

Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **April 5, 2005** at 6:00 p.m. at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present:     Bruce Burrows, Mayor  
                              Nancy Brough, Councilor  
                              David Gibby, Councilor  
                              Stan Hadden, Councilor  
                              Stacey Haws, Councilor  
                              Shelly Jenkins, Councilor

Others Present:        Larry Hansen, CAO  
                              Lynn Moulding, Public Works Administrator  
                              Randy Daily, Community Development Director  
                              Stevin Brooks, City Attorney  
                              Jan Ukena, City Planner  
                              Cindi Mansell, City Recorder

Stephen Stephenson	Mark Henderson
David Grover	Andrew Adams
Bill Henderson	Shane Farver

Mayor Burrows called the meeting to order and welcomed all those present. He then offered the Pledge of Allegiance; followed by a quote written by Alexander Hamilton and a Moment of Silence.

### **Open Communications**

David Grover, former member of the City Council and Planning Commission, approached the Council with concerns over two agenda items. He referenced the proposed apartments at the former Classic Waterslide site; stating he recalls water issues that took place in this same area in the 1980's. He stated he served on the Planning Commission at that time, and they were informed that this hillside along Washington Terrace is one of the most unstable in the State. Mr. Grover stated he would be concerned about placement of apartments in this location for this reason. He stated although dry seasons do not reveal the instability; upcoming wet seasons will.

Mr. Grover addressed the potential zoning designation for the area south of 4400 South. He stated this item had been discussed at great length amongst the Planning Commission many years ago. He stated he would like to go on record in support of the City Council decision on leaving the zoning demarcation line where it is. He stated although he understands homeowner concerns, he really does feel that if the CP-3 zoning line is allowed to 4400 South, development that is totally inappropriate for the area will occur. Mr. Grover stated the second thing that will happen then is commercial creep. He stated the Planning Commission went through all the heartache of these same issues years ago. Mr. Grover stated he would like to go on record as opposing any change, but rather, seeking more compatible uses of that property that may better fit into what is considered residential. He suggested patio homes, assisted living facilities, etc. He stated he feels ingress/egress off 4400 South will create traffic hazards.

**Consideration of Business License Approval**

Mayor Burrows stated the Council has been presented with the new business license for Uinta Golf, Inc. at 5360 S. Freeway Park Drive.

**Motion** Councilor Haws moved to approve the new business license for Uinta Golf as proposed. Seconded by Councilor Brough. The motion passed unanimously.

**Consideration of Bids & Award of Contract for Project #387 & #378**

Mr. Moulding explained a bid opening was recently held for the 1500 West Storm Drain Project and the 1150 West Sanitary Sewer Upgrade. He stated staff would recommend approval of proceeding with award of contract to Knudson Construction Company. He explained the storm drain project came in at budget; however, the sewer project is about double. Discussion followed regarding the bid prices, with Mr. Moulding stating it is perhaps attributable to fuel and concrete prices. Inquiry was raised as to whether both of these projects are enterprise fund projects, with Mr. Moulding stating they both are.

Clarification was given that the 1150 West Sanitary Sewer upgrade is on the north side of Riverdale Road. Inquiry was raised as to whether Mr. Moulding had experience in working with this contractor. Mr. Moulding stated the contractor has been around for a long time, and he has worked with them on the 4400 South water line replacement back in 1994.

**Motion** Councilor Gibby moved for approval of the Bids & Award of Contract to Knudson Construction for Projects #387 and #378 in the amount of \$159,320 as proposed. Councilor Hadden seconded the motion.

Roll call vote: Councilor Haws, Yes; Councilor Jenkins, Yes; Councilor Hadden, Yes; Councilor Brough, Yes; and Councilor Gibby, Yes. The motion passed unanimously.

**Change Order consideration - Wilbur Smith Contract**

Mr. Moulding explained staff had reviewed the Wilbur Smith proposed Change Orders and would recommend payment as proposed. He stated he believes they have been asked to complete work outside of the contract and are justified in their request.

Councilor Jenkins stated she serves on the Traffic Advisory Committee (TAC), and although she can appreciate staff's desire to resolve this situation, there are still some nagging issues. She stated being party to all discussions (both City Council and TAC) from the beginning when the request for proposal was issued, she has resulting concerns with the charges to Riverdale to clean up their errors. She stated she would suggest removing those costs in an effort to get this resolved. Councilor Jenkins stated she does not feel the City should have to pay for their errors on the final product as presented. Wilbur Smith had indicated they would provide a clean product for Riverdale to be able to adopt into the General Plan. She referenced charges she feels are ridiculous for corrections, document production and page correction copies.

Councilor Gibby stated he would have trouble with the extra work on Ritter Drive. He stated Wilbur Smith was asked to consider this alternative on numerous occasions and yet they continued to ignore the concept. He stated once they figured out the other alternatives were not liked; they

then considered this concept like a brand new idea. Councilor Gibby stated he feels Wilbur Smith should bear responsibility for originally ignoring this option.

Councilor Jenkins suggested removal of the charges for the Ritter Drive option. She stated she would be willing to settle and pay with the exception of technical corrections (\$540); page correction copies (\$162); document product and printing fees relative to corrections, or to provide the PowerPoint presentation to the Planning Commission. She stated she feels these should be standard procedure; and Mr. Moulding stated presentation to the Planning Commission was not required within the contract.

Mr. Moulding stated the original change order request was for \$16,000. He stated he agrees with the issues regarding the request for additional funds on Ritter Drive because the TAC came up with ideas and kept sending them back with considerations. Councilor Gibby stated he feels the original Ritter Drive idea to be the only idea the Council had going into the RFP process; and it is a given that 1500 West will connect to Ritter, regardless of method.

Mayor Burrows suggested removal of Items 1 and 2 on page 20; approximately \$1,000. Councilor Jenkins stated she would prefer removal of Items 1, 2, and 5; stating it would be nice to know what document production and printing fees would relate to. Mr. Hansen stated the total combined amount requested is \$6515.

**Motion** Councilor Gibby moved to authorize Change Orders #1 and #2 to Wilbur Smith for amendments to the Transportation Master Plan; and to amend the originally requested payment amount from \$6515 to provide for removal of costs as proposed; and authorize approval up to \$5,000. Councilor Jenkins seconded the motion.

Roll call vote: Councilor Jenkins, Yes; Councilor Hadden, Yes; Councilor Brough, Yes; Councilor Gibby, Yes; and Councilor Haws, Yes. The motion passed unanimously.

#### **Conditional Use Permit - 4465 South 600 West**

Andrew Adams addressed the Council and explained that he is representing John Hedman; a developer for the past 37 years who has been involved in the development of various apartment complexes. He stated Mr. Hedman was unable to be in attendance; and has requested distribution of a handout and letter regarding his vision. He further referenced the Project Brochure; Slope Analysis; Geotechnical Investigation Summary; and Traffic Analysis.

Mr. Adams stated he is here to lobby for approval of the conditional use to be granted. He stated he had met with the Planning Commission, City Planner, and Mr. Daily; who are not in favor of granting the conditional use permit. He stated he appreciates this appeal opportunity provided; and stated he is unclear as to the reasoning for refusal. Mr. Adams explained he has been through this process, but has never been shut down this early.

Mr. Adams reviewed the current zoning of CP-3, stating he can only assume (based on Planning Commission decision) that the City does not want apartments or do not want to live in such apartments. He illustrated the property in question, and stated he does not understand the denial as he is not asking for a rezone - but rather for conditional use and apartments are listed as a conditional use allowed for this property. He discussed the desire to change the appearance of the

existing property into something very similar to the other community projects put together by Mr. Hedman. He stated Mr. Hedman does have an office at his Creekview development; and is always available for questions and feedback from his tenants.

Mr. Adams stated this piece of property is zoned as CP-3; and the CP-3 uses cite apartments as one of the many permitted uses. There is a developer that is asking for approval to be granted and then the City Council can establish requirements; the developer wants to construct to City specs; a 45-page Geotech report has been conducted; small impacts to traffic were noted; and the information provide did address the landslide and where the proposed complex would sit in relevance. Mr. Adams stated he is just asking for the Conditional Use Permit to be granted to allow the developer to attempt to work through the existing issues. He stated there is also a seller willing to sell and a buyer willing to buy. He inquired as to the five-year plan for this piece of property; stating it has been on the market for two years. He remarked as to the current appearance, stating it will remain if not allowed to develop.

Councilor Jenkins stated she respects the concerns of Mr. Adams in regards to the conversation that went on during Planning Commission; and yet in reading the denial - they did include findings. She referenced these as follows: does not meet intent of zone; safety reasons; one-way egress/ingress; property owner does not own UDOT property for turnaround; etc. Mr. Brooks stated these are felt to be legitimate reasons as listed within the Conditional Use Permit.

Councilor Jenkins inquired as to the possibility of changing the egress/ingress and how to mitigate. Mr. Moulding explained that left hand turns are permitted right now. Councilor Jenkins discussed one way in and one way out; inquiring as to life safety issues because of residential and the potential need to evacuate.

Bill Turner, representing the property seller, stated that question had arisen during Planning Commission meeting. He stated in the case of emergency, the railroad has given permission for access over their property to get to the property in question. He stated there are several other parcels in the City that only have one access, alternative access, or access over other pieces of property. Mr. Daily stated he has not talked to the railroad and is unsure as to reasonable access, as there is not a signed document at this point. Mr. Turner stated he feels these types of concerns to be met can be addressed.

Councilor Gibby referenced Riverdale Road concerns, stating he is surprised a left turn would be allowed in this location. He referenced the suggestion for right turn only in this location, stating he feels it is extremely dangerous for residential traffic, young families, and to increase traffic onto Riverdale Road from that property. Mr. Adams stated he feels this to be a valid proposal. He stated the area does have things that are not particularly safe, yet there is the need to depend on some semblance they will operate in a safe manner. He stated there is zero ability to protect everyone from every scenario. He stated Ruby River has the same problem; and even though the line of sight is better, the risk is only slightly reduced.

Councilor Jenkins inquired if the City Council can back up the Planning Commission motion or at least the intent of the motion. Mr. Brooks stated this is a judgment call, as safety is a major issue.

Discussion followed regarding various hazardous scenarios that could occur when there is only one designated access.

Mr. Turner stated the developer is requesting conditional use permit approval to be able to address these types of questions. He stated the developer is simply not ready to provide a nice warm fuzzy on how this project is going to work. He discussed the need to design the project to protect the city, as well as incorporate a system to allow staff to get a feeling that this project will work and fit within Riverdale City.

Councilor Hadden discussed historical water levels in the past (1953) stating the level was one foot below the bridge. He inquired how far up on the apartments that same level would be, as he feels such a level can again be anticipated; and perhaps even this spring. He stated he would caution that a developer better know the effects of the river at that flood point. Mr. Adams stated this concept can be addressed during the conditional use permit approval phase. Councilor Hadden inquired as to the plan to mitigate flooding; and inquired if the City can request a study on the probable event of another flood.

Mr. Adams encouraged the City Council to allow the developer to take the use system designed, put together a project design, and proceed. He stated the developer has already spent time and money on geotech and traffic reports; and he would like to point out that the developer is willing and flexible to address everything that has been brought up. Mr. Adams referenced the Council's "what if" scenario, stating with a conditional use permit, the developer cannot spend the money and move forward to put this concept to a test. He stated the data will illustrate whether or not the proposal is safe.

Councilor Jenkins inquired as to the hillside study, location, and proximity to this slope. Mr. Daily stated that was considered, and a hillside in most cities would stress compatibility with adjacent land uses. He stated the question is whether the City wants to see the development of apartments on this land. Discussion followed regarding General Plan recommendation for this land, with Mr. Brooks stating conditional uses can be denied; based on ordinance.

Councilor Jenkins addressed purpose, intent, and safety issues and whether these are included under conditional use provisions. Mr. Daily stated the conditional use permit does cover goals, policies, and governing principles. He stated even if the Council determines they do not want any more multifamily high-density apartments in Riverdale, there is no reason and no need to change the duplex ordinance because of the number of existing. He stated that is up to the Council; as staff can work with the petitioner and make it right. He stated the General Plan does not allow high density multiple family dwellings in this city. Councilor Brough expressed concern about the public safety issue and putting people in harms way. She referenced intent of the General Plan and relative issues as to why the proposal is not appropriate; stating she feels the Planning Commission made the correct recommendation.

Mr. Adams stated he would like to perform a test to determine flood water provisions in order to address these safety concerns. He stated there are 36 units proposed; and inquired as to the scenario if this is reduced to 24 units and a hammerhead included. He stated the developer would love to be able to have conditions to be able to move forward, and is only asking for a conditional

use permit to be able to answer these types of questions. He stated the developer can then spend more time, effort, and money to be able to test these items and return with hard information.

Discussion followed regarding the concept that apartments do not fit with the purpose and intent of the C-3 zone; with Mr. Adams stating a study cannot be completed because that is the decision of the City Council. He stated what is missing is a big mob of angry neighbors. He expressed confusion that if the City Council does not want residential apartments and yet CP-3 zone allows it; perhaps they should rezone it to not allow. He stated there is a buyer that wants to buy; a seller willing to sell; the property is zoned correctly; a developer that is willing to be conditioned to death; and the only obstacle is this conditional use permit.

Discussion followed regarding the concept the City Council has the option to allow, yet the purpose as proposed does not serve public good. Councilor Jenkins stated this is still a commercial zone and there is still a viable use for this property.

**Motion** Councilor Jenkins moved to uphold the Planning Commission denial for conditional use permit approval; with the exception to add the finding of fact regarding the intent of the General Plan compatibility issue; and removal of denial being based on the public need issue. Councilor Brough seconded the motion. The motion passed unanimously.

#### **4450 South - Demarcation Line & Mixed Use Ordinance**

Mrs. Ukena referenced the new zoning designation for the area south of the established demarcation line south of 4450 South. She stated the Planning Commission was not happy when staff returned and informed them of the demarcation line of 130' back to 4450 south. Mr. Daily referenced the original exhibit (130' feet east and end widening out to 227' on the west end).

Mrs. Ukena stated the Planning Commission recommended three possible options; (1) including adoption of a new mixed use ordinance; (2) utilize existing low impact transition overlay zone from the Senior Center on 900 West, East to 700 West and create a zone between the current C-3 zone off of Riverdale Road and the R-2 zone off of 4400 South; and (3) create a residential overlay ordinance (ROZ) that is recommended on the City's proposed Land Use Master Plan and the General Plan. She stated staff would work with any of the options; however, the new mixed use ordinance is probably the most favored because it allows for both residential and commercial options. Mrs. Ukena stated staff would like to see it adopted into not just this area, but in other areas as well.

Councilor Jenkins discussed the desire to throw something out there, with the intent of previous discussion of keeping this residential. She discussed the potential for an eclectic downtown main street feel, such as Farmington or Bountiful offers. She stated there could potentially be very non-evasive commercial uses on a main street where people have lived all their lives.

Councilor Jenkins stated commercial puts things into people's minds, and they need to realize they are not being driven out. She discussed the desire to be creative and think outside the box; and decide what the Council wants the area to look like because the chances of quality residential seem to be slipping away. She stated the line of demarcation forces allowing C-3 to come to the line and then there is remaining property to do nothing with. Discussion followed regarding not wanting to see big box invasive retail in this area, but the desire to see something to identify demarcation. It was stated that traffic is going to be on this road anyway.

Councilor Brough stated Riverdale is not Farmington, as we already have regional commercial all over. She discussed the need to retain a residential area on the south of 4400 South; and stated that is the reasoning for the line of demarcation. She stated she appreciates this line and has been advocating for years that whatever is north of 4450 buffers the residential area there. She stated she can see the mixed use in the area south of the demarcation line; and potentially something as suggested like patio homes or town homes.

Councilor Gibby questioned the area appears to be an overlay zone that is already zoned CP-3; and now is being suggested for downgrade. He inquired as to legal ramifications, and Mr. Brooks stated there could be potential problems. Councilor Gibby stated he would recommend backing off heavy commercial where it is already zoned that way; stating that way the City would not be liable to pay for downgrade in property values. He referenced the "taking" concept, stating he would want to be compensated. Mayor Burrows stated he feels this would depend on the amount of difference and valuation under both concepts and percentage of use of properties.

Councilor Brough discussed her understanding of other cities that have changed zoning so they do not have high intensity; and the classic example of where zoning took care of a need at a time and is now rearing its ugly head. She asked for reference as to the specific zoning of the area. Mrs. Ukena referenced the majority of C-3; and a small section of R-2. She discussed the potential to have property owners not wanting to change.

Mr. Daily stated although merely speculation at this point, he feels the neighbors may consider a mixed use. He stated the Planning Commission has tried to put forth some ideas from the City Council that will provide for the area to remain residential; and yet they wanted something for the area and options given. He stated a transition zone would be more restrictive than a C-3 zone. Councilor Gibby cited the need for input from property owners.

Councilor Jenkins stated discussion has taken place regarding mixed use, but only in this area. She discussed the need to consider it on the West Bench, river, presentation on the south end of the city property, etc. in areas where mixed uses are really being proposed. Councilor Gibby stated he feels that to be getting the cart before the horse, as rezoning should be development driven. Councilor Jenkins stated she would argue that she wants to be prepared ahead with the ordinance and cannot wait until the area is gone. She stated there is already residential on the West Bench as well as other mixed uses.

Councilor Brough stated for a long time, the General Plan has shown some type of buffer/transition/softened effect behind the residential areas. She stated she would be interested in finding out what exactly the city can and cannot do on areas already zoned C-3. She stated she does not know that the Council has seen the full legal ramifications of what can and cannot be done.

Mr. Daily explained this is an RDA area and the RDA would have to approve uses. Inquiry was raised as to whether the entire area is RDA, with Mr. Daily stating he is unsure, as a couple of homes may not be included. He referenced the approach of the Planning Commission as based on staff recommendation and City Council steering; to provide the ability for development on 4400 South

and have setbacks that are not obvious to allow commercial uses right up on 4400 South but allowing a mix of something new and fresh and neat in this area. He stated he does feel the City lends itself to something better than just a line. Discussion followed regarding how to make this work, with Mr. Daily stating the proposal is all laid out for Council consideration and is just an idea and not anything staff is attempting to push.

Mayor Burrows stated this has been an area of concern regarding commercial creep, and 4400 has to be the line. He stated he feels the line in the sand is I-84; and nothing commercial to develop further south. He stated in correlation, if the Council would want mixed use on the back property line he would be in support. He stated he would never support commercial fronting 4400 South.

Mrs. Ukena stated she has listened to Council comments and staff will continue working on this issue. She stated she did not address anything on 4400; and left it strictly residential. She stated she presented three options and thought they could be viable; and wanted Council direction for staff to pursue.

Mr. Hansen stated there is not a mixed use zone on the books. He stated the first part of his question is whether staff is requesting two things which are becoming entangled at a point premature. He stated although it would be wonderful to adopt a mixed use zone ordinance and then deal with this where applicable; there are property owners along there who would most likely want to have a public or neighborhood meeting to allow for input. Mr. Hansen stated the second question is for mixed use in this area of question because it appears to apply. He stated the property owners must first be dealt with as to rezoning, etc. He suggested the Council could take the step tonight in support of Planning Commission and staff efforts. Mr. Hansen stated as to whether to apply the mixed use in this area or south of the demarcation line, staff could work with process and protocol to do that with the property owners instead of trying to solve both issues tonight.

Mrs. Ukena explained the mixed use is almost in final stages. She stated if the Council has comments to be added, she would be happy to take these back to the Planning Commission. Discussion followed regarding setbacks, with Mrs. Ukena stating there is no setback except 50' adjacent to a public street or if the Planning Commission deems necessary. Councilor Brough expressed additional concern over the maximum of 60' tall / 4 stories; as well as uses such as amusement enterprises near a residential area (roller skating rinks, theaters, bowling alleys, etc.) Further discussion followed regarding gymnasium, dance studio, car wash, retail goods and services, auto rental, convenience store without gas sales, etc. Mrs. Ukena stated gas sales are not felt to be appropriate in mixed use/low impact areas. She stated because of issues with safety, fumes, explosion, etc. - Gas belongs in commercial. Further discussion followed regarding hours of operation.

Mayor Burrows stated if all Councilors take a turn in making remarks or concerns, it could be a long night. He stated he would recommend each individual mark up the proposed zone with comments or questions to be given to Mrs. Ukena. He stated there still must be consensus to make a change. He stated this concept is a mixed use zoning tool to be put into place for the future. He inquired as to consensus as to this valuable tool, which may or may not fit into this area. Mrs. Ukena stated when writing an ordinance, the Planning Commission does not consider one specific area - and is looking at all of Riverdale and determining what fits where. She stated she would not recommend writing an

ordinance for one area; and questioned on waiting until after the Planning Commission is finished or for staff to go ahead and make a recommendation.

Councilor Gibby stated he is not ready to make changes in this area, and suggested it be left as is until development pushes or a multi-use zone is created that would be acceptable to property owners. Discussion followed regarding the line of demarcation, with Councilor Jenkins stating she feels this would allow C-3 to move forward. Councilor Gibby stated any use would require RDA approval; and Councilor Jenkins stated C-3 is not a conditional use.

Councilor Brough discussed the need to deal with existing zoning, and unknown parameters as to changing. She discussed the need for input, but expressed concern with having to wait until development. She stated that is backwards, as there is the need to be prepared with good planning. Councilor Brough stated it is the duty of a community to have good solid sound planning.

Councilor Gibby stated he is not ready to move, and the Council has nothing to show property owners. Councilor Brough stated she is ready to move on getting a tool in place if it is effective. She stated staff is asking for direction. Mr. Hansen stated there is the ability for negotiation - if the tool is in place. Mayor Burrows discussed the intent to have flexibility built in. There appeared to be consensus for Mrs. Ukena and Mr. Daily to return to the Planning Commission to complete the ordinance.

Mrs. Ukena stated the Planning Commission has proposed amendments to the General Plan that includes potential for change in this and other areas. She stated she will bring back recommendations for other areas as well. Mayor Burrows stated he does agree that some areas lend themselves to different types of mixed uses.

Inquiry was raised as to the third option (ROZ), with Mr. Daily stating the Council can initiate if they want to pay for what they are taking. Mr. Hansen stated this is a location question rather than a tool selection. It was determined that staff will continue to work on the list of permitted uses and return for Council review.

#### **Canceling the April 12, 2005 City Council Meeting**

Mayor Burrows discussed the proposal to cancel the April 12, 2005 meeting due to lack of agenda items.

**Motion** Councilor Gibby moved to cancel the March 22, 2005 regularly scheduled meeting as proposed. Councilor Hadden seconded the motion. The motion passed unanimously.

#### **Discretionary Business**

##### **Wilbur Smith Finished Document**

Councilor Jenkins inquired as to final finished copies of the Wilbur Smith document. She expressed interest in ensuring the changes have been made. Mr. Hansen stated he would assume they are waiting for payment. It was determined that payment should be conditional upon delivery of amended copies.

**Humanitarian Payment - Fife Rock**

Councilor Hadden inquired as to the payment of claims listing a humanitarian payment to Fife Rock. Mr. Hansen stated this involves negotiation of an issue relative to work done on 1150 West. He stated Fife felt like they had done some things to city benefit; and there had been contract interpretation issue. He stated legal and staff review determined a potential to make adjustments as an opportunity to settle instead of a potential legal issue.

With no further business to come before the Council at this time, Councilor Gibby moved to adjourn the meeting. Councilor Hadden seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 7:55 p.m.

Attest:

Approved: June 21, 2005

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Cindi Mansell, City Recorder

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Bruce Burrows, Mayor