council Member Busby asked about the difference with this study and the belt way study going south around Rexburg. Public Works Director John Millar said this study is for a different traffic pattern concerning today's traffic and the near futures traffic problems.

**Council Member Busby** is concerned that we are doing traffic studies but not following through with the results. Council Member Merrill understood that the results of the first study would be used in the future.

**Council Member Busby** asked about the length of the study; Mr. Hoopes said it will be done by the end of the year.

Discussion on the activities of the people doing the traffic study.

**Kelly Hoopes** said that this study will be used along with the previous study to give a bigger picture. This will take into account more of the intersections. They have met with BYU-I and Envision Madison to coordinate growth needs.

**B. Tennis Courts at Porter Park – Resurface for \$80,000 – Greg McInnes**

**Parks Director McInnes** reviewed the deteriorated condition of the tennis court surfaces in Porter Park. He estimated the resurfacing cost to be about \$55,000 to \$65,000. The tennis courts are not being used very much. They could be sand volley ball courts which would be about half of the cost. They do get a lot of requests for volley ball.

**Council Member Merrill** said portable volley ball courts are set up in Porter Park which causes damage to the sprinkler system.

**Council Member Benfield** said that she believes if the courts were in better shape they would get used a lot.

**Council Member Busby** asked if the community tennis courts over by the Junior High get used a lot. Parks Director McInnes said that they do and that is where most of the tennis is played now. Smith Park tennis courts are used for the Junior High and the community.

Discussion on the use of the Porter Park tennis courts with the current condition of those courts.

**Parks Director McInnes** indicated sand volley ball courts could be an alternative. There used to be a sand volley ball court at the Nature Park, but it was too hard to maintain due to wind blowing the sand out. If they did one in Porter Park, they would build a solid wood fence about 3 to 4 feet high around it to contain the sand. They would also use the same equipment that they use on the baseball fields to keep it smooth. Students have indicated they would not use the courts in their present condition.

**Council Member Mann** asked to keep Porter Park in pristine condition. It is close to the University; he is against taking out the courts. The Tennis Courts are a nice addition to Porter Park.

**Council Member Busby** asked if there was enough money in the budget right now to resurface the courts. **Parks Director McInnes** indicated the budget for this year would cover the expense.

**Council Member Merrill** agreed to keep the courts in good condition. Students at BYU-I play competitive volley ball; they would love a sand volley ball court too. An audience member concurred that many people do like to play volley ball and she thinks a sand volley ball court would get well used.

**Council Member Benfield** said the courts should be repaired so people can play tennis.

**Council Member Busby** asked if Greg was just looking for a motion to go forward with the resurfacing. He said that he was because of the large amount of money required.

**Council Member Smith** asked what the cost is to maintain a tennis court. Parks Director McInnes said it takes about \$1,000 per year per court to maintain them.

**Council Member Merrill** indicated that they should be fixed.

**Mayor Woodland** was wondering if the University might consider helping with the costs.





Example of newly surfaced tennis courts



**Council Member Benfield** moved to repair and resurface the tennis courts; Council Member Busby 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 Merrill

**Those voting nay**

None

**The motion carried.**

**C. Madison Fire Station 2<sup>nd</sup> Story Addition and Remodel – 26 North Center Street.**

- A. Approve Madison Fire Station Grant Administration Contract** (East-Central Idaho Planning & Development Association, Inc.) – Rick J. Miller , Project Manager
- B. Approve Madison Fire Station Architectural Professional Services Contract** with (CRSA) Architecture – Planning – Interiors – Kevin DeKold, AIA

**Rick Miller** from The Development Company reviewed the proposed contract to administer the grant for Emergency Services Board the main fire station remodel. They did receive the grant (\$350,000) for the 2<sup>nd</sup> story addition to the fire station. The contracts need to be turned into the state. They need to publish the environmental assessment to go forward with the project. It is pretty straight forward to ensure there is no harm with the construction project.

***This Contract between the City of Rexburg herein referred to as the "City", and East-Central Idaho Planning & Development Association, Inc., whose address is 299 East 4th North, Rexburg, Idaho 83440, herein referred to as the "Contractor," Witnesseth:***

*WHEREAS, the City of Rexburg is proceeding with the application process to the Idaho Department of Commerce, herein referred to as "the Department," to obtain grant funds under the Idaho Community Development Block Grant (ICDBG) Program for purposes of constructing improvements to the Rexburg-Madison County Emergency Services Building in Rexburg; and*

*WHEREAS, the City desires to engage the Contractor to render certain services related to the administration of the above described ICDBG project; and*

*WHEREAS, the City has complied with provisions for soliciting of contractors as cited in OMB Circular A-102; and*

*WHEREAS, to ensure effective management of the above project, it is deemed to be in the best interests of the City to enter into an agreement with the Contractor as hereinafter provided;*

**Discussion:**

**Mayor Woodland** asked for a motion:

**Council Member Busby** moved to approve both the Madison Fire Station Grant Administration Contract with East-Central Idaho Planning & Development Association, Inc. (The Development Company) as discussed and the Madison Fire Station Architectural Professional Services Contract with (CRSA); Council Member Merrill 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 Merrill

**Those voting nay**

None

**The motion carried.**

**Council Member Merrill** asked how long it would take to complete the project. Mr. Miller said it would be about one year from this August.

**Committee Liaison Assignments for 2014:**

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

**Council Member Mann** reported on the Mayors Youth Advisory Board (MYAB). They met today and had their closing social. They presented certificates to the members. They also had a slide show of the past year. He said they have done a tremendous job and provided a lot of service. The Emergency Services Board has not met, but there was a meeting today with the BLM and other Emergency Services districts and agencies. They talked about mutual aid and helping each other.

**Council Member Busby** asked about the Raging Staging that will be at the High School this summer. Chief Davis said it will be June 6 & 7.

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 that she met with Jill Spencer, the Teton Flood Museum Curator, and she said that there have been seven field trips from schools to the museum in the past month. Attendance from the schools is up because of fewer budget restrictions. The Trails of Madison County has a lot of people that would like to become members. The current list is not accurate. They have 10 people that come. They are: Hanna Titus, Jessica Lambreck, Joseph Law, Reed Miller, Millie Butler, Charles Hill, Jeff Brunson, Kaylene Craig, Kristin Donna, and Kelly Thompson.

**Council President Smith** moved to ratify the Trails of Madison County Committee List as presented. Council Member Benfield seconded. Mayor Woodland asked for a vote:

<u>Those voting aye</u>	<u>Those voting nay</u>
Council President Smith	None
Council Member Mann	
Council Member Benfield	
Council Member Busby	
Council Member Merrill	

**Council Member Benfield** said the Trails Committee Members are cleaning up the area for the new bike park on the 21<sup>st</sup> of June. Charles Hill from Sticks and Stones is the lead on the cleanup. She also has a list of members that do not come to the Museum Committee anymore.

#### The Police Department

**Police Chief Shane Turman** is requesting to replace the Parking Enforcement Officer through internal advancement. He asked for approval to replace this position. **Mayor Woodland** asked for a vote:

**Council Member Benfield** moved to approve the replacement of the Parking Attendant Enforcement Officer position; Council Member Mann seconded the motion; Mayor Woodland asked for a vote:

<u>Those voting aye</u>	<u>Those voting nay</u>
Council President Smith	None
Council Member Mann	
Council Member Benfield	
Council Member Busby	
Council Member Merrill	

**The motion carried.**

**Council Member Benfield** said the DARE picnic was today at Fat Cats. They had a good time. She reviewed the Animal Shelter improvement day last Saturday. Officer Buzzell was awarded a \$10,000 Pedigree Dog Company grant to fix up the animal shelter area. The grant required the purchase of an insurance policy. There is a special needs picnic in Porter Park on June 5<sup>th</sup> at 11:00 A.M... The City Council has been invited to go out to the gun range to do some shooting and see a demonstration on what the police officers do to qualify. Chief Turman said they have put a lot of work into the facility. June 26<sup>th</sup> at 6:00 PM would be a good day to go out.

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 the Legacy Flight Museum is preparing for the airshow on June 14<sup>th</sup>. It is a free activity and it will be a great show. Contributions and Donations have been good. The Arts Council met last week to review the new window at the Romance Theatre. The second window will be installed when the manpower is available. Anthony Merrill did the work on the first window.

**City Attorney Zollinger** reviewed the timing for the second window.

**Council Member Wolfe** joined the meeting at 7:45 P.M.

**Council President Smith** said MEPI has not met, however; they had a short executive board meeting this morning to plan for the next meeting. They will be going to Carriage Cove for their June meeting. No meeting in July.

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

**Council Member Jerry Merrill** reported the Madison School Board meeting was canceled. The Parks and Recreation programs are going forward. The splash park is being cleaned to open. Kiwanis will be meeting to clean around the carousel on Thursday. Urban Renewal is working on the North 2<sup>nd</sup> East Wal-Mart project. Wal-Mart has not taken out a building permit yet. Council Member Busby asked about the progress on the parking issues for the ball fields on Barney Dairy Road. Chief Turman said the police are monitoring traffic on Barney Dairy Road.

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

**Council Member Wolfe** reported Planning and Zoning is working on changes to the Comprehensive Plan for the 3<sup>rd</sup> West neighborhood. It has been tabled for more information. The Planning Commission is in process of reviewing Roberts Rules and meeting decorum. Discussion on the Downtown area and new ideas to improve the area. It is in the information gathering stage.

### **Mayor's Report:**

**A. Booting and Towing (Ordinance 911) – Discussion:**

**Mayor Woodland** requested some discussion on Ordinance 911 for booting and towing. He indicated some problems with the ordinance allowing predatory booting and towing. A lady from Tanzania was booted; a German lady came to her rescue; the booter would not listen. Mayor Woodland paid the Fee. He asked to add the language to the ordinance to require the apartment owner or their agent to authorize the boot or tow.

**City Attorney Zollinger** reviewed the change would take away the profit motive. Provo, Utah changed their ordinance last January to prohibit predatory booting. The change would only include housing; not commercial parking lots. One of the problems is that the public blames the city for allowing predatory booting. Booting is not preventing the parking problem; it is creating the problem.

Discussion on expanding visitor parking. Property owners do not want to expand visitor parking. The problem is booting people in a parking lot that is not full. Housing has been contacted on the issues. The University does a good job of putting up signs during graduation and other big events to prevent unauthorized parking.

**Council Member Mann** said this has come up before and it is controversial. He thinks it's time to make a change. Attorney Zollinger wanted to make it clear that this does not take away owners' rights. He said that the University does have an appeals process that the students are made aware of, but it's the parents and other visitors that are not aware of how to appeal it.

**BYU IDAHO** Brigham Young University - Idaho

Students Future Students Parents Employees Alumni Visitors

Home > Housing > Resources > Parking Appeals

**HOUSING & STUDENT LIVING** Collapse All (-)

Student Living >

On-Campus Apartments >

Off-Campus Apartments >

University Village >

Remote Student Housing >

Owners >

Contact Us >

**UNIVERSITY MESSAGE**

**TUESDAY DEVOTIONAL**

Allan Walburger  
Chair, Department of Economics

## Parking Appeals

### Booting and Towing in Approved Housing Parking Lots

Students and visitors who claim they were wrongly booted or towed in an approved housing parking lot will be allowed to submit an appeal to the Housing & Student Living Office within 10 days of the violation as stated on the receipt. Below are a few questions to help you determine whether or not you qualify for an appeal:

- Does the property have the appropriate signage at the entrance of the property indicating permit parking only?
- Was I parked illegally (e.g., in a resident's or handicapped stall for which I do not have a permit, outside of a designated stall, in a "no parking zone," etc.)?
- Are the visitor parking stalls clearly marked and conveniently located?

If you find yourself answering affirmatively to the questions above, then you do not qualify for an appeal. Appeals will only be heard under the following circumstances:

- I am a resident of the property with a valid permit to park in the lot where I was booted or towed and the permit was properly displayed.
- I was visiting the property and properly parked in a visitor's stall.
- There was no signage indicating permit only parking and/or visitor parking stalls either do not exist or are not clearly marked.

When submitting an appeal, a student or visitor should present all documentation (parking permits, copy of the violation receipt, pictures, etc.) to the Housing & Student Living Office. To set up an appointment to discuss your appeal, please contact the Housing & Student Living Office at (208) 496-9220 or [housing@byui.edu](mailto:housing@byui.edu).

**Council Member Merrill** asked if the licensing costs would change. City Attorney Zollinger said the fees would not change. Predatory Booting is defined as booting when the booting company chooses what cars are booted.

Discussion continued on predatory booting.

## ORDINANCE 911

AN ORDINANCE OF THE CITY OF REXBURG, MADISON COUNTY, IDAHO, KNOWN AS "THE TOWING AND PARKING ENFORCEMENT ORDINANCE", PROVIDING DEFINITIONS OF THE TERMS USED IN THE ORDINANCE; REQUIRING A LICENSE FOR THE OPERATION OF TOWING OR PARKING ENFORCEMENT COMPANIES WITHIN THE CORPORATE LIMITS OF THE CITY OF REXBURG; ESTABLISHING LICENSE APPLICATION PROCEDURES; PROVIDING FOR FEES; PROVIDING SPECIFICALLY FOR ACTIONS UPON PRIVATE PROPERTY ASSOCIATED WITH MULTI-FAMILY RESIDENTIAL LOTS; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ANY PROVISIONS OF THIS ORDINANCE AND SETTING FORTH A VIOLATION OF THIS ORDINANCE CONSTITUTES A MISDEMEANOR; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.

...

---

---

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

(A) To authorize monitoring of towing and booting by third parties; 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 3% of the number of onsite parking permits or spaces (with a minimum of one visitor parking space).
2. **Visitor parking stall(s)** must be conveniently located.
3. **Tenants using Visitor parking after BYU-I curfew:** Tenants will not be allowed to park in visitor parking except during the following times:
  - a. From (30 minutes) after the nightly curfew of BYU-I until the beginning of BYU-I visiting hours the next day for student housing complexes.
  - b. Non-student complexes may set convenient visiting hours.
4. Visitor parking times may be variable but not less than 10 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) Except as provided in Section 9 (A) above; 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. The report shall include:*

---

**The new restrictions** for booting and towing in residential developments will be presented at the next City Council meeting.

---

**Public Hearings:**

**A. 7:10 P.M. (BILL 1116)** to Rezone – approximately 222 East 3<sup>rd</sup> South from Low Density Residential Two (LDR2) to Medium Density Residential One (MDR1). *(In a public hearing on April 17<sup>th</sup>, 2014 Planning and Zoning recommended approval)* - Lana Chang

**Lana Chang** reviewed the proposal to change the zoning from LDR2 to MDR1 on the lot east of her Kensington Manor development. She reviewed a power point presentation on the overhead screen. They did an 8 plex addition to Kensington Manor in 2009. This proposal is allowed in the Comprehensive Plan for Medium Density. She purchased the property after demolition due to the fence for Porters building their fence was three feet inside the neighbor’s property; therefore, they needed the neighbors three feet to finish their development. So, they bought the property and rented the property. It was apparent that the home was in disrepair. The costs to repair would be more that the rental revenue.

**Ms. Chang** decided to develop the property to allow revenue to sustain the property. She reviewed the power line going over the house on the property. The power company has a prescriptive easement for the power line after eight years. The power line is very close to the house. The proposed four-plex would avoid the power line leaving a grassy area under the power line. The cost to move the power line would be a minimum of \$50,000; power line burial would be about \$100,000. Her proposal would be the only viable option for the property. Parking would remain the same as a percentage. It would take away the access to 3<sup>rd</sup> South. It cost \$130,000 to purchase the house. It will be a pleasing development for the neighborhood. They are trying to be family friendly to the neighborhood; they held a neighborhood event with food and fun.

**Council Member Smith** reviewed the three feet of property that was needed for the set back to the eight-plex previously built. Community Development Director Christensen reviewed the set back issues and the need to correct the set-back by purchasing the three feet of property. It is a land use issue at this point to meet the building code, etc. It fits on the acreage in totality if combined with Kensington Manor.

**Chad Aldrich** from Rexburg explained the parking ratios have been maintained per code requirements.

**Council Member Merrill** asked about landscaping buffers along the grassy area between the apartments and the neighbors. Ms. Chang said that there would be nice landscaping done.

Before construction proposal:

After construction project is completed showing the green strip under the power line:



**Staff Review:**

Community Director Val Christensen referred to the Staff input on the application.

**I. BACKGROUND:**

The Rexburg Development Code allows for the Commission to make recommendations to the City Council regarding whether or not the property should or should not be rezoned based on the criteria found in section §6.13. Case No. 14 00101 Page 2

**II. SITE DESCRIPTION**

The total area involved in this re-zoning request is identified as approximately 0.23 acres, which if approved will result in changing Low Density Residential 2 (LDR2) to Medium Density Residential 1 (MDR1).

**III. ANALYSIS**

If approved, this rezone will result in changing Low Density Residential 2 (LDR2) into a Medium Density Residential 1 (MDR1) Zone. The request would require the Commission and City Council to review the proposal against one set of criteria, for the request to rezone. Below, staff has provided all the criteria listed by Ordinance 1026 (Development Code) that are required to be addressed, followed by staff's analysis of each criterion.

***Criteria Rezone Requests (§6.13):***

***a. Be in conformance with the City's Comprehensive Plan and the City Development Code.***

The Comprehensive Plan identifies this location as Low to Moderate Density Residential and Single Family Residential. MDR1 is allowed in the Low to Moderate Residential use.

***b. The capacity of existing public streets, water and sewer facilities, storm drainage facilities, solid waste collection and disposal, and other utilities.***

The City Engineer did not express any concerns about added traffic.

***c. The capacity of existing public services, including but not limited to, public safety services, public emergency services, schools, and parks and recreational services.***

The City Engineer did not voice a concern. The appropriate Impact Fees will be collected prior to the issuance of a Building Permit.

***d. The potential for nuisances or health and safety hazards that may adversely affect adjoining properties.***

Staff has reviewed and does not feel the change will have a negative effect.

***e. Recent changes in land use on adjoining properties or in the neighborhood of the map revision.***

None

***f. Meets the requirements of the Comprehensive Plan.***

See paragraph a.

**IV. STAFF RECOMMENDATION**

If the Planning and Zoning Commission determines that all of the criteria are met and that the use does not adversely affect the existing neighborhood, Staff requests that the Planning and Zoning Commission recommend that the City Council process the requested zone change.

Mayor Woodland opened the public hearing.

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

**Raymond Hill**, owner of the property next door, indicated he was in favor of the development.

**Chad Aldredge** did the architecture plan and he is in favor of the project which eliminated the power line problem. A new home cannot be built under the power line. It is not reasonable to build a single family home on this site. This proposal is a really good solution to the site.

**Public Testimony neutral to the proposal (5 minute limit):** None

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

**Rosa Wasden** asked to stop the encroachment and to deny the proposal.

**Written correspondence in opposition:**

9 May 2014

Rexburg City Hall  
35 North 1<sup>st</sup> East  
Rexburg, Idaho 83440

Dennis R. and Gay Lee Macki  
231 East 3<sup>rd</sup> South  
Rexburg, Idaho 83440

RE: Public Hearing before the City Council for #1400101 rezoning the property on 222 East 3<sup>rd</sup> South in Rexburg from Low Density Residential 2 (LDR2) to Medium Density Residential 1 (MDR1).

I am writing in response to the letter we received to change the zoning on 222 East 3<sup>rd</sup> South in Rexburg from Low Density Residential 2 to Medium Density Residential 1. Due to a other commitments we will not be able to attend the meeting on May 21 so I will give you my concerns in writing.

First, I have a question: shouldn't rezoning be done by area rather than for single lot? Won't zoning by area make for a better overall plan for the city? Since the issue at hand is for the rezoning of a single lot, I will address the rest of my letter to that request.

Even though the said property is adjacent to a set of apartment buildings that front 2<sup>nd</sup> East the said property faces and resides on a residential street: 3<sup>rd</sup> South. If the rezoning to medium density took place it will have the following effect for the other five homes that face or border 3<sup>rd</sup> South.

1. Increased traffic just 100 feet from a busy intersection: 2<sup>nd</sup> East and 3<sup>rd</sup> South.
2. Increased traffic on the residential street of 3<sup>rd</sup> South
3. Lower property value for those living on 3<sup>rd</sup> South at least between 2<sup>nd</sup> East and Harvard.
4. A less desirable place for families to move into the area.
5. There would be a loss of residential parking for those living on 3<sup>rd</sup> South between 2<sup>nd</sup> East and Harvard.
6. The increase in traffic on 3<sup>rd</sup> South would also make backing out onto that street more hazardous.
7. The area would loss its family friendly atmosphere.

There are plenty of apartment buildings already going up all over Rexburg. Please hold off in rezoning this single lot until an actual need for more housing is evident. Let's keep Rexburg Family Friendly.

Sincerely,

*Dennis R. Macki*  
*Gay Lee Macki*

Dennis R. Macki  
Gay Lee Macki

**Mayor Woodland** closed the public hearing for deliberations.

**Discussion:**

**Rebuttal by applicant:** None

**Council Member Busby** asked how 19 letters to Planning and Zoning Commission did not approve of the proposal.

**Ms. Chang** explained that when they first bought the property on the corner the neighbors were very upset. The neighborhood did not want more apartments encroaching on their neighborhood.

The University sold the property because it did not fit their model for an alumni house. Once the new Kensington Manor apartments were built, the neighbors agreed that it did look better and was an improvement to the neighborhood. The line on the Comprehensive Plan runs down the eastern edge of her property so the zone change would only be for a few feet.

**Council Member Busby** was concerned about the creeping into neighborhoods. He is sensitive to the home owner's investments in their homes.

**Ms. Chang** indicated the Home values are going up in this area. Her options are an empty home or complete this development.

**City Attorney Zollinger** reviewed the Comprehensive Plan line. He said all of the apartment complex that Ms. Chang has proposed will be inside the Comprehensive Plan area for student housing. There are only a few feet of the lot that is outside the Comprehensive Plan line.

**Chad Alldredge** has had four neighbors that have said they think the proposed apartments would be an improvement.

**City Attorney Zollinger** said the Home Owners Association thought it was a nice development; however, they do not want further encroachment into the neighborhood.

**Community Development Director Christensen** reviewed the land use issue; however, the parking issue will be reviewed on another request. It is single student housing.

**Council Member Mann** was concerned with this development going beyond the original plan to stay close to 2<sup>nd</sup> East.

**Council Member Wolfe** reviewed the negative concerns with apartment developments; he suggested using the Comprehensive Plan line as the boundary. This project is about as close to the University as you can get. The two concerns are traffic and encroachment. The traffic will be removed off 3<sup>rd</sup> South. He thought it was a good project.

**Council Member Merrill** reviewed his situation of apartments being built in his neighborhood. He supported the Comprehensive Plan line. It is close the university. He supported the proposal to improve this property. The City needs to be sensitive to maintaining the Comprehensive Plan line.

**Council President Smith** was concerned with the plan for the building changing after approval. Once the re-zone is approved, the owner could change the building.

**City Attorney Zollinger** said the project could be conditioned to have no access onto 3<sup>rd</sup> South. **Mayor Woodland** asked for a vote:

**Council Member Wolfe** moved to approve (Bill No. 1116), the rezone request at approximately 222 East 3<sup>rd</sup> South from Low Density Residential Two (LDR2) to Medium Density Residential One (MDR1) conditioned upon no access onto 3<sup>rd</sup> South and no more than four units; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Wolfe  
Council Member Benfield  
Council Member Merrill

**Those voting nay**

Council Member Busby  
Council Member Mann

**The motion carried.**

**B. 7:20 P.M. (BILL 1115) to Amend the Development Code (Ordinance No. 1026) to simplify the code by removing conflicts – Staff**

**Community Director Val Christensen** reviewed the proposed amendments to the current Development Code (Ordinance 1026).

**Council President Smith** asked to review the Subdivision Section 12 of the Ordinance. Community Director Christensen reviewed the need for controls on subdivision plats, etc. It allows three lots or less to be approved by Staff. Council President Smith wanted less complications and restrictions for a subdivision plan. Community Director Christensen said Section 12 would make the Subdivision Plats easier to administer.

**Public Works Director Millar** explained Section 12 is not a complete rewrite of the current subdivision ordinance. Platting and lot size are the same. The process has been simplified by having city engineering do the technical requirements for inspections at the developers cost. Once a developer completes their development; the City has had to go back and redo portions of the development due to a lack of testing and other criteria to meet City standards. The developer is required to maintain a bond for one year to cover any problems. Council Member Merrill said he has been asked, “Why does the City have all of these restrictions?”. It is due to a lack of follow through on the development when it is under construction.

**City Attorney Zollinger** explained that the contractors are trying to avoid the cost of the inspection. By doing the inspections ourselves it will be less expensive for the contractors.

**Mayor Woodland** referred to his subdivision not meeting City standards.

**Council Member Merrill** said a plumber wanted more help from the City as a helper on the project. Inspectors need to be a resource to contractors. Community Director Christensen said it is part of their training.

**Council President Smith** relayed to Community Director Christensen that when they toured Mountain Lofts, the owners were there and one of them said that working with Rexburg has been absolutely fabulous. They have eight projects going right now and commended Headwaters Construction and praised the City for being there when they needed them. Community Director Christensen said that they are moving so fast on the Mountain Lofts project that there have been times when he could hardly keep up.

***BILL 1115***

***AN ORDINANCE AMENDING ORDINANCE NO. 1026 PROVIDING FOR SUBSTANTIVE AND NON-SUBSTANTIVE CHANGES; INCLUDING: (1) AMENDING CHAPTER 2, CHAPTER 3, CHAPTER 4, CHAPTER 5, CHAPTER 6; (2) REPEALING ORDINANCE 658 BY AMENDING CHAPER 12 TO INCLUDE A SUBDIVISION SECTION; (3) REPEALING ORDINANCE 548 AND 642 BY AMENDING CHAPTER 13 TO INCLUDE A REVISED MOBILE/MANUFACTURED HOME SECTION; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.***

*BE IT ORDAINED BY the Mayor and Council of the City of Rexburg, Idaho:*

***SECTION I:*** *That Ordinances No. 548 and 658 are hereby repealed.*

***SECTION II:*** *The Development Code of the City of Rexburg, Idaho, is hereby amended by the following **SIGNIFICANT CHANGES IN SUMMARY** with detailed changes highlighted in Appendix A.*

***SIGNIFICANT CHANGES TO THE DEVELOPMENT CODE IN SUMMARY***

<b><i>Section #</i></b>	<b><i>Explanation of Change</i></b>
2.21	<i>Combined <u>Nursery Schools and Day Care Centers</u> to same definition. Listed zones that allowed use.</i>
2.21	<i>Added definition of <u>Drainage Plan</u>.</i>
2.21	<i>Added definition of <u>Grade</u> for sign height.</i>
2.21	<i>Added definition of <u>Short Plat</u>. The Subdivision ordinance was added as a Chapter 12.</i>
2.21	<i>Added definition of <u>Substantial Commercial Cluster</u>.</i>
3.4.025+	<i>Changed language for <u>Conditional Use Permits (CUP)</u> from <u>shall</u> be to <u>may</u> be permitted. Also took CUP requirements out of <u>Permitted Use</u> section and created its own section.</i>
3.4.150+	<i>Added paragraph about <u>Highway 20 Corridor Site Plan Requirements</u>.</i>
3.5.090+	<i>Added language to allow for <u>projections into setback areas</u>.</i>

3.7.020+	<i>Language added to allow up to <u>twenty four (24) units per building</u> instead of only <u>four (4) units</u>.</i>
3.7.100+	<i>Changed <u>Allowable Building Height</u> from <u>thirty (30) feet to forty (40) feet</u> if not adjacent to a <u>Low Density Residential Zone</u>.</i>
3.7.130+	<i>Added new requirement for <u>large housing projects</u> to <u>demonstrate pedestrian connection</u> to <u>BYUI</u> and a <u>Substantial Commercial Cluster</u>.</i>
3.9.100+	<i>Language added to allow <u>unroofed terraces, enclosed stair and elevator</u> structures on top of building without adding for their additional height.</i>
3.11.025+	<i>Added <u>Day Care Centers</u> and <u>Nursery Schools</u> as permitted or conditional uses throughout document.</i>
3.11.100	<i>The <u>building height in the Rural Residential 1 zone</u> was lowered from <u>thirty (30) feet to twenty five (25) feet</u> to match the height in the <u>Rural Residential 2 Zone</u>.</i>
3.13.100+	<i>Added language to require <u>minimum side yard when roof sloped to face neighboring property</u>.</i>
3.14.05+	<i>Added <u>Call Centers</u> to be allowed with <u>Conditional Use Permit (CUP)</u>.</i>
3.14.100	<i>Added language to require <u>ten (10) feet of front yard when minimum percentage required for mixed use is lowered with a CUP</u>.</i>
3.15.20	<i><u>Allow gas pumps at convenience stores</u> in <u>Neighborhood Business District</u>.</i>
3.19.025+	<i>Language to allow <u>City Council</u> to wave requirement of <u>Single Ownership and Control</u>.</i>
3.20.020+	<i><u>Caretaker dwellings</u> to be allowed as per the <u>Planning and Zoning Commission in Industrial Zones</u>.</i>
4.13+	<i>Language to allow <u>smooth faced concrete block, tilt-up concrete panels, prefabricated steel panels and vinyl siding</u> from building sides that are not visual from street or public parking.</i>
4.14	<i>Changes to the <u>Commercial Lighting Standard</u>. Overseen by Brett Stoddard.</i>
5.1	<i><u>New parking lot or additions</u> require building permit.</i>
5.2	<i>The <u>Planning and Zoning Commission</u> can approve <u>parking to be farther than 200'</u> with a <u>CUP</u>.</i>
5.5	<i>Residential <u>tandem parking</u> to be allowed when both spaces can be assigned to same dwelling unit.</i>
5.8	<i><u>Call Center Parking</u> requirements added.</i>
5.9	<i>Language to provide <u>additional parking in Central Business District (CBD)</u> if new use requires more parking than traditional retail.</i>
6.14	<i>Language added to require <u>Public Hearing at City Council</u> when the Council rules differently than the <u>Planning and Zoning Commission</u> recommendation from their <u>Public Hearing</u> and to allow the <u>Planning and Zoning Commission</u> to require additional <u>Public Hearing at City Council</u> for any reason.</i>
Chapter 12	<i>Inclusion of the completely revised <u>Subdivision Section</u>. (eliminating Ordinance 658) Overseen by John Millar.</i>
Chapter 13	<i>Inclusion of the completely revised <u>Mobile/Manufactured Home Section</u> (eliminating Ord.548). Overseen by Natalie Powell.</i>
+	<i>The plus sign indicates that the change also takes place in a succeeding section(s).</i>

*A complete copy of the ordinance is on Rexburg.org or at City Hall, 35 North 1<sup>st</sup> East, Rexburg, Idaho.*

Discussion on Neighborhood Business Zones. Community Director Christensen referred to the development on 1<sup>st</sup> North that has a Neighborhood Business District. He reviewed the zoning on the parcel map. Council Member Wolfe questioned if there were other neighborhood businesses started recently. Community Director Christensen indicated there are no other neighborhood developments started.

**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  
**Rebuttal** by applicant: – NONE

**Mayor Woodland** closed the public hearing for deliberations.

**Deliberations:**

**Mayor Woodland** asked for a vote:

**Council Member Busby** moved to approve the amendments to the Development Code (Ordinance No. 1026) to simplify the code by removing conflicts as proposed; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

<u>Those voting aye</u>	<u>Those voting nay</u>
Council President Smith	None
Council Member Mann	
Council Member Benfield	
Council Member Busby	
Council Member Merrill	
Council Member Wolfe	

**The motion carried.**

Break 9:19 P.M.

---

**Item #8 – Conditional Use Permit at 325 N 1<sup>st</sup> E** to allow 100% residential and 0% commercial in a mixed use 2 zone.

**Bob Smith** with Hutchinson Smith Architects out of Boise, Representing Community Development Inc., requested a conditional use approval to build a 48 unit apartment building for low income families. They would like to have it be residential only. This particular piece of property is not viable for any commercial use. Council Member Wolfe said that he has been contacted by the contractor already to do work on the project and asked if anyone would like him to step down.

**City Attorney Zollinger** recommended that he step down.

**Council Member Wolfe** stepped down from the Dias.

Discussion with Mr. Smith about the exact location, roadway, etc. Shop buildings to the south would not be torn down. Council President Smith was concerned about the 10% commercial in Mixed Use Zones not being utilized. Community Development Director Christensen addressed that issue.

**Council President Smith** motioned to approve the Conditional Use Permit at 325 N 1<sup>st</sup> E to allow 100% residential and 0% commercial in a Mixed Use Two (MU2) Zone. Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

<u>Those voting aye</u>	<u>Those voting nay</u>
Council President Smith	None
Council Member Mann	
Council Member Benfield	
Council Member Busby	
Council Member Merrill	

**The motion carried.**

**Council Member Wolfe** joined the City Council on the Dias.

**Staff Reports:**

**A. Public Works:** – John Millar

**Public Works Director Millar** reviewed the current projects under construction including the Knife River’s bid to purchase the asphalt pile:

1. Sale of asphalt pile:

**Bids**

<b>Knife River</b>	<b>\$72,200</b>
<b>Depatco</b>	<b>\$52,060</b>

**Council Member Busby** motioned to approve the bid for Knife River, 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 Merrill  
Council Member Wolfe

**Those voting nay**

None

**Public Works Director Millar** said that the 2<sup>nd</sup> W-1<sup>st</sup> N project starts Tuesday. The road will be closed. New water and sewer lines for the project will be completed by July 15<sup>th</sup>. They have been working with BMC West to make parking arrangements.

**Public Works Director Millar** would like to put on the table a request to look at the \$500.00 purchase limit without bids and would like to change it to \$1000 for regular purchases and to \$5000 for construction projects. It hasn’t been changed for at least 16 years and costs have gone up. It’s difficult to get 3 bids. He would like it on the agenda for next time.

**City Attorney Zollinger** indicated Chief Financial Officer Richard Horner’s retirement party is coming up on May 29<sup>th</sup>.

**Community Development Director Christensen** reviewed his experience at the American Planning Conference in Atlanta. He found it to be very well done compared to past conferences. There were hundreds of classes to choose from. The information he received was incredible. Best conference he has ever attended. He summarized some important information into a document for City Council to read and he will also share it with the Planning and Zoning Commission.

**Calendared Bills and Tabled Items:**

**A. USE ACTION” – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE: – NONE**

**B. BILL Introduction: – NONE**

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

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

**Discussion:**

**Mayor Woodland** asked for a vote:

**Council Member Mann** moved to first read BILL 1115 to amend the Development Code (Ordinance No. 1026) to simplify the code by removing conflicts; Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Mann  
Council Member Benfield

**Those voting nay**

None

Council Member Busby  
Council Member Merrill  
Council Member Wolfe

**The motion carried.**

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

**Mayor Woodland** asked for a vote:

**Council Member Wolfe** moved to first read BILL 1116 rezoning approximately 222 East 3<sup>rd</sup> South from Low Density Residential Two (LDR2) to Medium Density Residential One (MDR1); Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Benfield  
Council Member Merrill  
Council Member Wolfe

**Those voting nay**

Council Member Mann  
Council Member Busby

**The motion carried.**

**D. Second Reading:** Those items which have been first read:

1. **(BILL 1114) to Rezone – 529, 549, 559, 579, 589, and 609 South Millhollow Rd.** from Low Density Residential One (LDR1) to Low Density Residential Two (LDR2).

**Mayor Woodland** asked for a vote:

**Council Member Merrill** moved to 2<sup>nd</sup> read BILL 1114 rezoning 529, 549, 559, 579, 589, and 609 South Millhollow Rd. from Low Density Residential One (LDR1) to Low Density Residential Two (LDR2); 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 Merrill  
Council Member Wolfe

**Those voting nay**

None

**The motion carried.**

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

1. **(BILL No. 1113) Rezone 1042 West 7th South** from Rural Residential One (RR1) to Low Density Residential Three (LDR3).

**Mayor Woodland** asked for a vote:

**Council Member Smith** moved to 3<sup>rd</sup> read BILL 1113 rezoning 1042 West 7th South from Rural Residential One (RR1) to Low Density Residential Three (LDR3); Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Merrill  
Council Member Benfield  
Council Member Wolfe

**Those voting nay**

Council Member Mann  
Council Member Busby

**The motion carried.**

2. **(BILL 1109) Amending Ordinance 1063 to adopt portions of the International Fire Code 2012 along with local amendments:**

**Mayor Woodland** asked for a vote:

**Council Member Merrill** moved to 3<sup>rd</sup> read BILL 1109 amending Ordinance 1063 to adopt portions of the International Fire Code 2012 along with local amendments; 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 Merrill  
Council Member Wolfe

**Those voting nay**

None

**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

**Council Member Busby** questioned the \$77.00 for Ibuprofen for the medicine cabinet. City Attorney Zollinger said the purchase was probably for the Madison Fire Department Emergency Services. **Mayor Woodland** asked for a vote:

**Council Member Mann** moved to approve the Consent Calendar and pay the bills; Council Member Busby 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 Merrill  
Council Member Wolfe

**Those voting nay**

None

**The motion carried.**

**The Budget Review Meeting** will be at 5:15 P.M. on Tuesday 27<sup>th</sup>, 2014 at City Hall.

Adjourned at 9:52 P.M.

APPROVED:

\_\_\_\_\_  
Richard S. Woodland, Mayor

Attest:

\_\_\_\_\_  
Blair D. Kay, City Clerk