
Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **February 6, 2007** at 6:00 pm at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Bruce Burrows, Mayor
 David Gibby, Councilor
 Stacey Haws, Councilor
 Gary Griffiths, Councilor
 Shelly Jenkins, Councilor

Excused: Doug Peterson, Councilor

Others Present: Larry Hansen, Chief Administrative Officer; Steve Brooks, City Attorney; Randy Daily, Community Development Director; Dave Hansen, Police Chief; Jan Ukena, City Planner; Marilyn Hansen, City Recorder; other city staff and approximately 25 citizens.

A. Welcome & Roll Call

Mayor Burrows called the meeting to order and welcomed all those present. He noted that Councilor Peterson is excused as he is out of town.

B. Pledge of Allegiance

Councilor Gibby offered the Pledge of Allegiance. Mayor Burrows read a quote from Josiah Quincy.

C. Moment of Silence

Mayor Burrow's quote was followed by a Moment of Silence.

D. Open Communications

Don Adamson, Jr. stated that he is the owning entity of the building where Riverdale Dinner and Bingo is located. He reported that he was the only one that didn't get to say anything at the hearing and that they have a significant investment there. He read an e-mail that he sent to the Mayor, outlining his concerns and requesting that the City work together with him and Riverdale Dinner and Bingo to resolve the issues prior to considering revoking their business license.

Margie Higgins, from Pleasant View, reported that she and her husband live on social security and can't financially do things others do because of their limited income. She stated that Riverdale Dinner and Bingo has given them a great many good things: delicious food to sit and eat for four hours, and friends. She stated that it is a safe environment, especially for the elderly. Ms. Higgins reported that the competitor is causing problems and because he is in a different locale, he isn't touched. She discussed that the Council has been elected by people who put their trust in them and that State laws are interpreted differently in different counties and that the laws of the State need to be clarified regarding this issue. She asked that, in the mean time, please allow the business license to expire this year and give the people time to make other choices on their future.

Alan Fernandez, owner of Kings Castle in Ogden, stated that his main concern was internet gambling at Riverdale Dinner and Bingo. He stated that Riverdale Dinner and Bingo has engaged in internet gambling and are using gambling devices and that we have a right to complain. Mr. Fernandez stated that if Riverdale is going to let a company do that then we want to do the same thing. He reported that Ogden City has said no way.

Dorothy Sorensen, from Clinton, stated that she has played bingo all over Utah. She stated that Riverdale Dinner and Bingo is a clean cut bingo parlor and hopes you keep it open.

Sherry Mandy, from Clearfield, stated that she is with the United States Air Force and she finds it relieving to go to Riverdale Dinner and Bingo and unwind and socialize with friends. She asked for the opportunity to continue with this enjoyment.

Bessie Peterson, from Clearfield, stated that she has been going to Riverdale Dinner and Bingo since the day it opened. She stated that she is almost 76 years old and works five nights a week. She hopes to keep Riverdale Dinner and Bingo open so she can go and converse with friends and get stress out of her system from working all week.

Dan Harmon lived in Riverdale and is the husband of the manager of Riverdale Dinner and Bingo. He stated that what really bothers him was how the police did their investigation on this. He has done hundreds of investigations on fires and fire inspections of businesses and can't remember one time that we inspected it and solved problems for two years and then decided to go back and pull a business license. He stated that he felt that some communication should have been done.

E. Presentations and Reports

1. Presentation from Bonneville High School DECA Club.

Bonneville High School students Megan Sebring and Jessica Panter gave a presentation about their Entrepreneurship Promotion Project for DECA. The project was entitled "a miracle minute" where they collected as much money as possible in classrooms for one minute. They raised approximately \$500.00.

2. Mayor's Report

Mayor Burrows thanked Councilor Gibby for carrying on the duties of Mayor during his absence from the business license revocation hearing. He reported that he has listened to the minutes from those recordings and thought it was handled very professionally. He also expressed appreciation to the rest of the Councilmembers for their hard work on this issue. Mayor Burrows discussed a letter that he received from Mark Lamb, Commander of VFW Post 1481, regarding the Riverdale City Band and a certificate of appreciation that they awarded to the band for their participation in the "first Veteran's Day parade in the top of Utah in living memory".

3. Recorder's Report (Review status of Council requested follow-up items)

None

F. Consent Items

- 1. Approval of meeting minutes from:
January 16, 2007 Council Work Session
January 16, 2007 Regular City Council**

2. Consideration of setting a public hearing on March 6, 2007 for establishment and recording of the no-build easement for the Woods property.

Motion: Councilor Gibby moved to approve the consent items. Councilor Haws seconded the motion.

Call the Question

The motion passed unanimously.

G. Closed Executive Session

1. Motion to close the Public Meeting for the purpose of strategy sessions to discuss pending or reasonably imminent litigation pursuant to Utah Code 52-4-205(1)(c).

Motion: Councilor Gibby moved to adjourn into Closed Executive Session for the purpose stated. Councilor Jenkins seconded the motion.

Call the Question

Roll Call Vote: Councilor Griffiths; Yes, Councilor Gibby, Yes; Councilor Haws, Yes; Councilor Jenkins, Yes. The motion passed unanimously.

The meeting adjourned at 6:36 p.m. into Closed Executive Session.

The meeting re-convened at 8:05 p.m.

2. Consideration of action regarding pending or reasonably imminent litigation.

Mayor Burrows reported that item G2 concerns an action that is already in process and the discussion was to have Administration negotiate with the litigants in that action, so there is no action necessary on item 2.

H. Action Items

1. Consideration of action on the business license for Riverdale Dinner and Bingo.

City Attorney, Steve Brooks reported that it has been requested of the City Council to consider the revocation of the business license of Riverdale Dinner and Bingo. He explained that they have heard both sides of the issue and no further evidence is being submitted. Mr. Brooks stated that he needs to know if the Council wishes to leave the license in place, revoke it, or make modifications. He stated that if they leave the license alone, no further action needs to be taken, but if they decide to do something else, he needs Findings of Facts to submit to the business license owner so they know what the decision was based on. Mayor Burrows asked each Councilmember to state their position and have the opportunity to talk about how they felt about the testimony.

Councilor Griffiths stated that the things he had trouble with was the suggested or voluntary donations and the value of what they are getting versus what they are paying for and the value and promotion or advertising of the phone cards versus what they are truly getting. He stated that he feels there is some just cause issues regarding the procedures and methods of those.

Councilor Haws stated that he thought that it was very well established that both the bingo and Magic Ball sweepstakes include a game of chance and prizes and the only real issue is whether there is consideration. For him, it seemed quite obvious that with the presentation of a free will donation,

the reason for the donation was to provide the prizes that are won in the bingo game. He stated that the reason they pay the consideration is to provide for the prize that is ultimately won. Add to that the fact that with additional greater donation they get more chances to win. Councilor Haws then read a prepared statement which is included as Attachment A.

Councilor Jenkins stated this has been an exhausting process and that she respects the serious nature of this item. She noted that they touched on the human nature and club nature and in light of most of the things that Councilor Haws has stated and what is in front of us as to revoking or not, our legislative responsibility is to make certain that we license legal businesses in the City. Ms. Jenkins discussed having such an old court case, 1979, that does define something quite different than these bingo establishments of today. She sees an exhausting element in staying in step with all the disclaimers and making sure every staff member is disclosing everything, but at the end of the day it does come down to what Councilor Haws stated. She expressed her concern over the \$0.78 cost to request and receive a free game piece for Magic Ball. The live bingo game does allow for free game sheets, if you request them on the spot to play that night, on that session. She also expressed concern of the issue of buying internet or phone minute time that is far from competitive. Another issue is whenever sales tax is computed it is based on total sale and the receipt states that sales tax is included. She questions what portion of that money is either profit or money that goes back to pay the prizes. She stated that based on the amount of testimony that we heard and countless hours of research on the internet, she noted that this issue is not being taken lightly and is being given every intention that we are fairly weighing and looking at both sides.

Councilor Gibby stated that he appreciates Councilor Haws' exhaustive analysis, because it reflects his own feelings. In addition he has concerns that in a sweepstakes like Albertsons or the pull tab on a Coke can, the price of products does not change in the beginning or end of sweepstakes as they are not the featured item in the sweepstakes. In this case, inflated prices are being charged, not reflecting the cost of the items, but the cost of the game. Consideration is being given for the privilege of gaming. He stated that like the free will donation, most people who gamble, make free will donations to the casino. It is a free will choice. So the fact that I make a free will donation to keep the club going, does not impress me that free bingo is being offered or the club would have to close and couldn't pay for prizes. Free doesn't bother me. Considerable consideration is being given to allow the business to continue and for payment of prizes.

Motion: Councilor Haws moved that based on the facts that we determined that gambling is going on, that the City Council of Riverdale City revoke the business license of Riverdale Dinner and Bingo and Blue Sky Entertainment, LLC doing business as Riverdale Dinner and Bingo and ask Mr. Brooks to put together a Findings of Facts document that is acceptable to us and that we ask him to provide that to us at our next City Council meeting which will make the effective date of the revocation February 20, 2007; but stay the revocation to give Blue Sky Entertainment time to appeal, if they so wish, and that the stay continue until any court decision on the revocation has been adjudicated or until December 31, 2007, when the business license would normally expire. Councilor Gibby seconded the motion.

Call the Question:

The motion passed unanimously.

Steve Brooks asked each Councilmember to submit their findings to him in writing so he can compile a list and where duplications exist he will eliminate them so they can review them individually or as a group. He reported that since our statute is silent on this issue he recommends handling this item similar to a land use decision which gives the other party thirty days from the date they receive written Findings from the Council to appeal. **Consensus was reached from the Council.**

2. Consideration of Resolution 4-2007 adjusting terms and conditions for the sale of the remaining Woods properties.

City Attorney, Steve Brooks reported that in light of the recent discussions regarding the Woods property he and Larry Hansen discussed making some adjustments to the current Woods property terms and conditions. He stated that there was no end date in the original ordinance. He is suggesting March 15, 2007 as an ending date for the current terms and conditions. This will allow anyone currently in negotiations or willing to finalize their deal to go under the current conditions. As of March 16, 2007 the new terms and conditions will apply which raises the price from \$0.50 per square foot to \$1.00 per square foot plus an administrative fee and raises the interest rate for City financing to prime or prime plus 2 depending on the length of years the City finances the note. Mr. Brooks explained that if this is approved he will send out letter to those who have not purchased the property to inform them of this change.

Councilor Jenkins asked what is involved in obtaining the no-build easement and how long will it take to get the line drawn and recorded. Mr. Brooks stated that the public hearing was set tonight for March 6, 2007 and then an ordinance will need to be approved. Councilor Jenkins inquired what will happen to the property owners who have already combined their lots. Mr. Brooks indicated that the contract the buyers signed indicates the no-build zone and with the easement, it will be recorded as originally established.

Motion: Councilor Gibby moved to adopt Resolution 4-2007 adjusting terms and conditions on any remaining Railroad/Woods property sales. Councilor Jenkins seconded the motion.

Councilor Haws stated that he would like to have the \$1.00 per square foot selling price be a minimum and the wording changed to reflect no less than \$1.00 per square foot.

Mayor Burrows asked for consensus on the adjustment. **Consensus was reached to amend the resolution.**

Councilor Haws stated that there is a property owner that has some unique situations with his property regarding a survey and he would hate to have him be affected by the March 15, 2007 deadline. Mayor Burrows stated that if they make application before March 15, 2007, then the process is started. Mr. Brooks reported that he is aware of this problem and hopes to get it resolved but does consider that the process has started for this property owner.

Call the Question

Roll Call Vote: Councilor Griffiths; Yes, Councilor Gibby, Yes; Councilor Haws, Yes; Councilor Jenkins, Yes. The motion passed unanimously.

3. Consideration of Ordinance #677 adopting Title 10 Chapter 22 Planned Residential Unit Development.

Community Development Director, Randy Daily reported that he and City Planner, Jan Ukena had a lengthy discussion Councilor Jenkins earlier in the day and he would like to enumerate some of her concerns and let everyone hear them and make them part of the next City Council agenda so Councilor Peterson can also look them over.

Mr. Daily reported that Section 10-22-4(F)(1) Construction Requirements discusses City Engineer standards. He reported that they discussed the possibility of allowing PRUD's to develop these privately, to City standards, and keep them part of an association that would maintain them and allow them to be a gated community if they chose.

Mr. Daily discussed Section 10-22-4(D)(4) Parks. Councilor Jenkins stated that her concern was if the City was requiring the park to be maintained by the Home Owner's Association or was it the City's responsibility.

Mr. Daily discussed Section 10-22-5(B)(2) Yard Requirements. Councilor Jenkins stated that this section does not give them any advantage and eliminated the zero lot line option and stated her concerns about having the lot lines requirements specific. Mr. Daily stated that he agrees with Councilor Jenkins and if you want to pin down yard size and side yard set backs with the lots within the PRUD then he thinks you are getting away from the flexibility this ordinance allows. Councilor Gibby stated that the conditional use covers this and this section ought to be pulled out.

Mr. Daily discussed 10-22-5 (I) Accessory Nonresidential Uses. He stated that he would like to replace the word "Nonresidential" with "Amenity" both in the title and body of the section. He would also like to delete the phrase "of one hundred (100) units or more to provide".

Mr. Daily discussed 10-22-5(J) Changes, Alterations. He stated that they would like to change this to include City Council approval as well as the Planning Commission approval. Mayor Burrows stated that giving staff the latitude to obtain approval for changes from the Community Development Director and then he may require further approval from the Planning Commission and Council. Mr. Daily stated that if they are not altering the concept as a whole and just want minor a minor change, he agrees with that. Councilor Jenkins requested that if there is a major change to the PRUD that the change come back through the approval process.

Mr. Daily discussed 10-22-12, Reversion of Zoning Approval in the Event of Noncompliance. He stated that this is not a zoning change and would like to change the word Zoning to "PRUD" in both the title and the body of the text.

Motion: Councilor Jenkins moved to table Ordinance 677 for staff to bring back further information regarding their discussion, to be reviewed by the entire Council in a forthcoming agenda when we have time. Councilor Haws seconded the motion.

Mr. Hansen stated that he would like amend the Ordinance and give the Planning Commission the direction to go ahead and revise the general plan. He would like to bring it back at the February 20, 2007 Council meeting. Councilor Jenkins agreed.

Call the Question

The motion passed unanimously.

I. Discretionary Items

None

J. Adjournment

With no further business to come before the Council at this time, Councilor Gibby moved to adjourn the meeting. Councilor Jenkins seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 9:24 p.m.

Attest:

Approved: February 20, 2007

Marilyn Hansen, City Recorder

Bruce Burrows, Mayor