



ORDINANCE NO. 611

AN ORDINANCE EXPRESSING THE INTENTION OF THE CITY OF REXBURG TO EXCHANGE CERTAIN REAL PROPERTY HEREINAFTER FULLY DESCRIBED AS TRACT NO. 3, BELONGING TO THE CITY OF REXBURG AND WHICH HAS CEASED TO BE USED FOR PUBLIC PURPOSES, FOR CERTAIN TEMPORARY AND PERMANENT RIGHTS OF WAY AND EASEMENTS AS HEREINAFTER SET FORTH; PROVIDING THAT NOTICE OF SUCH INTENTION TO EXCHANGE BE GIVEN AND THAT NO EXCHANGE OCCUR UNTIL SIXTY DAYS HAVE EXPIRED FROM THE DATE AND PASSAGE OF THIS ORDINANCE, AS HEREINAFTER FULLY SET FORTH; PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Rexburg presently owns certain real property hereinafter described which has ceased to be used for public purposes; and

WHEREAS, the City of Rexburg has statutory authority to exchange real property for other property if the consideration received by the City shall be deemed adequate by the Council; and

WHEREAS, the City Council at its regular meeting of February 6, 1980, found and determined (a) that certain Rexburg City property has ceased to be used for public purposes; (b) that the exchange of said property is in the best public interest to the inhabitants of the City of Rexburg and the consideration for such exchange is deemed to be adequate by the Council, and the exchange was approved; and (c) that said property shall be appraised prior to exchange and (d) a public hearing will be held prior to said exchange, and

WHEREAS, the City of Rexburg proposes to exchange the hereinafter described property designated as Tract 3, with Harvey S. Walters and Meriam Z. Walters, his wife; David Z. Walters and Charlene B. Walters, his wife, of Rexburg, Idaho, and Walters Ready Mix, Inc., an Idaho Corporation with its principal place of business at Rexburg, Idaho, for certain rights-of-way and easements over, across and under real property belonging to the Walters and described as Tracts No. 1 and 2, for the purpose of clearing, trenching for, laying, constructing and maintaining sanitary and/or storm sewer lines, such exchange to be subject to certain conditions and reservations as set forth in an Easement Agreement entered into by and between the said Walters as First Parties and the City of Rexburg as Second Party, dated February 6, 1980, which Agreement is on file in the City Hall and by reference is made a part hereof.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Rexburg, Idaho:

SECTION I:

- A. That the property herein found and declared not now needed for public use being exchanged by the City is described as follows:

Tract 3: Commencing at a point that is 440 feet East of the West Quarter Corner of Section 19, Township 6 North, Range 40 East, Boise Meridian, and running thence East 70 feet; thence North 1320 feet; thence West 70 feet; and thence South 1320 feet to the point of beginning.

- B. That it is proposed by the City to exchange the above described property for a temporary right of way and easement over, across and under the following described real property:

Tract 1: Commencing at a point that is 440 feet East of the West Quarter Corner of Section 19, Township 6 North, Range 40 East, Boise Meridian; and running thence East 2875 feet, more or less, to the West line of the Union Pacific Railroad right of

way; thence North 30E23' East 57.96 feet along the West boundary of said railroad; thence West 2904.32 feet; and thence South 50 feet to the point of beginning.

and a permanent right-of-way and easement under and through the following described real property which is a portion of Tract No. 1:

Tract 2: Commencing at a point that is 440 feet East of the West Quarter Corner of Section 19, Township 6 North, Range 40 East, Boise meridian, in Madison County, State of Idaho; and running thence East 2875 feet, more or less, to the West line of the Union Pacific Railroad right-of-way; thence North 30E23' East 11.59 feet along the West boundary of said railroad; thence West 2881.86 feet; thence South 10 feet to the point of beginning.

C. That the use of the above described Tracts No. 1 and 2 and 3 will be subject to certain conditions and reservations as set forth in the Easement Agreement referred to above.

D. No exchange of the real property hereinabove described shall occur until sixty days have expired from the date of the passage of this ordinance.

SECTION II: NOTICE IS HEREBY GIVEN that it is the intention of the City of Rexburg to exchange on May 7, 1980, at 8 o'clock P.M. at the City Hall, Rexburg, Idaho, the above described real property belonging to it, Tract No. 3, for temporary and permanent rights-of-way and easements over, across, under and through Tracts No. 1 and 2, as fully set forth in that certain Easement Agreement referred to above.

SECTION III: NOTICE IS FURTHER GIVEN that no exchange of the real property above described shall occur until May 7, 1980, at 8 o'clock P.M., which is more than sixty days from the date of the passage of this ordinance. Qualified electors of the City, on or before May 7, 1980, at 8 o'clock P.M., may express dissatisfaction with said exchange by filing a petition with the City Clerk, containing the names of qualified electors of the City of Rexburg in a number equal to ten per cent of the total votes cast for Mayor at the preceding City Election. If such a petition is filed with the City Clerk on or before said date, the City Council shall call a special election to be held on the question of whether or not the real property shall be exchanged as provided by Sections 50-1403 and 50-1405, Idaho Code, and all amendments thereto.

SECTION IV: This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR , this 20th day of February, 1980.

John C. Porter, Mayor

(SEAL)

ATTEST

Rose Bagley, City Clerk.

